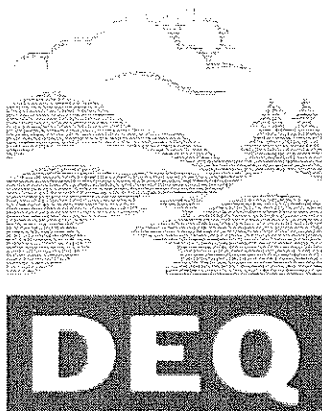


8/28/1981

OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS



State of Oregon  
**Department of  
Environmental  
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

August 28, 1981

14th Floor Conference Room  
Department of Environmental Quality  
522 S. W. Fifth Avenue  
Portland, Oregon

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AGENDA

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.

APPROVED

A. Minutes of the July 17, 1981, EQC meeting.

APPROVED

B. Monthly Activity Reports for June, 1981.

APPROVED

C. Tax Credit Applications.

APPROVED

D. Request for authorization to conduct a public hearing on proposed revisions to Oregon Administrative Rules, Chapter 340, State Financial Assistance to Public Agencies for Pollution Control Facilities.

APPROVED

E. Request for authorization to conduct a public hearing on housekeeping modifications to noise control-related rules; OAR 340-35-015, 35-025, 35-030, 35-035, 35-040 and 35-045 and Procedure Manuals; NPC5 - 1, 2, and 21.

9:15 am PUBLIC FORUM

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

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.

REFERRED BACK TO  
HEARING OFFICER

G. Appeal of subsurface variance denial: Gary T. Hubbard, Tillamook County.

APPROVED

H. Request for variance from Oregon Administrative Rules regulating installation of on-site sewage disposal systems within the Clatsop Plains (OAR 340-71-460(6)(e) (Appendix J) (a)(H), Mr. Weldon Lee, Clatsop County.

ADOPTED WITH  
AMENDMENTS

I. Consideration of adopting proposed Plant Site Emission Limit and New Source Review Rules and proposed revocation of the following existing rules:

1. Special permit requirement for sources locating in or near non-attainment areas, OAR 340-20-190 through 198.
2. Criteria for approval of new sources in the Portland Special AQMA, OAR 340-30-005 through 025.
3. Specific air pollution control rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.
4. Prevention of significant deterioration, OAR 340-31-105, definitions 1 through 11, 13, 14, and 17 through 22; 340-31-125; 340-31-135 through 195.

DECISION UPHELD

✓ J. Appeal of Hearing Officer's decision in DEQ vs. Faydrex.

(MORE)

APPROVED

- K. Proposed adoption of Open Burning Rules, OAR 340-23-022 through 340-23-080:
1. Make extensive structural and language changes to make rules easier to understand and use.
  2. Establish a schedule pursuant to ORS 468.450 for regulation of open burning on statewide basis.
  3. Delete provisions establishing a permanent prohibition on domestic burning within the Willamette Valley.

APPROVED

- L. Requests for variances from the general emission standards for volatile organic compounds (VOC) for the following delivery vessels and small gasoline storage tanks:
- ~~1. Import Parts Distributing Co, Inc., Portland.~~
  2. Fire District #10, East Multnomah County, Portland.
  3. Arrow Transportation Company, Portland.

APPROVED

- M. Request for variance from OAR 340-30-015, Medford-Ashland AQMA Hogged Fuel Boiler Emissions Limitation, by Timber Products Co.

APPROVED

- N. Request for concurrence in approval of a solid waste disposal permit for the Troutdale Landfill.

APPROVED

- O. Proposed adoption of amendments to Solid Waste Management Rules, OAR 340-61-005, 61-010, 61-020 and 61-025 through 61-040.

APPROVED

- P. Request from Multnomah County for a six-month delay in implementing the provisions of OAR 340-71-335(2)(a), Cesspool Prohibitions.

APPROVED

- Q. Water Quality Rule Adoption: Housekeeping amendments to OAR Chapter 340, Divisions 44, 45 and 52, and repeal of Divisions 42 and 43.

APPROVED

- R. Proposed adoption of additions to OAR Chapter 340, Division 41, Statewide Water Quality Management Plan.

APPROVED

- S. 208 Nonpoint Source Project: Proposed additions to Statewide Water Quality Management Plan.

APPROVED

- T. Request by the Lane Board of Commissioners to postpone progress under certain conditions of the River Road/Santa Clara Intergovernment Agreement.

APPROVED

- U. Proposed adoption of temporary rule amending rules for on-site sewage disposal, OAR 340-73-055.

APPROVED

- V. VOC variance, Roseburg Lumber Co., Dillard  
WORK SESSION

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

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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) at the Portland Motor Hotel, 1414 S. W. Sixth Avenue, Portland; and will lunch in Room 4A, DEQ headquarters, 522 S. W. Fifth Avenue, Portland.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED THIRTY-FOURTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

August 28, 1981

On Friday, August 28, 1981, the one hundred thirty-fourth meeting of the Oregon Environmental Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess; Mrs. Mary V. Bishop; Mr. Ronald M. Somers; and Mr. Wallace B. Brill. 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 the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address.

BREAKFAST MEETING

The breakfast meeting convened at 7:30 a.m. at the Portland Motor Hotel in Portland. All five of the Commissioners were present, as were several members of the Department staff.

The following items were discussed:

1. EQC attendance at Goals & Objectives sessions: The Director listed for the Commission the tentative dates and locations of the Department's Goals & Objectives sessions, scheduled to occur throughout the fall of this year. The Commission members were invited to attend any session of interest to them. It was suggested that staff send a memo with the final dates and locations of each session, and the Commissioners would confirm with the Department their attendance at any session.
2. Discussion of OAR 340-71-130(11). (Case of home on one lot and sewage system on adjoining lot under same ownership.) Commissioner Somers presented specific examples of problems in light of the fact that this rule does not require the granting of an easement and proposed readoption of the old rule language. Assistant AG Ray Underwood replied that the rule change did not actually affect the way in which the rule is interpreted. He indicated that an owner cannot have an easement on his own property, and that it must be established when the property is sold. Chairman Richards suggested a requirement of notice that would appear in the property deed, and staff was asked to prepare a proposal for the next EQC meeting.



3. Superfund - briefing: Rich Reiter, Hazardous Waste Division, provided a written report. Staff proposes to bring a list of those sites needing cleanup to the November 20 EQC meeting.
4. Field burning update: Jack Weathersbee, Air Quality administrator, passed out a written report of DEQ's progress this year in the smoke management program. Staff agreed to supply the Commissioners with copies of the Director's weekly field burning report to the Governor.

FORMAL MEETING

Commissioners Richards, Somers, Burgess, Bishop, and Brill were present for the formal meeting.

AGENDA ITEM A - MINUTES OF THE JULY 17, 1981 MEETING.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JUNE, 1981.

AGENDA ITEM C - TAX CREDIT APPLICATIONS.

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON PROPOSED REVISIONS TO OREGON ADMINISTRATIVE RULES CHAPTER 340, STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL FACILITIES.

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON HOUSEKEEPING MODIFICATIONS TO NOISE CONTROL RELATED RULES; OAR 340-35-015, 35-025, 35-030, 35-035, 35-040 and 35-045 AND PROCEDURE MANUALS; NPC-1, 2 and 21.

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and carried unanimously that the Director's recommendations for Items A, B, C, D and E be approved.

There was some discussion regarding the length of the last meeting's minutes. It was suggested by the Commission that it might be reduced in some way. The Commissioners will review the minutes and provide guidance on this subject at the breakfast meeting on October 9, 1981.

AGENDA ITEM M - REQUEST FOR VARIANCE FROM OAR 340-30-015, MEDFORD-ASHLAND AQMA HOGGED FUEL BOILER EMISSION LIMITATION, BY TIMBER PRODUCTS COMPANY.

Timber Products Company installed a wet scrubber on their hogged fuel boiler in North Medford. Both Timber Products Company and the Department's Air Quality staff anticipated that the boiler would meet the Medford-

Ashland AQMA hogged fuel boiler emission limit of 0.05 grains/standard cubic foot. Source testing shows that the boiler cannot meet the Medford rule and attempts to modify the scrubber to achieve compliance have failed.

This variance is necessary to allow operation of the boiler while Timber Products Company implements another control strategy to bring it into compliance. Since preparation of the staff report, the boiler has been tested. Preliminary evaluation of the data reveals an emission rate of 0.055 grains/standard cubic foot or an estimated 5-10 ton/year increase in emissions over the time period of this variance.

The staff report is supportive of Timber Products' request with the standard proviso that the company operate the existing equipment at its highest efficiency level.

### Summation

1. The current emission limit for hogged fuel boilers in the Medford-Ashland AQMA with BTU input greater than 35 million BTU's per hour is 0.05 grains/standard cubic foot of air corrected to 12% CO<sub>2</sub>. Compliance for existing sources was to have been by January 1, 1980.
2. Timber Products Company purchased, installed, and is operating a medium pressure drop wet scrubber on its boiler in North Medford to meet the emission limitation rule.
3. Source testing to date has shown the boiler/scrubber cannot operate in compliance with the emission limitation rule.
4. Engineering and source test data reveals that the main emission problem is created by salt residues in the dry particleboard (wastes) fuel.
5. Timber Products Company has initiated a formulation change in the resins used in particleboard production allowing them to remove the salt.
6. The effectiveness of reducing the emission levels through removal of the salt will be ascertained by source test in mid-August, 1981. The results of this test will be available in September, 1981.
7. Timber Products Company has requested that the EQC grant them a variance pursuant to ORS 468.345(b) and (c) citing that special circumstances and conditions exist and strict compliance would result in substantial curtailment or closure of a plant(s).
8. Timber Products Company has proposed a compliance schedule for bringing the boiler into compliance coincidental with the schedule on its two (2) particleboard dryers.
9. The EQC has the authority pursuant to ORS 468.345 to grant specific variances where certain conditions exist as defined by law and may condition such variances as appropriate.

### Director's Recommendation

Based on the findings of the summation, the Director recommends that the Commission:

Grant a variance from OAR 340-30-015, Medford-Ashland AQMA Hogged Fuel Boiler Emission Limitations, to Timber Products Company conditional upon the Company's adherence to the following increments of progress towards compliance:

1. By no later than October 30, 1981, the permittee shall submit a final control strategy, including detailed plans and specifications, to the Department of Environmental Quality for review and approval.
2. By no later than January 1, 1982, the permittee shall issue purchase orders for the major components of emission control equipment and/or for process modification work.
3. By no later than May 1, 1982, the permittee shall initiate the installation of emission control equipment and/or on-site construction or process modification work.
4. By no later than January 1, 1983, the permittee shall complete the installation of emission control equipment and/or on-site construction or process modification work.
5. By no later than June 30, 1983, the permittee shall demonstrate that the boiler is capable of operating in compliance with the applicable Air Quality Rules and Standards.
6. Within seven (7) days after each item, number 2 through 5 above, is completed the permittee will inform the Department in writing that the respective item has been accomplished.

Further, it is understood that a condition of the variance will be that the existing boiler scrubber be operated and maintained at peak efficiency levels throughout the period of variance, including the use of "salt-free" resins.

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

### AGENDA ITEM G - MR. GARY T. HUBBARD--APPEAL OF SUBSURFACE VARIANCE DENIAL.

Mr. Gary T. Hubbard appealed a variance officer's decision that his property is unsuitable for placement of an on-site sewage disposal system.

### Summation

1. The pertinent legal authorities are summarized in Attachment "A".

2. On June 25, 1979, Mr. Ken Kimsey evaluated lot 6, Myers Addition, Tierra Del Mar Subdivision and determined that a standard subsurface sewage disposal system to serve a triplex could be installed. Mr. Kimsey issued a Certificate of Favorable Site Evaluation the same day.
3. The Environmental Quality Commission adopted a temporary rule on March 21, 1980, that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979.
4. At the request of Mr. Hubbard, the property was reevaluated on July 14, 1980, by Department staff. The site was found not to meet the Department's minimum standards to install an on-site sewage disposal system because of insufficient area on the small lot to place a drainfield, with future replacement, to serve a triplex. The property also has a fluctuating permanent groundwater table, as indicated by mottling, that comes within thirty-six (36) inches of the ground surface. The installation of a sand filter system was prevented for the same reasons. Mr. Smits also determined the areas of highest ground would comply with the Department's minimum standards if a single family dwelling with not more than three (3) bedrooms had been proposed. Mr. Hubbard was notified of the reevaluation denial by letter.
5. A variance application submitted by Mr. Hubbard was assigned to Mr. Michael Ebeling, variance officer. On July 23, 1980, Mr. Ebeling examined the property, and conducted a public information gathering hearing. After closing the hearing, Mr. Ebeling received the variance record and found the testimony did not support a favorable decision. Mr. Hubbard was notified by letter that the variance request was denied. He was also informed that the decision could be reconsidered if monitoring of groundwater levels by Tillamook County during the winter and spring would so warrant.
6. In June, 1981, Mr. Hubbard inquired about the results of the ground water monitoring. Department staff contacted Tillamook County and learned that due to workloads the County had inadvertently failed to do the monitoring. Mr. Hubbard was then informed that there was no basis for reconsideration of the denial.
7. A letter appealing the variance denial was received by the Department on July 13, 1981.
8. Staff considered other possible options available to Mr. Hubbard as a consequence of recent rule adoption. No other option appears feasible to serve a triplex.
9. Mr. Hubbard was notified by letter dated July 16, 1981, that his request for appeal would be scheduled for the August 28, 1981 Commission meeting.

#### 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.

The following appeared on behalf of Mr. Hubbard:

Gary Hubbard, property owner.  
Nicholas E. Bailey, attorney, Rid-Waste Environmental Systems.  
James F. Nims, civil engineer, representing Mr. Hubbard.  
Thomas Graham, inventor, Rid-Waste Environmental Systems.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed that this item be referred back to the variance officer for consideration of further information and to return to the Commission at their October 9 meeting. Commissioner Somers voted no.

AGENDA ITEM F - PUBLIC FORUM.

Bill Whiteman, Mayor of Cottage Grove, spoke on the grants priority list.

James L. Johnson, Oregon City Commissioner, spoke regarding the METRO resource recovery plant in Oregon City. He is concerned about potential air pollution from the proposed facility.

Jeanne Roy, Portland AQMA, submitted testimony which was read into the record.

No one else appeared at Public Forum.

AGENDA ITEM H - WELDON LEE--REQUEST FOR VARIANCE TO ON-SITE SEWAGE DISPOSAL RULES.

Mr. Weldon Lee applied for a variance to on-site sewage disposal rules for a 7.2 acre parcel of land located in Warrenton, Oregon. His property is located within the Clatsop Plains moratorium boundaries which prohibits issuance of on-site sewage disposal permits. Mr. Lee is requesting the variance to allow construction of a three-bedroom house.

Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. Mr. Lee submitted an application for site evaluation to the Department's Astoria Office. Mr. Gerald Campbell evaluated the property and determined the site did not comply with the Department's minimum standards for issuance of a construction installation permit because of a setback requirement to a roadside ditch, and because the property is within an area within the Commission-authorized Clatsop Plains Moratorium. Mr. Campbell advised that a variance application be made to the Department, with specific suggestions.

3. The Department received a variance application from Mr. Lee, which was reviewed for completeness and assigned to a variance officer, Mr. Charles Gray.
4. Mr. Gray examined the proposed site and conducted a public information-gathering hearing. After closing the hearing, Mr. Gray evaluated the record and found that an on-site sewage disposal system, limited to a maximum daily sewage flow of three hundred seventy-five (375) gallons, and installed pursuant to specific conditions, could be expected to function properly at the site. Mr. Gray recommends the Commission find that strict compliance with OAR 340-71-220(2)(i) (Table 1) (6) and OAR 340-71-460(6)(e), as they pertain to Mr. Lee's proposed drainfield site, are inappropriate for cause, and authorize a construction installation permit be issued subject to special conditions.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the recommendation of the variance officer as the Commission's findings, and grant variances from OAR 340-71-220(2)(i) (Table 1) (6) and OAR 340-71-460(6)(e).

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

#### AGENDA ITEM L:

L(2) - REQUEST FOR A VARIANCE FROM THE GENERAL EMISSION VOLATILE ORGANIC COMPOUNDS, OAR 340-22-107 & 110(3), FIRE DISTRICT 10, PORTLAND.

L(3) - REQUEST FOR A VARIANCE FROM GENERAL EMISSION STANDARDS FOR VOLATILE ORGANIC COMPOUND FOR DELIVERY VESSELS, OAR 340-22-107, 120(1)(b), 120(3), 120(4) & 137(1), FOR THE ARROW TRANSPORTATION COMPANY, PORTLAND.

When the Commission extended the compliance dates for gasoline facilities by temporary rule at its April 24, 1981 meeting, the Department indicated that some facilities would still need additional time.

ITEM L contains two requests for variances from the VOC rules. Both are recommended for approval.

#### Summation - L(2)

1. Fire District 10 operates six fire stations with gasoline storage tanks in east Multnomah County. The fire district has requested a variance to operate these fire stations without controls until January 1, 1983.
2. The estimated emissions from this source are 0.2 tons per year. Installation of vapor controls is estimated at \$2,500.

3. The Commission is authorized by ORS 468.345 to grant variances from the Department rules if it finds that special circumstances render strict compliance unreasonable or burdensome.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance from OAR 340-22-107(3), VOC Emission Standards for Small Gasoline Storage Tanks, be granted to Fire District 10, for operation of gasoline storage tanks at six fire stations in east Multnomah County without controls until January 1, 1983.

Summation - L(3)

- 1) Arrow Transportation Company operates a bulk petroleum products transporting business in Oregon, Washington and Idaho with a terminal at 3125 NW 35th Avenue, Portland. The company requests a variance from VOC controls for its non-Oregon based tank truck units until January 31, 1982.
- 2) The necessary equipment was ordered on February 24, 1981, but the company has only received enough equipment to be able to have their Oregon based units brought into compliance.
- 3) The tank truck loads affected are less than 5% of their Oregon business or 10 tank truck unit loads per month.
- 4) The Department agrees that conditions beyond the company's control prevented the company from bringing all units into compliance.
- 5) The Commission is authorized by ORS 468.345 to grant variances from Department rules if it finds that conditions exist that are beyond the control of the person granted the variance.

Director's Recommendation

Based upon the findings in the summation, it is recommended that a variance from OAR 340-22-107, 120(1)(b), 120(3), 120(4) & 137(1) be granted to Arrow Transportation Company for its non-Oregon based tank truck units to onload and offload gasoline until January 31, 1982. This variance shall be subject to the limit of no more than 10 tank truck units per month onloadings of gasoline.

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

AGENDA ITEM N - REQUEST FOR CONCURRENCE IN APPROVAL OF A SOLID WASTE DISPOSAL PERMIT FOR THE TROUTDALE LANDFILL.

The City of Troutdale has applied for a Solid Waste Disposal Permit to reopen a partially completed landfill on city property. Additional

filling, while not absolutely necessary, would facilitate proper closure of the site. Proper closure is required under the Department's rules.

The Commission's concurrence is requested in this matter, since the Department is proposing to require less than the highest and best practicable measures to control leachate at the site.

#### Summation

1. The existing, inactive Troutdale Landfill cannot be economically closed without additional filling. Proper closure is needed to minimize leachate generation and prevent the off-site migration of methane gas. The City of Troutdale "inherited" this problem and does not have money to correct it. Also, closure without additional filling would result in contours that would limit future land use.
2. Requesting the highest and best practical leachate control strategy, in strict compliance with the Department's proposed Groundwater Quality Protection Policy, would cause economic hardship to the city and would be difficult to implement. (Refer to Attachment D for review of 340-41-029 as proposed.)
3. Staff, with the support of the Water Resources Department, believes that less stringent controls than those identified in the proposed Groundwater Protection Policy are prudent and will adequately protect the underlying groundwater. Adoption of less stringent controls is referenced in the proposed policy as an alternative which the EQC may approve.
4. The approval of proper landfill closure at this site does not seem inconsistent with the Commission's earlier denial of a proposed new landfill with similar potential environmental problems.
5. A proposed solid waste disposal facility permit (Attachment E) has been drafted which addresses the important environmental issues.

#### Director's Recommendation

Based upon the summation, it is requested that the Commission concur with the Department's intent to approve the proposed plan and issue a permit to allow interim operation and proper closure of the Troutdale Landfill.

Kent Mathiot, consulting hydrologist, recommended that the Commission deny the permit.

Dalton Williams, Troutdale City Council, concurred with the permit issuance.

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



AGENDA ITEM J - APPEAL OF HEARING OFFICER'S DECISION IN DEQ v. FAYDREX.

DEQ has acted to revoke 63 permits for subsurface systems to avoid a health hazard.

DEQ's action has been challenged by Faydrex, the permit holder, in a lengthy administrative hearing process, which culminated in a Hearing Officer's decision supporting the revocation.

The Commission was asked to review the Hearing Officer's decision.

Karen Allan, attorney, appeared for Faydrex.

Robb Haskins, Assistant Attorney General, appeared on behalf of the Department.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously that the Hearing Officer's findings be upheld.

AGENDA ITEM T - REQUEST BY THE LANE BOARD OF COMMISSIONERS TO POSTPONE PROGRESS UNDER CERTAIN CONDITIONS OF THE RIVER ROAD/SANTA CLARA INTERGOVERNMENTAL AGREEMENT.

The Lane Board of Commissioners has requested a postponement of progress until January, 1982 under the Board-EQC Intergovernmental Agreement for River Road/Santa Clara. Their request was based on county fiscal constraints, pending LCDC action on the local comprehensive plan, and HB 2521 regarding incorporation of cities. The staff report analyzes these factors and recommends time extensions and coordination with LCDC rather than postponement of all activity.

Summation

1. On June 3, 1981, the Lane Board of Commissioners requested a postponement of progress under the River Road/Santa Clara Intergovernmental Agreement until January, 1982.
2. This request has been impacted by recent events, most particularly a Compliance Order from LCDC which would affect the subject area and require compliance with Statewide Planning Goals by March, 1982.
3. Condition VII of the Intergovernmental Agreement states that the EQC will conduct a public hearing to review progress by no later than January 1, 1982. To ensure coordination with the LCDC Continuance Order, this public hearing should be postponed until May, 1982.

Director's Recommendation

Based upon the Summation:

1. It is recommended that the Commission extend or waive dates in Conditions II, (III would remain dependent upon II), VI and VII

of the Intergovernmental Agreement and amend those Conditions as follows:

- (a) Condition II: Lane County agrees to adopt a long-term urban master sewerage plan for the River Road/Santa Clara area no later than the compliance date in the September, 1981 LCDC Compliance Order or March 26, 1982, whichever comes first. Such plan shall utilize or amend the existing "Eugene-Springfield Metropolitan Area Treatment Alternatives 208 Plan" of April, 1977. This master sewerage plan shall specify the method of management, collection, treatment and disposal of sewage.
  - (b) Condition III: Compliance date remains dependent upon Condition II.
  - (c) Condition VI: The July 1, 1981 progress report is hereby waived.
  - (d) Condition VII: The EQC will review the semi-annual progress reports mentioned in paragraph VI, above. The EQC shall conduct a public hearing by no later than May 15, 1982 to evaluate progress. Upon review of said progress reports, at the public hearing, or at any other time the EQC may comment, assist, or take action outside the Intergovernmental Agreement including but not limited to that described in Oregon Revised Statutes (ORS) 222.850 through 222.915, ORS 454.235(2), and/or ORS 454.685.
2. It is further recommended that the Commission seek concurrence by the Lane Board of Commissioners regarding the extension of Condition VII. If such concurrence is not received, then the extension of Condition VII should not be made.

Roy Burns, Lane County, appeared and spoke on this matter.

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

AGENDA ITEM U - PROPOSED ADOPTION OF TEMPORARY RULE AMENDING RULES FOR ON-SITE SEWAGE DISPOSAL, OAR 340-73-055.

The Department was informed that a recent interpretation from the Office of the State Fire Marshall to the Chief Electrical Inspector had placed the on-site materials specifications for pumps and switches at odds with the State Electrical Code. To alleviate the conflict, staff have proposed changes in the standards.

Summation

1. The Commission adopted OAR 340-73-055, which sets standards for pumps, alarms and controls.

2. Some of the requirements of Appendix E conflict with the State Electrical Code for explosive atmospheres.
3. The conflict between the Department's rules, OAR 340-73-055 and the State Electrical Code, can be resolved by adoption of a temporary rule.

### Findings

The Environmental Quality Commission finds that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned, in that on-site sewage disposal systems utilizing electrical components cannot be approved without being in conflict with the State Electrical Code.

### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the proposed temporary rule amending OAR 340-73-055 as set forth in Attachment C.

Jerry Ross Hydronix, Inc., suggested some amendments to the temporary rule. Staff incorporated those changes into "Attachment C" to this staff report.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and passed unanimously that the Director's Recommendation, including Attachment C as amended, be approved.

### AGENDA ITEM I - CONSIDERATION OF ADOPTING PROPOSED PLANT SITE EMISSION LIMIT AND NEW SOURCE REVIEW RULES AND PROPOSED REVOCATION OF THE FOLLOWING EXISTING RULES:

- a. Special Permit Requirement for Sources Locating In or Near Nonattainment Areas, OAR 340-20-190 through 198.
- b. Criteria for Approval of New Sources in the Portland Special AQMA, OAR 340-30-005 through 025.
- c. Specific Air Pollution Control Rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.
- d. Prevention of Significant Deterioration, OAR 340-31-105, definitions 1 through 11, 13, 14, and 17 through 22; OAR 340-31-125; 340-31-125 through 195.

A public hearing was held on the proposed plant site emission limit and new source review rules before the Commission on April 24, 1981.

The issues raised at the public hearing and in subsequent written testimony were addressed in a staff report prepared for the June 5, 1981 EQC meeting.

Subsequently, a workshop was held by the Commission on June 30 and July 1, 1981. The rules were discussed further at the last commission meeting on July 17, 1981, and a number of issues were raised. At that meeting, the Commission agreed to continue discussion of the tax credit issue and the remaining issues that were not addressed at the last meeting prior to considering the Director's recommendation to adopt these rules.

The staff has prepared a report which was provided to the Commission in response to the issues raised at the last Commission meeting.

#### Summary

1. At the July 17, 1981 EQC Meeting, the Commission approved several changes to the proposed PSEL and NSR rules and identified five areas for further discussion at the August 28, 1981 EQC Meeting.
2. It appears that the tax credit motion adopted at the last meeting should be reconsidered in light of legal, equity, and administrative problems concerning this motion.
3. The application of the Plant Site Emission Limit Rule to Martin-Marietta and Oregon Steel was found not to create particular problems for those sources.
4. The Department has clarified, in response to several commentors, that the proposed rules allow specific control strategy regulations to be used as the baseline in establishing Plant Site Emission Limits.
5. The Commission indicated at its July 17, 1981 meeting, its intent to continue discussion of the remaining issues in the Addendum Report to the July 17, 1981 Staff Report, and to discuss staff responses to comments from EPA as set forth in the July 17, 1981 Staff Report.

#### Director's Recommendation

Based on the above Summary and the Summaries of the June 5, 1981 and July 17, 1981 Staff Reports, it is recommended that the Commission adopt the proposed rules (OAR 340-20-220 through 275 and OAR 340-20-300 through 320) as amended and attached hereto and revoke the existing rules for Plant Site Emission Limits and New Source Review.

Jack Weathersbee, Air Quality Administrator, explained to the Commission how the tax credit issue could be treated differently if not included as a part of this rule.

After discussion, it was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed that the Commission delete language adopted at the last meeting, included as "Background, No. 1" in the Staff Report, and reading,

"...except any such emission reduction attributable to facilities for which tax credit has been received on or after January 1, 1981, may be banked or used for contemporaneous offsets but may not be sold without reimbursement of the tax credit."

and further asked staff to return to an EQC meeting in two or three months with a fairly comprehensive review and assessment of the tax credit program, including the need for regulation, possible abuses, etc.

Commissioner Somers voted no.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed to add to 340-20-320(d) suggested language from page 2 of Northwest Pulp & Paper's August 25 letter, as follows:

"...When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration project unless, in the opinion of DEQ, extraordinary circumstances exist..."

Commissioner Somers voted no.

After the Commission was assured that all of EPA's concerns had been considered in formation of this rule, it was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed that this rule be adopted, incorporating all amendments recently made.

Commissioner Somers voted no.

AGENDA ITEM K - PROPOSED ADOPTION OF OPEN BURNING RULES, OAR 340-23-022 THROUGH OAR 340-23-080:

- a. Make extensive structural and language changes to make rules easier to understand and use.
- b. Establish a schedule pursuant to ORS 468.450 for regulation of open burning on a statewide basis.
- c. Delete provisions establishing a permanent prohibition on domestic burning within the Willamette Valley.

ITEM K proposes a revised set of general open burning rules for the state. These rules have been under development for two years. Conferences have been held with a number of public agencies and extensive hearings were held throughout the state. The public testimony gained through this process has resulted in a number of changes in some areas of the proposed rule.

Significant regulatory elements of the proposed rules are:

1. Establish spring and fall backyard burning seasons in the Willamette Valley, including Portland.

2. Establishment of a "schedule" for classifying burning days statewide for all open burning.
3. Exempting agricultural burning east of the Cascade Mountains.
4. Allowing LRAPA to set backyard burning seasons and hours specific for Lane County.

The proposed rules are compatible with the new legislation requiring allowances for backyard burning throughout the state.

#### Summation

1. The Department has proposed a revised structuring and wording for administering open burning in the state. This effort clarifies the effects of the rules and simplifies application of the rule to specific locations and specific types of burning.
2. Hearings were held in eight locations throughout the state to receive public testimony.
3. A ban on backyard burning, which has been a part of the rules in the past, has been abandoned for the present because:
  - (a) New legislation precludes a ban without certain findings by the Commission.
  - (b) Some local governments were having difficulty in providing alternatives for their constituents.
  - (c) Strong public demand.
4. Changes have been made to reflect public testimony, clarify the language of the rules and streamline their use.

#### Director's Recommendation

Based upon the Summation it is recommended that the Commission adopt the proposed open burning rules, OAR 340-23-022 through 340-23-080, in Attachment E.

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

#### AGENDA ITEM 0 - PROPOSED ADOPTION OF AMENDMENTS TO SOLID WASTE MANAGEMENT RULES, OAR 340-61-005, 010, 020 AND 025 THROUGH 040.

Last month, the Commission considered proposed amendments to the Department's Solid Waste Management Rules. Testimony was presented by the staff and by Mr. Roger Emmons, representing Oregon Sanitary Service Institute. Because of the large number of changes requested by Mr. Emmons, the Commission voted to carry the matter over to this meeting.

Staff has done some redrafting of the rules, in response to the comments by Mr. Emmons and the Commission.

#### Summation

1. The staff presented proposed amendments to the Department's solid waste management rules at the July 17, 1981, Commission meeting.
2. The Commission voted to delay action on the proposed rules, due to a large number of changes requested by Oregon Sanitary Service Institute and because of Commission concern about the regulation of residential composting.
3. Staff has made some revisions to the proposed rules in response to comments made at the July meeting and is again seeking adoption.
4. The Commission is authorized to adopt solid waste management rules by ORS 459.045.

#### Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed amendments to the Department's solid waste management rules, OAR 340-61-005, 61-010, 61-020 and 61-025 through 61-040.

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

#### AGENDA ITEM P - REQUEST FROM MULTNOMAH COUNTY FOR A SIX (6) MONTH DELAY IN IMPLEMENTING THE PROVISIONS OF OAR 340-71-335(2)(a), CESSPOOL PROHIBITIONS.

On-site sewage disposal rules prohibit installation of cesspools to serve new construction after October 1, 1981. Multnomah County has requested that the October 1 date be delayed for a period of 6 months to allow the County to develop a complete implementation plan and schedule for constructing sewers in East Multnomah County. The delay is proposed to be accomplished by adoption of a temporary rule.

#### Summation

1. The Commission has adopted a rule, 340-71-335, which prohibits cesspools to serve new construction after October 1, 1981.
2. Multnomah County has requested a six month delay in implementing the provisions of OAR 340-71-335(2)(a) while the County develops a plan to sewer most of the areas of East Multnomah County now served by cesspools.
3. The delay sought by the County may be accomplished by adoption of a temporary rule.

#### 4. Findings

The Environmental Quality Commission finds that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned, in that after October 1, 1981 the installation of more costly seepage pit sewage disposal systems will be required during a short term interim period (six months) while Multnomah County develops a more acceptable long range solution to the problem of cesspool and seepage pit sewage disposal.

#### Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission adopt the proposed temporary rule, Attachment C, which delays implementation of the provisions of OAR 340-71-335(2)(a) until March 1, 1982; the rule to be effective upon filing with the Secretary of State.

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

#### AGENDA ITEM Q - WATER QUALITY RULE ADOPTION--HOUSEKEEPING AMENDMENTS TO OAR CHAPTER 340, DIVISIONS 44, 45, AND 52; AND REPEAL OF DIVISIONS 42 AND 43.

ITEM Q relates to the adoption of housekeeping amendments to Water Quality Rules, Divisions 44, 45, and 52, and the repeal of Divisions 42 and 43.

During the public participation process, two additional changes were recommended which were not included at the time these amendments were authorized for hearing. One change in Division 44 would allow discharge of certain non-sewage waste waters down waste disposal wells after a case-by-case determination. Current rules restrict it to non-contact cooling waters.

The other change is a revision of the sewer-water separation diagram in Appendix A of Division 52. The old diagram is very difficult to interpret. These rule changes were before the Commission for final action.

#### Summation

1. ORS 468.020 grants the Commission authority to adopt rules and standards as it considers necessary in performing the functions vested by law.
2. Periodically rules need to be revised or repealed as they fail to address current policy and procedure.
3. The Department is proposing repeal of OAR Chapter 340 Divisions 42 and 43 and minor modification to Divisions 44, 45, and 52.



4. Public notice was issued and hearing held on the proposed rule changes. No testimony was received in opposition. Some written testimony was received in support of additional changes in Division 44. These changes are reflected in the rules proposed for adoption today.

#### Director's Recommendation

Based on the Summation, the Director recommends that the Commission repeal Divisions 42 and 43, and adopt the recommended modifications to Divisions 44, 45, and 52.

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

#### AGENDA ITEM R - PROPOSED ADOPTION OF ADDITIONS TO OAR CHAPTER 340, DIVISION 41, STATEWIDE WATER QUALITY MANAGEMENT PLAN.

The Commission has dealt with several different groundwater issues in the past several years including Clatsop Plains moratorium, North Florence special area rules, and River Road-Santa Clara moratorium. Because groundwater issues were being approached on a piecemeal basis, the staff developed an interim statewide groundwater protection policy.

The Commission approved the interim policy in April 1980. The staff took the interim policy through an extensive public involvement process and prepared a revised groundwater quality protection policy. In March, 1981, the Commission reviewed the revised policy and authorized the Department to hold a public hearing. A hearing was held on June 30, 1981. Several changes were made to the proposed policy as a result of written and oral testimony. Pertinent testimony and an analysis of the testimony are included in Agenda Item R, along with the proposed groundwater quality protection policy.

#### Summation

1. In April 1980, the Commission approved a staff prepared proposed policy for the protection of groundwater quality as an interim statement of policy, pending broad public review and consideration of their input.
2. In December 1980, the Department distributed to the public 1,400 copies of a background report containing the proposed policy. Nine public meetings were held statewide in January 1981, to discuss the report and proposed policy; eight of the meetings were chaired by the Department's PAC.
3. The Department evaluated the comments received, revised the statements of policy accordingly, proposed additional actions for the Commission to consider, and requested and was granted authorization in March 1981, to hold a public hearing with the intent

to codify the proposed definition for nonpoint sources and the final Groundwater Quality Protection Policy into Oregon Administrative Rules.

4. On June 10, 1981, a public hearing was held in Portland to receive testimony on the revised policy.
5. Both oral and written comments received from the public hearing were evaluated, leading to revisions of language for the following items:
  - (a) Nonpoint source definition
  - (b) Opening statement of the General Groundwater Quality Protection Policy.
  - (c) Proposed Planning Policy statements 1, 2, 4, and 5.
  - (d) Proposed Program Policy statements 7, 8, 9, 10, and 11.

#### Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the definition of Nonpoint Sources and the General Groundwater Quality Protection Policy, as proposed in Attachment 4, as administrative rules to be added to OAR Chapter 340, Division 41.

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

#### AGENDA ITEM S - 208 NONPOINT SOURCE PROJECT--PROPOSED ADDITIONS TO STATEWIDE WATER QUALITY MANAGEMENT PLAN.

At the November 1978 and August 1979 Commission Meetings, several "208" projects were added to the Statewide Water Quality Management Plan. The Commission was advised that the new 208 projects would be routinely added to the Plan. Three such projects are now complete, pending Commission approval:

1. Fecal Waste Management Plan for the Tillamook Drainage.
2. Statewide Framework Plan for Agriculture.
3. Conservation practices to protect water quality in the lower Malheur-Owyhee Drainages.

#### Summation

1. The Commission approved nonpoint source pollution control elements to the Statewide Water Quality Management Plan in November 1978 and August 1979.

2. New nonpoint source control plans have now been completed.
3. A substantial public involvement program was undertaken as a part of each plan.
4. The Exhibits S, T, U, are additions to the Volume VI - Nonpoint Source Action Program.
5. The Commission must approve the plan prior to submittal to EPA.
6. The Department requests that the proposed additions to Volume VI be approved.

#### Director's Recommendation

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

1. Approve Exhibits S, T, U, as additions to Volume VI of the Statewide Water Quality Management Plan.
2. Authorize the Director to transmit Exhibits S, T, U, to EPA for approval.

It was MOVED by Commissioner Somers, seconded by commissioner Burgess, and passed unanimously that the Director's Recommendation be approved.

#### AGENDA ITEM V - REQUEST FOR A VARIANCE FROM OAR 340-15-315(1)(b), VENEER DRYER VISIBLE EMISSIONS; AND OAR 340-21-015 AND 340-21-020(1), FUEL BURNING EQUIPMENT VISIBLE EMISSIONS AND PARTICULATE EMISSIONS, FOR ROSEBURG LUMBER COMPANY'S DILLARD MILL COMPLEX NEAR DILLARD.

Roseburg Lumber Company has requested a variance from the rules on emission limits on veneer dryers and hogged fuel boilers because extremely low flows in the South Umpqua River have resulted in reduction of their normal water withdrawal allocation. The company advises that this leaves them with insufficient water to operate all process and wet scrubber air emission control units. The variance is requested for a period until river flows return to normal and water rights are reinstated.

#### Summation

1. Roseburg Lumber Company has requested a temporary variance from Visible Air Contaminant Limitations OAR 340-21-015 and OAR 340-25-315(1) and Particulate Matter Limitations OAR 340-21-020(1) for the Dillard mill complex located near Dillard in Douglas County.
2. Normal water withdrawals from the South Umpqua River, necessary for mill process operations and wet scrubber air emission control units, have been reduced as a result of the river dropping below the minimum flows established by the State Water Resources Board.

3. A recent observation of visible emissions from boiler no. 1 while operating without the benefit of wet scrubber emission controls demonstrated about 30% opacity. Based on experience of a similar conditional variance granted to the plant in 1977, the Department does not expect a critical air degradation situation or any public complaints.
4. Roseburg Lumber Company reports that strict compliance with air control standards would result in drastically curtailing operations.
5. The Commission has the authority under ORS 468.345 to grant a variance from a rule if conditions exist beyond the control of a company or if strict compliance would cause a substantial curtailment or closing of a plant.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance to Roseburg Lumber Company from OAR 340-15-315(1)(b), Veneer Dryer Visible Air Contaminant Emissions; and OAR 340-21-015, Visible Air Contaminant Emissions (Fuel Burning Equipment) and OAR 340-21-020(1), Particulate Matter Emissions for Fuel Burning Equipment, for the Dillard mill complex subject to the following conditions:

1. The variance is valid, for whichever occurs first, 120 days commencing on August 28, 1981 or until flow conditions of the South Umpqua River are sufficient to allow full operation of the boiler and veneer dryer scrubbers.
2. Visible emissions from the boilers shall not exceed 40% opacity for more than three minutes in any one hour.
3. If the Department determines that emissions from the now uncontrolled boilers or veneer dryers are causing a significant adverse impact on the community or airshed, this variance may be revoked.

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

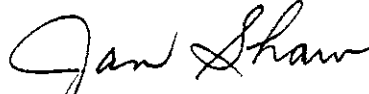
In connection with a discussion on future emergency situations regarding low river flows, it was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and passed unanimously that the following language be adopted as an informal Commission policy and be returned for hearing at the next regular meeting:

"In future emergency situations caused by low river flows, the Commission authorizes the Department to refrain from enforcement for any violation so caused until the Commission can consider the situation at its next regular meeting, provided an appropriate variance application has been timely filed with the Department which it would recommend for approval by the Commission at its next regular meeting"

Ray Underwood, Assistant AG, suggested to staff that language such as "Hearing closed" be noted on those agenda items in which no more testimony will be accepted by the Commission. The Director will make a recommendation of suitable language at breakfast or at a work session during the next EQC meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw  
EQC Assistant

JS:k

Proposed abbreviated form of minutes.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED THIRTY-FOURTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

August 28, 1981

On Friday, August 28, 1981, the one hundred thirty-fourth meeting of the Oregon Environmental Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Mr. Joe B. Richards, Chairman; Mr. Fred J. Burgess; Mrs. Mary V. Bishop; Mr. Ronald M. Somers; and Mr. Wallace B. Brill. 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 the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Department of Environmental Quality, 522 S.W. Fifth Avenue, Portland, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address.

BREAKFAST MEETING

The breakfast meeting convened at 7:30 a.m. at the Portland Motor Hotel in Portland. All five of the Commissioners were present, as were several members of the Department staff.

The following items were discussed:

1. EQC attendance at Goals & Objectives sessions: The Director listed for the Commission the tentative dates and locations of the Department's Goals & Objectives sessions, scheduled to occur throughout the fall of this year. The Commission members were invited to attend any session of interest to them. It was suggested that staff send a memo with the final dates and locations of each session, and the Commissioners would confirm with the Department their attendance at any session.
2. Discussion of OAR 340-71-130(11). (Case of home on one lot and sewage system on adjoining lot under same ownership.) Commissioner Somers presented specific examples of problems in light of the fact that this rule does not require the granting of an easement and proposed readoption of the old rule language. Assistant AG Ray Underwood replied that the rule change did not actually affect the way in which the rule is interpreted. He indicated that an owner cannot have an easement on his own property, and that it must be established when the property is sold. Chairman Richards suggested a requirement of notice that would appear in the property deed, and staff was asked to prepare a proposal for the next EQC meeting.

Superfund - briefing: Rich Reiter, Hazardous Waste Division, provided a written report. Staff proposes to bring a list of those sites needing cleanup to the November 20 EQC meeting.

4. Field burning update: Jack Weathersbee, Air Quality administrator, passed out a written report of DEQ's progress this year in the smoke management program. Staff agreed to supply the Commissioners with copies of the Director's weekly field burning report to the Governor.

FORMAL MEETING

Commissioners Richards, Somers, Burgess, Bishop, and Brill were present for the formal meeting.

AGENDA ITEM A - MINUTES OF THE JULY 17, 1981 MEETING.

AGENDA ITEM B - MONTHLY ACTIVITY REPORT FOR JUNE, 1981.

AGENDA ITEM C - TAX CREDIT APPLICATIONS.

AGENDA ITEM D - REQUEST FOR AUTHORIZATION TO HOLD A PUBLIC HEARING ON PROPOSED REVISIONS TO OREGON ADMINISTRATIVE RULES CHAPTER 340, STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL FACILITIES.

AGENDA ITEM E - REQUEST FOR AUTHORIZATION TO CONDUCT A PUBLIC HEARING ON HOUSEKEEPING MODIFICATIONS TO NOISE CONTROL RELATED RULES; OAR 340-35-015, 35-025, 35-030, 35-035, 35-040 and 35-045 AND PROCEDURE MANUALS; NPC-1, 2 and 21.

*Note: Hearing authorization need to be summarized.*

It was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and carried unanimously that the Director's recommendations for Items A, B, C, D and E be approved.

There was some discussion regarding the length of the last meeting's minutes. It was suggested by the Commission that it might be reduced in some way. The Commissioners will review the minutes and provide guidance on this subject at the breakfast meeting on October 9, 1981.

AGENDA ITEM M - REQUEST FOR VARIANCE FROM OAR 340-30-015, MEDFORD-ASHLAND AQMA HOGGED FUEL BOILER EMISSION LIMITATION, BY TIMBER PRODUCTS COMPANY.

Timber Products Company installed a wet scrubber on their hogged fuel boiler in North Medford. Both Timber Products Company and the Department's Air Quality staff anticipated that the boiler would meet the Medford-

Ashland AQMA hogged fuel boiler emission limit of 0.05 grains/standard cubic foot. Source testing shows that the boiler cannot meet the Medford rule and attempts to modify the scrubber to achieve compliance have failed.

This variance is necessary to allow operation of the boiler while Timber Products Company implements another control strategy to bring it into compliance. Since preparation of the staff report, the boiler has been tested. Preliminary evaluation of the data reveals an emission rate of 0.055 grains/standard cubic foot or an estimated 5-10 ton/year increase in emissions over the time period of this variance.

The staff report is supportive of Timber Products' request with the standard proviso that the company operate the existing equipment at its highest efficiency level.

#### Summation

1. The current emission limit for hogged fuel boilers in the Medford-Ashland AQMA with BTU input greater than 35 million BTU's per hour is 0.05 grains/standard cubic foot of air corrected to 12% CO<sub>2</sub>. Compliance for existing sources was to have been by January 1, 1980.
2. Timber Products Company purchased, installed, and is operating a medium pressure drop wet scrubber on its boiler in North Medford to meet the emission limitation rule.
3. Source testing to date has shown the boiler/scrubber cannot operate in compliance with the emission limitation rule.
4. Engineering and source test data reveals that the main emission problem is created by salt residues in the dry particleboard (wastes) fuel.
5. Timber Products Company has initiated a formulation change in the resins used in particleboard production allowing them to remove the salt.
6. The effectiveness of reducing the emission levels through removal of the salt will be ascertained by source test in mid-August, 1981. The results of this test will be available in September, 1981.
7. Timber Products Company has requested that the EQC grant them a variance pursuant to ORS 468.345(b) and (c) citing that special circumstances and conditions exist and strict compliance would result in substantial curtailment or closure of a plant(s).
8. Timber Products Company has proposed a compliance schedule for bringing the boiler into compliance coincidental with the schedule on its two (2) particleboard dryers.
9. The EQC has the authority pursuant to ORS 468.345 to grant specific variances where certain conditions exist as defined by law and may condition such variances as appropriate.



### Director's Recommendation

Based on the findings of the summation, the Director recommends that the Commission:

Grant a variance from OAR 340-30-015, Medford-Ashland AQMA Hogged Fuel Boiler Emission Limitations, to Timber Products Company conditional upon the Company's adherence to the following increments of progress towards compliance:

1. By no later than October 30, 1981, the permittee shall submit a final control strategy, including detailed plans and specifications, to the Department of Environmental Quality for review and approval.
2. By no later than January 1, 1982, the permittee shall issue purchase orders for the major components of emission control equipment and/or for process modification work.
3. By no later than May 1, 1982, the permittee shall initiate the installation of emission control equipment and/or on-site construction or process modification work.
4. By no later than January 1, 1983, the permittee shall complete the installation of emission control equipment and/or on-site construction or process modification work.
5. By no later than June 30, 1983, the permittee shall demonstrate that the boiler is capable of operating in compliance with the applicable Air Quality Rules and Standards.
6. Within seven (7) days after each item, number 2 through 5 above, is completed the permittee will inform the Department in writing that the respective item has been accomplished.

Further, it is understood that a condition of the variance will be that the existing boiler scrubber be operated and maintained at peak efficiency levels throughout the period of variance, including the use of "salt-free" resins.

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

### AGENDA ITEM G - MR. GARY T. HUBBARD--APPEAL OF SUBSURFACE VARIANCE DENIAL.

Mr. Gary T. Hubbard appealed a variance officer's decision that his property is unsuitable for placement of an on-site sewage disposal system.

### Summation

1. The pertinent legal authorities are summarized in Attachment "A".

2. On June 25, 1979, Mr. Ken Kimsey evaluated lot 6, Myers Addition, Tierra Del Mar Subdivision and determined that a standard subsurface sewage disposal system to serve a triplex could be installed. Mr. Kimsey issued a Certificate of Favorable Site Evaluation the same day.
3. The Environmental Quality Commission adopted a temporary rule on March 21, 1980, that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979.
4. At the request of Mr. Hubbard, the property was reevaluated on July 14, 1980, by Department staff. The site was found not to meet the Department's minimum standards to install an on-site sewage disposal system because of insufficient area on the small lot to place a drainfield, with future replacement, to serve a triplex. The property also has a fluctuating permanent groundwater table, as indicated by mottling, that comes within thirty-six (36) inches of the ground surface. The installation of a sand filter system was prevented for the same reasons. Mr. Smits also determined the areas of highest ground would comply with the Department's minimum standards if a single family dwelling with not more than three (3) bedrooms had been proposed. Mr. Hubbard was notified of the reevaluation denial by letter.
5. A variance application submitted by Mr. Hubbard was assigned to Mr. Michael Ebeling, variance officer. On July 23, 1980, Mr. Ebeling examined the property, and conducted a public information gathering hearing. After closing the hearing, Mr. Ebeling received the variance record and found the testimony did not support a favorable decision. Mr. Hubbard was notified by letter that the variance request was denied. He was also informed that the decision could be reconsidered if monitoring of groundwater levels by Tillamook County during the winter and spring would so warrant.
6. In June, 1981, Mr. Hubbard inquired about the results of the ground water monitoring. Department staff contacted Tillamook County and learned that due to workloads the County had inadvertently failed to do the monitoring. Mr. Hubbard was then informed that there was no basis for reconsideration of the denial.
7. A letter appealing the variance denial was received by the Department on July 13, 1981.
8. Staff considered other possible options available to Mr. Hubbard as a consequence of recent rule adoption. No other option appears feasible to serve a triplex.
9. Mr. Hubbard was notified by letter dated July 16, 1981, that his request for appeal would be scheduled for the August 28, 1981 Commission meeting.

#### 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.

The following appeared on behalf of Mr. Hubbard:

Gary Hubbard, property owner.  
Nicholas E. Bailey, attorney, Rid-Waste Environmental Systems.  
James F. Nims, civil engineer, representing Mr. Hubbard.  
Thomas Graham, inventor, Rid-Waste Environmental Systems.

It was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed that this item be referred back to the variance officer for consideration of further information and to return to the Commission at their October 9 meeting. Commissioner Somers voted no.

AGENDA ITEM F - PUBLIC FORUM.

Bill Whiteman, Mayor of Cottage Grove, spoke on the grants priority list.

James L. Johnson, Oregon City Commissioner, spoke regarding the METRO resource recovery plant in Oregon City. He is concerned about potential air pollution from the proposed facility.

Jeanne Roy, Portland AQMA, submitted testimony which was read into the record.

No one else appeared at Public Forum.

AGENDA ITEM H - WELDON LEE--REQUEST FOR VARIANCE TO ON-SITE SEWAGE DISPOSAL RULES.

Mr. Weldon Lee applied for a variance to on-site sewage disposal rules for a 7.2 acre parcel of land located in Warrenton, Oregon. His property is located within the Clatsop Plains moratorium boundaries which prohibits issuance of on-site sewage disposal permits. Mr. Lee is requesting the variance to allow construction of a three-bedroom house.

Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. Mr. Lee submitted an application for site evaluation to the Department's Astoria Office. Mr. Gerald Campbell evaluated the property and determined the site did not comply with the Department's minimum standards for issuance of a construction installation permit because of a setback requirement to a roadside ditch, and because the property is within an area within the Commission-authorized Clatsop Plains Moratorium. Mr. Campbell advised that a variance application be made to the Department, with specific suggestions.

3. The Department received a variance application from Mr. Lee, which was reviewed for completeness and assigned to a variance officer, Mr. Charles Gray.
4. Mr. Gray examined the proposed site and conducted a public information-gathering hearing. After closing the hearing, Mr. Gray evaluated the record and found that an on-site sewage disposal system, limited to a maximum daily sewage flow of three hundred seventy-five (375) gallons, and installed pursuant to specific conditions, could be expected to function properly at the site. Mr. Gray recommends the Commission find that strict compliance with OAR 340-71-220(2)(i) (Table 1) (6) and OAR 340-71-460(6)(e), as they pertain to Mr. Lee's proposed drainfield site, are inappropriate for cause, and authorize a construction installation permit be issued subject to special conditions.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the recommendation of the variance officer as the Commission's findings, and grant variances from OAR 340-71-220(2)(i) (Table 1) (6) and OAR 340-71-460(6)(e).

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

#### AGENDA ITEM L:

L(2) - REQUEST FOR A VARIANCE FROM THE GENERAL EMISSION VOLATILE ORGANIC COMPOUNDS, OAR 340-22-107 & 110(3), FIRE DISTRICT 10, PORTLAND.

L(3) - REQUEST FOR A VARIANCE FROM GENERAL EMISSION STANDARDS FOR VOLATILE ORGANIC COMPOUND FOR DELIVERY VESSELS, OAR 340-22-107, 120(1)(b), 120(3), 120(4) & 137(1), FOR THE ARROW TRANSPORTATION COMPANY, PORTLAND.

When the Commission extended the compliance dates for gasoline facilities by temporary rule at its April 24, 1981 meeting, the Department indicated that some facilities would still need additional time.

ITEM L contains two requests for variances from the VOC rules. Both are recommended for approval.

#### Summation - L(2)

1. Fire District 10 operates six fire stations with gasoline storage tanks in east Multnomah County. The fire district has requested a variance to operate these fire stations without controls until January 1, 1983.
2. The estimated emissions from this source are 0.2 tons per year. Installation of vapor controls is estimated at \$2,500.

- ~~3. The Commission is authorized by ORS 468.345 to grant variances from the Department rules if it finds that special circumstances render strict compliance unreasonable or burdensome.~~

Director's Recommendation

Based upon the findings in the Summation, it is recommended that a variance from OAR 340-22-107(3), VOC Emission Standards for Small Gasoline Storage Tanks, be granted to Fire District 10, for operation of gasoline storage tanks at six fire stations in east Multnomah County without controls until January 1, 1983.

Summation - L(3)

- 1) Arrow Transportation Company operates a bulk petroleum products transporting business in Oregon, Washington and Idaho with a terminal at 3125 NW 35th Avenue, Portland. The company requests a variance from VOC controls for its non-Oregon based tank truck units until January 31, 1982.
- 2) The necessary equipment was ordered on February 24, 1981, but the company has only received enough equipment to be able to have their Oregon based units brought into compliance.
- 3) The tank truck loads affected are less than 5% of their Oregon business or 10 tank truck unit loads per month.
- 4) The Department agrees that conditions beyond the company's control prevented the company from bringing all units into compliance.
- 5) The Commission is authorized by ORS 468.345 to grant variances from Department rules if it finds that conditions exist that are beyond the control of the person granted the variance.

Director's Recommendation

Based upon the findings in the summation, it is recommended that a variance from OAR 340-22-107, 120(1)(b), 120(3), 120(4) & 137(1) be granted to Arrow Transportation Company for its non-Oregon based tank truck units to onload and offload gasoline until January 31, 1982. This variance shall be subject to the limit of no more than 10 tank truck units per month onloadings of gasoline.

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

AGENDA ITEM N - REQUEST FOR CONCURRENCE IN APPROVAL OF A SOLID WASTE DISPOSAL PERMIT FOR THE TROUTDALE LANDFILL.

The City of Troutdale has applied for a Solid Waste Disposal Permit to reopen a partially completed landfill on city property. Additional

filling, while not absolutely necessary, would facilitate proper closure of the site. Proper closure is required under the Department's rules.

The Commission's concurrence is requested in this matter, since the Department is proposing to require less than the highest and best practicable measures to control leachate at the site.

#### Summation

1. The existing, inactive Troutdale Landfill cannot be economically closed without additional filling. Proper closure is needed to minimize leachate generation and prevent the off-site migration of methane gas. The City of Troutdale "inherited" this problem and does not have money to correct it. Also, closure without additional filling would result in contours that would limit future land use.
2. Requesting the highest and best practical leachate control strategy, in strict compliance with the Department's proposed Groundwater Quality Protection Policy, would cause economic hardship to the city and would be difficult to implement. (Refer to Attachment D for review of 340-41-029 as proposed.)
3. Staff, with the support of the Water Resources Department, believes that less stringent controls than those identified in the proposed Groundwater Protection Policy are prudent and will adequately protect the underlying groundwater. Adoption of less stringent controls is referenced in the proposed policy as an alternative which the EQC may approve.
4. The approval of proper landfill closure at this site does not seem inconsistent with the Commission's earlier denial of a proposed new landfill with similar potential environmental problems.
5. A proposed solid waste disposal facility permit (Attachment E) has been drafted which addresses the important environmental issues.

#### Director's Recommendation

Based upon the summation, it is requested that the Commission concur with the Department's intent to approve the proposed plan and issue a permit to allow interim operation and proper closure of the Troutdale Landfill.

Kent Mathiot, consulting hydrologist, recommended that the Commission deny the permit.

Dalton Williams, Troutdale City Council, concurred with the permit issuance.

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

AGENDA ITEM J - APPEAL OF HEARING OFFICER'S DECISION IN DEQ v. FAYDREX.

DEQ has acted to revoke 63 permits for subsurface systems to avoid a health hazard.

DEQ's action has been challenged by Faydrex, the permit holder, in a lengthy administrative hearing process, which culminated in a Hearing Officer's decision supporting the revocation.

The Commission was asked to review the Hearing Officer's decision.

Karen Allan, attorney, appeared for Faydrex.

Robb Haskins, Assistant Attorney General, appeared on behalf of the Department.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed unanimously that the Hearing Officer's findings be upheld.

AGENDA ITEM T - REQUEST BY THE LANE BOARD OF COMMISSIONERS TO POSTPONE  
PROGRESS UNDER CERTAIN CONDITIONS OF THE RIVER ROAD/  
SANTA CLARA INTERGOVERNMENTAL AGREEMENT.

The Lane Board of Commissioners has requested a postponement of progress until January, 1982 under the Board-EQC Intergovernmental Agreement for River Road/Santa Clara. Their request was based on county fiscal constraints, pending LCDC action on the local comprehensive plan, and HB 2521 regarding incorporation of cities. The staff report analyzes these factors and recommends time extensions and coordination with LCDC rather than postponement of all activity.

Summation

1. On June 3, 1981, the Lane Board of Commissioners requested a postponement of progress under the River Road/Santa Clara Intergovernmental Agreement until January, 1982.
2. This request has been impacted by recent events, most particularly a Compliance Order from LCDC which would affect the subject area and require compliance with Statewide Planning Goals by March, 1982.
3. Condition VII of the Intergovernmental Agreement states that the EQC will conduct a public hearing to review progress by no later than January 1, 1982. To ensure coordination with the LCDC Continuance Order, this public hearing should be postponed until May, 1982.

Director's Recommendation

Based upon the Summation:

1. It is recommended that the Commission extend or waive dates in Conditions II, (III would remain dependent upon II), VI and VII

of the Intergovernmental Agreement and amend those Conditions as follows:

- (a) Condition II: Lane County agrees to adopt a long-term urban master sewerage plan for the River Road/Santa Clara area no later than the compliance date in the September, 1981 LCDC Compliance Order or March 26, 1982, whichever comes first. Such plan shall utilize or amend the existing "Eugene-Springfield Metropolitan Area Treatment Alternatives 208 Plan" of April, 1977. This master sewerage plan shall specify the method of management, collection, treatment and disposal of sewage.
  - (b) Condition III: Compliance date remains dependent upon Condition II.
  - (c) Condition VI: The July 1, 1981 progress report is hereby waived.
  - (d) Condition VII: The EQC will review the semi-annual progress reports mentioned in paragraph VI, above. The EQC shall conduct a public hearing by no later than May 15, 1982 to evaluate progress. Upon review of said progress reports, at the public hearing, or at any other time the EQC may comment, assist, or take action outside the Intergovernmental Agreement including but not limited to that described in Oregon Revised Statutes (ORS) 222.850 through 222.915, ORS 454.235(2), and/or ORS 454.685.
2. It is further recommended that the Commission seek concurrence by the Lane Board of Commissioners regarding the extension of Condition VII. If such concurrence is not received, then the extension of Condition VII should not be made.

Roy Burns, Lane County, appeared and spoke on this matter.

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

AGENDA ITEM U - PROPOSED ADOPTION OF TEMPORARY RULE AMENDING RULES FOR ON-SITE SEWAGE DISPOSAL, OAR 340-73-055.

The Department was informed that a recent interpretation from the Office of the State Fire Marshall to the Chief Electrical Inspector had placed the on-site materials specifications for pumps and switches at odds with the State Electrical Code. To alleviate the conflict, staff have proposed changes in the standards.

Summation

1. The Commission adopted ~~OAR 340-73-055~~, which sets standards for pumps, alarms and controls.



2. Some of the requirements of Appendix E conflict with the State Electrical Code for explosive atmospheres.
3. The conflict between the Department's rules, OAR 340-73-055 and the State Electrical Code, can be resolved by adoption of a temporary rule.

### Findings

The Environmental Quality Commission finds that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned, in that on-site sewage disposal systems utilizing electrical components cannot be approved without being in conflict with the State Electrical Code.

### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the proposed temporary rule amending OAR 340-73-055 as set forth in Attachment C.

Jerry Ross Hydronix, Inc., suggested some amendments to the temporary rule. Staff incorporated those changes into "Attachment C" to this staff report.

It was MOVED by Commissioner Somers, seconded by Commissioner Burgess, and passed unanimously that the Director's Recommendation, including Attachment C, be approved.

### AGENDA ITEM I - CONSIDERATION OF ADOPTING PROPOSED PLANT SITE EMISSION LIMIT AND NEW SOURCE REVIEW RULES AND PROPOSED REVOCATION OF THE FOLLOWING EXISTING RULES:

- a. Special Permit Requirement for Sources Locating In or Near Nonattainment Areas, OAR 340-20-190 through 198.
- b. Criteria for Approval of New Sources in the Portland Special AQMA, OAR 340-30-005 through 025.
- c. Specific Air Pollution Control Rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.
- d. Prevention of Significant Deterioration, OAR 340-31-105, definitions 1 through 11, 13, 14, and 17 through 22; OAR 340-31-125; 340-31-125 through 195.

A public hearing was held on the proposed plant site emission limit and new source review rules before the Commission on April 24, 1981.

The issues raised at the public hearing and in subsequent written testimony were addressed in a staff report prepared for the June 5, 1981 EQC meeting.

Subsequently, a workshop was held by the Commission on June 30 and July 1, 1981. The rules were discussed further at the last Commission meeting on July 17, 1981, and a number of issues were raised. At that meeting, the Commission agreed to continue discussion of the tax credit issue and the remaining issues that were not addressed at the last meeting prior to considering the Director's recommendation to adopt these rules.

The staff has prepared a report which was provided to the Commission in response to the issues raised at the last Commission meeting.

#### Summary

1. At the July 17, 1981 EQC Meeting, the Commission approved several changes to the proposed PSEL and NSR rules and identified five areas for further discussion at the August 28, 1981 EQC Meeting.
2. It appears that the tax credit motion adopted at the last meeting should be reconsidered in light of legal, equity, and administrative problems concerning this motion.
3. The application of the Plant Site Emission Limit Rule to Martin-Marietta and Oregon Steel was found not to create particular problems for those sources.
4. The Department has clarified, in response to several commentors, that the proposed rules allow specific control strategy regulations to be used as the baseline in establishing Plant Site Emission Limits.
5. The Commission indicated at its July 17, 1981 meeting, its intent to continue discussion of the remaining issues in the Addendum Report to the July 17, 1981 Staff Report, and to discuss staff responses to comments from EPA as set forth in the July 17, 1981 Staff Report.

#### Director's Recommendation

Based on the above Summary and the Summaries of the June 5, 1981 and July 17, 1981 Staff Reports, it is recommended that the Commission adopt the proposed rules (OAR 340-20-220 through 275 and OAR 340-20-300 through 320) as amended and attached hereto and revoke the existing rules for Plant Site Emission Limits and New Source Review.

Jack Weathersbee, Air Quality Administrator, explained to the Commission how the tax credit issue could be treated differently if not included as a part of this rule.

After discussion, it was MOVED by Commissioner Burgess, seconded by Commissioner Brill, and passed that the Commission delete language adopted at the last meeting, included as "Background, No. 1" in the Staff Report, and reading:

"...except any such emission reduction attributable to facilities for which tax credit has been received on or after January 1, 1981, may be banked or used for contemporaneous offsets but may not be sold without reimbursement of the tax credit."

Commissioner Somers voted no.

It was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed to add to 340-20-320(d) suggested language from page 2 of Northwest Pulp & Paper's August 25 letter, as follows:

"...When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration project unless, in the opinion of DEQ, extraordinary circumstances exist..."

Commissioner Somers voted no.

After the Commission was assured that all of EPA's concerns had been considered in formation of this rule, it was MOVED by Commissioner Burgess, seconded by Commissioner Bishop, and passed that this rule be adopted, incorporating all amendments recently made.

Commissioner Somers voted no.

AGENDA ITEM K - PROPOSED ADOPTION OF OPEN BURNING RULES, OAR 340-23-022 THROUGH OAR 340-23-080:

- a. Make extensive structural and language changes to make rules easier to understand and use.
- b. Establish a schedule pursuant to ORS 468.450 for regulation of open burning on a statewide basis.
- c. Delete provisions establishing a permanent prohibition on domestic burning within the Willamette Valley.

ITEM K proposes a revised set of general open burning rules for the state. These rules have been under development for two years. Conferences have been held with a number of public agencies and extensive hearings were held throughout the state. The public testimony gained through this process has resulted in a number of changes in some areas of the proposed rule.

Significant regulatory elements of the proposed rules are:

1. Establish spring and fall backyard burning seasons in the Willamette Valley, including Portland.

2. Establishment of a "schedule" for classifying burning days statewide for all open burning.
3. Exempting agricultural burning east of the Cascade Mountains.
4. Allowing LRAPA to set backyard burning seasons and hours specific for Lane County.

The proposed rules are compatible with the new legislation requiring allowances for backyard burning throughout the state.

#### Summation

1. The Department has proposed a revised structuring and wording for administering open burning in the state. This effort clarifies the effects of the rules and simplifies application of the rule to specific locations and specific types of burning.
2. Hearings were held in eight locations throughout the state to receive public testimony.
3. A ban on backyard burning, which has been a part of the rules in the past, has been abandoned for the present because:
  - (a) New legislation precludes a ban without certain findings by the Commission.
  - (b) Some local governments were having difficulty in providing alternatives for their constituents.
  - (c) Strong public demand.
4. Changes have been made to reflect public testimony, clarify the language of the rules and streamline their use.

#### Director's Recommendation

Based upon the Summation it is recommended that the Commission adopt the proposed open burning rules, OAR 340-23-022 through 340-23-080, in Attachment E.

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

#### AGENDA ITEM O - PROPOSED ADOPTION OF AMENDMENTS TO SOLID WASTE MANAGEMENT RULES, OAR 340-61-005, 010, 020 AND 025 THROUGH 040.

Last month, the Commission considered proposed amendments to the Department's Solid Waste Management Rules. Testimony was presented by the staff and by Mr. Roger Emmons, representing Oregon Sanitary Service Institute. Because of the large number of changes requested by Mr. Emmons, the Commission voted to carry the matter over to this meeting.

Staff has done some redrafting of the rules, in response to the comments by Mr. Emmons and the Commission.

Summation

1. The staff presented proposed amendments to the Department's solid waste management rules at the July 17, 1981, Commission meeting.
2. The Commission voted to delay action on the proposed rules, due to a large number of changes requested by Oregon Sanitary Service Institute and because of Commission concern about the regulation of residential composting.
3. Staff has made some revisions to the proposed rules in response to comments made at the July meeting and is again seeking adoption.
4. The Commission is authorized to adopt solid waste management rules by ORS 459.045.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed amendments to the Department's solid waste management rules, OAR 340-61-005, 61-010, 61-020 and 61-025 through 61-040.

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

AGENDA ITEM P - REQUEST FROM MULTNOMAH COUNTY FOR A SIX (6) MONTH DELAY IN IMPLEMENTING THE PROVISIONS OF OAR 340-71-335(2) (a), CESSPOOL PROHIBITIONS.

On-site sewage disposal rules prohibit installation of cesspools to serve new construction after October 1, 1981. Multnomah County has requested that the October 1 date be delayed for a period of 6 months to allow the County to develop a complete implementation plan and schedule for constructing sewers in East Multnomah County. The delay is proposed to be accomplished by adoption of a temporary rule.

Summation

1. The Commission has adopted a rule, 340-71-335, which prohibits cesspools to serve new construction after October 1, 1981.
2. Multnomah County has requested a six month delay in implementing the provisions of OAR 340-71-335(2) (a) while the County develops a plan to sewer most of the areas of East Multnomah County now served by cesspools.
3. The delay sought by the County may be accomplished by adoption of a temporary rule.

#### 4. Findings

The Environmental Quality Commission finds that failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned, in that after October 1, 1981 the installation of more costly seepage pit sewage disposal systems will be required during a short term interim period (six months) while Multnomah County develops a more acceptable long range solution to the problem of cesspool and seepage pit sewage disposal.

#### Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission adopt the proposed temporary rule, Attachment C, which delays implementation of the provisions of OAR 340-71-335(2) (a) until March 1, 1982; the rule to be effective upon filing with the Secretary of State.

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

#### AGENDA ITEM Q - WATER QUALITY RULE ADOPTION--HOUSEKEEPING AMENDMENTS TO OAR CHAPTER 340, DIVISIONS 44, 45, AND 52; AND REPEAL OF DIVISIONS 42 AND 43.

ITEM Q relates to the adoption of housekeeping amendments to Water Quality Rules, Divisions 44, 45, and 52, and the repeal of Divisions 42 and 43.

During the public participation process, two additional changes were recommended which were not included at the time these amendments were authorized for hearing. One change in Division 44 would allow discharge of certain non-sewage waste waters down waste disposal wells after a case-by-case determination. Current rules restrict it to non-contact cooling waters.

The other change is a revision of the sewer-water separation diagram in Appendix A of Division 52. The old diagram is very difficult to interpret. These rule changes were before the Commission for final action.

#### Summation

1. ORS 468.020 grants the Commission authority to adopt rules and standards as it considers necessary in performing the functions vested by law.
2. Periodically rules need to be revised or repealed as they fail to address current policy and procedure.
3. The Department is proposing repeal of OAR Chapter 340 Divisions 42 and 43 and minor modification to Divisions 44, 45, and 52.

4. Public notice was issued and hearing held on the proposed rule changes. NO testimony was received in opposition. Some written testimony was received in support of additional changes in Division 44. These changes are reflected in the rules proposed for adoption today.

#### Director's Recommendation

Based on the Summation, the Director recommends that the Commission repeal Divisions 42 and 43, and adopt the recommended modifications to Divisions 44, 45, and 52.

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

#### AGENDA ITEM R - PROPOSED ADOPTION OF ADDITIONS TO OAR CHAPTER 340, DIVISION 41, STATEWIDE WATER QUALITY MANAGEMENT PLAN.

The Commission has dealt with several different groundwater issues in the past several years including Clatsop Plains moratorium, North Florence special area rules, and River Road-Santa Clara moratorium. Because groundwater issues were being approached on a piecemeal basis, the staff developed an interim statewide groundwater protection policy.

The Commission approved the interim policy in April 1980. The staff took the interim policy through an extensive public involvement process and prepared a revised groundwater quality protection policy. In March, 1981, the Commission reviewed the revised policy and authorized the Department to hold a public hearing. A hearing was held on June 30, 1981. Several changes were made to the proposed policy as a result of written and oral testimony. Pertinent testimony and an analysis of the testimony are included in Agenda Item R, along with the proposed groundwater quality protection policy.

#### Summation

1. In April 1980, the Commission approved a staff prepared proposed policy for the protection of groundwater quality as an interim statement of policy, pending broad public review and consideration of their input.
2. In December 1980, the Department distributed to the public 1,400 copies of a background report containing the proposed policy. Nine public meetings were held statewide in January 1981, to discuss the report and proposed policy; eight of the meetings were chaired by the Department's PAC.
3. The Department evaluated the comments received, revised the statements of policy accordingly, proposed additional actions for the Commission to consider, and requested and was granted authorization in March 1981, to hold a public hearing with the intent

to codify the proposed definition for nonpoint sources and the final Groundwater Quality Protection Policy into Oregon Administrative Rules.

4. On June 10, 1981, a public hearing was held in Portland to receive testimony on the revised policy.
5. Both oral and written comments received from the public hearing were evaluated, leading to revisions of language for the following items:
  - (a) Nonpoint source definition
  - (b) Opening statement of the General Groundwater Quality Protection Policy.
  - (c) Proposed Planning Policy statements 1, 2, 4, and 5.
  - (d) Proposed Program Policy statements 7, 8, 9, 10, and 11.

#### Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the definition of Nonpoint Sources and the General Groundwater Quality Protection Policy, as proposed in Attachment 4, as administrative rules to be added to OAR Chapter 340, Division 41.

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

#### AGENDA ITEM S - 208 NONPOINT SOURCE PROJECT--PROPOSED ADDITIONS TO STATEWIDE WATER QUALITY MANAGEMENT PLAN.

At the November 1978 and August 1979 Commission Meetings, several "208" projects were added to the Statewide Water Quality Management Plan. The Commission was advised that the new 208 projects would be routinely added to the Plan. Three such projects are now complete, pending Commission approval:

1. Fecal Waste Management Plan for the Tillamook Drainage.
2. Statewide Framework Plan for Agriculture.
3. Conservation practices to protect water quality in the lower Malheur-Owyhee Drainages.

#### Summation

1. The Commission approved nonpoint source pollution control elements to the Statewide Water Quality Management Plan in November 1978 and August 1979.



2. New nonpoint source control plans have now been completed.
3. A substantial public involvement program was undertaken as a part of each plan.
4. The Exhibits S, T, U, are additions to the Volume VI - Nonpoint Source Action Program.
5. The Commission must approve the plan prior to submittal to EPA.
6. The Department requests that the proposed additions to Volume VI be approved.

Director's Recommendation

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

1. Approve Exhibits S, T, U, as additions to Volume VI of the Statewide Water Quality Management Plan.
2. Authorize the Director to transmit Exhibits S, T, U, to EPA for approval.

It was MOVED by Commissioner Somers, seconded by commissioner Burgess, and passed unanimously that the Director's Recommendation be approved.

AGENDA ITEM V - REQUEST FOR A VARIANCE FROM OAR 340-15-315(1) (b), VENEER DRYER VISIBLE EMISSIONS; AND OAR 340-21-015 AND 340-21-020(1), FUEL BURNING EQUIPMENT VISIBLE EMISSIONS AND PARTICULATE EMISSIONS, FOR ROSEBURG LUMBER COMPANY'S DILLARD MILL COMPLEX NEAR DILLARD.

Roseburg Lumber Company has requested a variance from the rules on emission limits on veneer dryers and hogged fuel boilers because extremely low flows in the South Umpqua River have resulted in reduction of their normal water withdrawal allocation. The company advises that this leaves them with insufficient water to operate all process and wet scrubber air emission control units. The variance is requested for a period until river flows return to normal and water rights are reinstated.

Summation

1. Roseburg Lumber Company has requested a temporary variance from Visible Air Contaminant Limitations OAR 340-21-015 and OAR 340-25-315(1) and Particulate Matter Limitations OAR 340-21-020(1) for the Dillard mill complex located near Dillard in Douglas County.
2. Normal water withdrawals from the South Umpqua River, necessary for mill process operations and wet scrubber air emission control units, have been reduced as a result of the river dropping below the minimum flows established by the State Water Resources Board.

recent observation of visible emissions from boiler no. 1 while operating without the benefit of wet scrubber emission controls demonstrated about 30% opacity. Based on experience of a similar conditional variance granted to the plant in 1977, the Department does not expect a critical air degradation situation or any public complaints.

Roseburg Lumber Company reports that strict compliance with air control standards would result in drastically curtailing operations.

The Commission has the authority under ORS 468.345 to grant a variance from a rule if conditions exist beyond the control of a company or if strict compliance would cause a substantial curtailment or closing of a plant.

#### Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance to Roseburg Lumber Company from OAR 340-15-315(1)(b), Veneer Dryer Visible Air Contaminant Emissions; and OAR 340-21-015, Visible Air Contaminant Emissions (Fuel Burning Equipment) and OAR 340-21-020(1), Particulate Matter Emissions for Fuel Burning Equipment, for the Dillard mill complex subject to the following conditions:

1. The variance is valid, for whichever occurs first, 120 days commencing on August 28, 1981 or until flow conditions of the South Umpqua River are sufficient to allow full operation of the boiler and veneer dryer scrubbers.
2. Visible emissions from the boilers shall not exceed 40% opacity for more than three minutes in any one hour.
3. If the Department determines that emissions from the now uncontrolled boilers or veneer dryers are causing a significant adverse impact on the community or airshed, this variance may be revoked.

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

In connection with a discussion on future emergency situations regarding low river flows, it was MOVED by Commissioner Somers, seconded by Commissioner Bishop, and passed unanimously that the following language be adopted as an informal Commission policy and be returned for hearing at the next regular meeting:

"The Commission will approve no enforcement of violations of this type until they have had the opportunity to approve at the next regular meeting. In the meantime, if a variance application is received which the Department has reviewed and would recommend to the Commission at the next meeting, then abeyance of enforcement could be in effect until the Commission consideration."

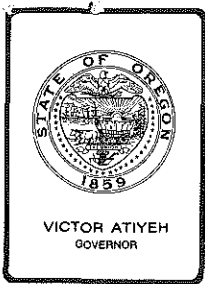
Ray Underwood, Assistant AG, suggested to staff that language such as "Hearing closed" be noted on those agenda items in which no more testimony will be accepted by the Commission. The Director will make a recommendation of suitable language at breakfast or at a work session during the next EQC meeting.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Jan Shaw  
EQC Assistant

JS:k



## *Environmental Quality Commission*

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### MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, August 28, 1981, EQC Meeting  
June, 1981, Program Activity Report

### Discussion

Attached is the June, 1981, Program Activity Report.

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

Water Quality and Solid Waste facility plans and specifications approvals or disapprovals and issuance, denials, modifications and revocations of air, water and solid waste 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 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 contaminant source plans and specifications; and
- 3) to provide logs of civil penalties assessed and 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.

William H. Young

M. Downs:k  
229-6485  
August 5, 1981  
Attachments  
MA98 (2)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

June, 1981

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions  
(Reporting Unit)

June, 1981  
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	7	91	9	105	0	0	46
Small Gasoline Storage Tanks Vapor Controls	0	0	51	655	0	0	0
TOTAL	7	91	60	760	0	0	46
<u>Water</u>							
Municipal	64	577	69	579	0	0	13
Industrial	9	85	9	78	0	0	16
TOTAL	73	662	78	657	0	0	29
<u>Solid Waste</u>							
Gen. Refuse	2	18	0	17	0	0	11
Demolition	1	1	1	4	0	0	0
Industrial	0	6	0	10	0	1	3
Sludge	0	3	0	3	0	0	0
TOTAL	3	28	1	34	0	1	14
<u>Hazardous Wastes</u>							
	-	-	-	-	-	-	-
<u>GRAND TOTAL</u>	83	781	139	1,451	0	1	89

MAR.2 (8/81) AI1200 (2)

MAR.2 (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
MONTHLY ACTIVITY REPORT

PLAN ACTIONS COMPLETED

DIRECT SOURCES

NONPERMITTED VOC SOURCES

County	Number	Source	Process Description	Date Action ACHIEVED	Status
MULTNOMAH	26	V443 KERN PARK FLORAL		04/23/81	COMPLETED-APRVD
MULTNOMAH	26	V434 HOLLAND BULB INC		04/23/81	COMPLETED-APRVD
MULTNOMAH	26	V451 WESTGATE TRACTOR CO, INC		04/23/81	COMPLETED-APRVD

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
MONTHLY ACTIVITY REPORT

Direct Sources

PLAN ACTIONS COMPLETED

County	Number	Source	Process Description	Date of	
				Action	Action
MARION	592	MERRITT TRUAX OIL CO	BULK PLANT VOC CONTROL	04/14/81	APPROVED
JACKSON	661	RETER FRUIT CO.	18 ORCHARD FANS	09/19/80	APPROVED
HOOD RIVER	688	BICKFORD ORCHARDS INC.	100 HP TROPIC BREEZE FAN	10/28/80	APPROVED
JACKSON	722	EDEN VALLEY ORCHARD INC.	10 WIND MACHINES	06/08/81	APPROVED
MULTNOMAH	734	OWENS-CORNING FIBERGLAS	ASPHALT PLANT	06/12/81	APPROVED
KLANATH	755	MODOC LUMBER CO	WOOD WASTE BIN W/TARGET BOX	05/21/81	APPROVED
MULTNOMAH	757	LINNTON PLYWOOD	VENEER DRYER W/CONTROLS	06/01/81	APPROVED
LINN	759	TELEDYNE WAH CHANG	DUST COLLECTION SYSTEM	06/23/81	APPROVED
JACKSON	765	WHITE CITY PLY CO.	BOILER INSTALLATION	06/24/81	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			9		



DEPARTMENT OF ENVIRONMENTAL QUALITY  
 AIR QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT

CERTIFICATES ISSUED FOR GASOLINE DELIVERY TRUCKS  
 PRESSURE - VACUUM TESTED; NON-PERMITTED VOC SOURCES

COUNTY	I.D. NUMBER	OWNER/OPERATOR	TANK NO.	EXPIRATION DATE	
MULTNOMAH	26	V057	ARROW TRANSPORTATION CO.	766	06/10/82
				649	05/10/82
				641	06/01/82
				726	06/01/82
				647	05/18/82
				705	05/19/82
				745	05/14/82
				252	06/17/82
				206	05/26/82
				195	05/26/82
PORT.SOURCE	37	V006	CENEX TRANSPORTATION	55X	05/28/82
				275	05/28/82
				040	06/03/82
				524	06/03/82
				688	06/19/82
				688	06/19/82
				35T	05/27/82
				133	05/21/82
				TL1	06/01/82
				7	06/03/82
MULTNOMAH	26	V332	CHEVRON U. S. A., INC.	292	05/18/82
				4A	06/17/82
LINN	22	V002	CUMMINGS TRANSFER	4	06/17/82
MULTNOMAH	26	V054	D & H OIL CO., INC.	8	05/22/82
MULTNOMAH	26	V334	DON THOMAS PETROLEUM	8A	05/21/82
CLACKAMAS	03	V085	FLYING "J"	7	06/12/82
COLUMBIA	05	V001	FRED SCHALL OIL CO.	6B	06/05/82
MULTNOMAH	26	V507	LEATHER,S OIL CO.	720	06/25/82
MULTNOMAH	26	V506	MCCALL OIL CO.	987	06/25/82
MARION	24	V010	MERRITT TRUAX INC.	65	05/29/82
WASHINGTON	34	V074	METRO WEST ENERGY CO.	401	05/18/82
MULTNOMAH	26	V053	MORRISON OIL CO.	01A	06/11/82
MULTNOMAH	26	V417	POWELL DISTRIBUTING CO.	6	06/12/82
MARION	24	V039	PTI	P36	06/04/82
				36R	06/05/82
				02-	05/29/82
				P5	05/29/82
MULTNOMAH	26	V416	TOWER OIL CO.	UMA	06/08/82
MULTNOMAH	26	V337	UNION OIL CO. CALIFORNIA	18A	06/09/82
				591	06/05/82
				788	06/10/82
				737	05/18/82
MULTNOMAH	26	V505	ZANDELL OIL CO.	9	06/02/82
				7	06/02/82

TOTAL NUMBER QUICK LOOK REPORT LINES

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

June, 1981  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	5	8	4	21	19		
Existing	4	14	1	12	15		
Renewals	18	94	19	144	92		
Modifications	0	1	10	36	3		
Total	27	117	34	213	129	1993	2027
<u>Indirect Sources</u>							
New	0	14	3	24	4		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	0	5	0	6	0		
Total	0	19	3	30	4	190	0
<u>GRAND TOTALS</u>	27	136	37	243	133	2183	2027

Number of  
Pending Permits

Comments

24	To be drafted by Northwest Region
18	To be drafted by Willamette Valley Region
11	To be drafted by Southwest Region
2	To be drafted by Central Region
7	To be drafted by Eastern Region
0	To be drafted by Program Planning Division
8	To be drafted by Program Operations
25	Awaiting Public Notice
34	Awaiting the end of the 30-day period
129	TOTAL

MAR.5 A11200.A

6 Technical Assistants 12 A-95's

MAR.5 (8/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT  
PERMITS ISSUED

DIRECT STATIONARY SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
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DOUGLAS	TRI CITY READY MIX INC	10	0046	00/00/00	PERMIT ISSUED	05/27/81 MOD
KLAMATH	GREGORY TIMBER RESOURCES	18	0023	00/00/00	PERMIT ISSUED	05/28/81 MOD
JACKSON	TIMBER PRODUCTS CO.	15	0025	00/00/00	PERMIT ISSUED	05/29/81 MOD
MULTNOMAH	LINNTON PLYWOOD	26	2073	00/00/00	PERMIT ISSUED	05/29/81 MOD
POLK	DERRY WAREHOUSE CO	27	6008	00/00/00	PERMIT ISSUED	06/03/81 MOD
LINN	WOODDEX INC.	22	1034	11/17/80	PERMIT ISSUED	06/04/81 RNW
MARION	WALLING SAND & GRAVEL CO	24	5946	00/00/00	PERMIT ISSUED	06/04/81 RNW
MULTNOMAH	REYNOLDS ALUMINUM	26	1851	00/00/00	PERMIT ISSUED	06/04/81 RNW
MULTNOMAH	CHAPPELL MFG CO	26	3005	00/00/00	PERMIT ISSUED	06/04/81 NEW
UNION	EASTERN ORE COLLEGE	31	0026	07/08/80	PERMIT ISSUED	06/04/81 RNW
PORT.SOURCE	OREGON STATE HWY DIVISION	37	0098	09/25/80	PERMIT ISSUED	06/04/81 RNW
DOUGLAS	NORDIC PLYWOOD, INC.	10	0023	00/00/00	PERMIT ISSUED	06/08/81 MOD
CLACKAMAS	GLOBE UNION-CANBY	03	2634	00/00/00	PERMIT ISSUED	06/09/81 MOD
POLK	WILLAMETTE SEED & GRAIN	27	6018	00/00/00	PERMIT ISSUED	06/09/81 MOD
MULTNOMAH	ELKEM METALS CO	26	1873	00/00/00	PERMIT ISSUED	06/18/81 MOD
HARNEY	HARNEY ELECTRIC COOP INC.	13	0012	11/05/80	PERMIT ISSUED	06/19/81 NEW
DESCHUTES	DESCHUTES READY MIX S & G	09	0052	02/18/81	PERMIT ISSUED	06/24/81 RNW
GRANT	EDWARD HINES LUMBER CO	12	0024	07/08/80	PERMIT ISSUED	06/24/81 RNW
JACKSON	MBS DOOR & VENEER	15	0161	03/05/81	PERMIT ISSUED	06/24/81 EXT
LINN	MORSE BROS INC	22	0032	02/18/81	PERMIT ISSUED	06/24/81 RNW
LINN	MORSE BROS INC	22	7134	02/18/81	PERMIT ISSUED	06/24/81 RNW
LINN	MORSE BROS INC	22	7135	02/18/81	PERMIT ISSUED	06/24/81 RNW
MARION	GERLINGER CASTING CORP.	24	4505	01/21/81	PERMIT ISSUED	06/24/81 RNW
UMATILLA	MORRISON-KNUDSEN CO INC.	30	0053	07/03/80	PERMIT ISSUED	06/24/81 RNW
UMATILLA	SNIPES MOUNTAIN S & G	30	0055	07/07/80	PERMIT ISSUED	06/24/81 RNW
UMATILLA	LAMB-WESTON INC	30	0075	09/29/80	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	EUCON CORP	37	0068	01/12/81	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	L W VAIL CO	37	0076	11/05/80	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	NORCAP CONSTRUCTION CO	37	0086	12/19/80	PERMIT ISSUED	06/24/81 NEW
PORT.SOURCE	C. C. MEISEL CO.	37	0132	01/16/81	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	PRODUCTION CRUSHERS	37	0135	01/09/81	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	MORSE BROS INC	37	0137	02/18/81	PERMIT ISSUED	06/24/81 RNW
PORT.SOURCE	PENDLETON READY MIX	37	0149	01/21/81	PERMIT ISSUED	06/24/81 MOD
PORT.SOURCE	MID-OREGON READY MIX	37	0269	01/27/81	PERMIT ISSUED	06/24/81 NEW

TOTAL NUMBER QUICK LOOK REPORT LINES

34

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit)		June, 1981 (Month and Year)	
<u>PERMIT ACTIONS COMPLETED</u>			
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
Washington	Tri-Met Merlo Rd. Operations & Maintenance Expansion Base 406 Spaces File No. 34-8102	6/2/81	Final Permit Issued
Multnomah	Olympia & York Fountain Plaza 670 Spaces File No. 26-8103	6/23/81	Final Permit Issued
Multnomah	Portland Fabrication Site 1,300 Spaces File No. 26-8104	6/19/81	Final Permit Issued

Indirect Sources

MAR.6 A11200.B

MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>June 1981</u>
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED -78

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

MUNICIPAL WASTE SOURCES - 69

Deschutes	Stage Stop Meadows Lagoon Expansion Deschutes County	5/11/81	Letter Comments
Jackson	STP Improvements Gold Hill	5/29/81	P.A.
Jackson	Sewer System Improvements Gold Hill	5/29/81	P.A.
Clackamas	Leighton Addition Oak Lodge S.D.	6/5/81	P.A.
Columbia	Hoover Project Clatskanie	6/5/81	P.A.
Baker	Elm St. From "H" to "D" St., Baker	6/5/81	P.A.
Lane	Emerald St. - 25th to 26th, Eugene	6/5/81	P.A.
Lane	Azure St. to Elysium Ave. Eugene	6/5/81	P.A.
Washington	Dawn's Inlet USA - Durham	6/5/81	P.A.
Jackson	Jacksonville Extension Domestic Well, B.C.V.S.A.	6/5/81	P.A.
Multnomah	Mocks Lands Phase I Portland - Columbia Blvd.	6/8/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>June 1981</u>
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES                      Continued

Coos	HUD Sewers Phase I Charleston Sanitary District	6/8/81	P.A.
Jackson	Triple Tree Center Sand Filter System Jackson County	6/10/81	Final Comments to Jackson County and Consultant
Clatsop	Elkland Village Sanitary Sewers Cannon Beach	6/11/81	P.A.
Yamhill	John Voll Sewer Sanitary Sewers Newberg	6/11/81	P.A.
Marion	Anderson Subdivision Sanitary Sewers Salem	6/11/81	P.A.
Lincoln	Lincoln Palisades Sanitary Sewers Lincoln City	6/12/81	P.A.
Marion	Goldenrod Estates Subdivision Sanitary Sewers Salem	6/15/81	P.A.
Multnomah	North Hayden Drive Pumping Station Portland	6/15/81	P.A.
Lane	Cottage Grove Sanitary Sewers	6/16/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>June 1981</u>
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES                      Continued

Benton	Southwood Park 2nd Addition Philomath	6/16/81	P.A.
Deschutes	Black Butte Ranch Entry Complex Water & Sewer Plans Bend	6/17/81	P.A.
Coos	Strawberry Addition Sanitary Sewers Bandon	6/17/81	P.A.
Washington	Comanche Woods II Sanitary Sewers USA, Tualatin	6/17/81	P.A.
Washington	Tech Center Business Park Sanitary Sewers USA, Tigard	6/17/81	P.A.
Washington	Dales Glen Project Sanitary Sewers USA, Tigard	6/17/81	P.A.
Lane	Rhodo View Dunes Sanitary Sewers Florence	6/18/81	P.A.
Clackamas	Family Fitness Center Sanitary Sewers CCSD	6/19/81	P.A.
Clackamas	Hallinan Woods Sanitary Sewers Lake Oswego	6/19/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES

Continued

Multnomah	Three B' Sewer System Gresham	6/19/81	P.A.
Douglas	Westward Addition Ph II Sanitary Sewer Reedsport	6/22/81	P.A.
Columbia	South Scappoose L.I.D. Sanitary Sewers Scappoose	6/22/81	P.A.
Linn	Kenwood Area Sanitary Sewers Albany	6/22/81	P.A.
Linn	Ore Met Sanitary Sewer Project Albany	6/22/81	P.A.
Lincoln	Lincoln Palisades L.I.D. Sanitary Sewers Lincoln City	6/23/81	P.A.
Lincoln	N.W. Agate Beach Sewer Project Newport	6/23/81	P.A.
Marion	PGE Lateral "A" Sanitary Sewers Salem	6/24/81	P.A½
Jackson	Beswick Way Sewer Ashland	6/24/81	P.A.



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	June 1981
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES                      Continued

Washington	Witch Hazel Extension Sanitary Sewers USA, Hillsboro	6/24/81	P.A.
Washington	Andre Acres Sanitary Sewers USA, Hillsboro	6/24/81	P.A.
Washington	S.W. Hampton St. Sanitary sewers USA, Tigard	6/24/81	P.A.
Washington	Jackson School Vil & Molly Anna Acres USA, Hillsboro	6/24/81	P.A.
Washington	Edith Park Sanitary Sewers USA, Hillsboro	6/24/81	P.A.
Coos	Royal Drive Project 6" Dia. Pipe w/Cleanout Lakeside	6/24/81	P.A.
Multnomah	S.W. 31s Av. Sewer Tryon Creek Plant Portland	6/24/81	P.A.
Multnomah	Rivergate Dist. System Col. Blvd. Plant Portland	6/24/81	P.A.
Multnomah	S.W. Vesta St. Tryon Creek Plant Portland	6/24/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES

Continued

Multnomah	S.E. Harney St. Col. Blvd. Plant Portland	6/24/81	P.A.
Multnomah	North Bloss Ave. Col. Blvd. Plant Portland	6/24/81	P.A.
Yamhill	Agee Street Sanitary Sewer McMinnville	6/24/81	P.A.
Washington	Sijota Industrial Park Sanitary Sewers Tualatin	6/25/81	P.A.
Curry	James Mackey-18th St. Sewer Extension Port Orford	6/25/81	P.A.
Washington	Glennis Park Sanitary Sewers Hillsboro	6/25/81	P.A.
Union	N. Cherry Street Y Ave. Sanitary Sewers La Grande	6/25/81	P.A.
Douglas	L.D.S. Church Sanitary Sewers Sutherlin	6/25/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES

Continued

Clackamas	Fairway Crest Sanitary Sewers CCSD No. 1	6/29/81	P.A.
Marion	Turner Road Development Sanitary Sewers Salem	6/29/81	P.A.
Yamhill	Michelbrook Sewer Extension McMinnville	6/29/81	P.A.
Tillamook	City of Rockaway L.I.D. 1981, Sanitary Sewers Rockaway	6/30/81	P.A.
Lincoln	Hwy. 101 Sewer and Water Boring Details Yachats	6/30/81	P.A.
Lane	Kingwood Access to Airport Sanitary Sewers Florence	6/30/81	P.A.
Coos	Pacific Heights Sanitary Extension Winchester Bay Sanitary District	6/30/81	P.A.
Tillamook	Rosenberg Builders Supply Sanitary Sewers Netarts	6/30/81	P.A.
Multnomah	North Sewer Parallel Trunk System Gresham	6/30/81	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Yamhill	Woodview Village Sanitary Sewers Newberg	6/30/81	P.A.	
Tillamook	Lake Lytle Estates Gravity Sewers Rockaway	6/30/81	P.A.	
Clackamas	Hoodland STP Revisions Hoodland Service District	7/6/81	P.A.	
Douglas	Sec. 22, Parsons Sand Filter System, Douglas County	7/8/81	Verbal Comments to On-Site Section	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED 78

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

INDUSTRIAL WASTE SOURCES 9

Marion	Stayton Canning Co. Coop Installing Mechanical Dry Peeler to Replace Wet Peeler	6/8/81	Withdrawn
Linn	Teledyne Wah Chang Albany, Liquor Sampler for Priority Pollutants	6/9/81	Approved
Polk	Harold L. Whitney Sheridan, Animal Waste Dry Storage and Honey Wagon	6/17/81	Approved
Lincoln	Publishers Paper, Toledo PCP control system	6/19/81	Approved
Polk	Praegitzer Ind., Inc. Pretreatment for Electroplating	6/30/81	Approved
Marion	Paul B. Hesse, Jefferson Screen & Holding Pond for Animal Waste	6/30/81	Approved
Linn	Freres Lumber Co. Block Conditioning Water Recycle	7/6/81	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

PLAN ACTIONS COMPLETED 78

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

INDUSTRIAL WASTE SOURCES 9

Marion	Agripac, Tile Road, Replace Silt Tank & Segregate Cooling Water	7/6/81	Approved
Polk	Agripac Plant No. 1, Salem, Modification to Settling System	7/6/81	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

June 1981  
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
<u>Municipal</u>							
New	1 /1	3 /7	1 /0	3 /3	3 /7		
Existing	0 /0	0 /0	0 /0	1 /0	0 /0		
Renewals	1 /1	19 /21	2 /1	35 /15	18 /12		
Modifications	0 /0	5 /1	0 /0	8 /3	4 /2		
Total	2 /2	27 /29	3 /1	47 /21	25 /21	264/92	267/99
<u>Industrial</u>							
New	0 /1	9 /19	0 /0	10 /9	6 /21		
Existing	0 /0	1 /1	0 /0	3 /0	0 /2		
Renewals	0 /0	45 /25	3 /3	87 /24	36 /16		
Modifications	0 /0	8 /5	0 /0	9 /8	2 /2		
Total	0 /1	63 /50	3 /3	109 /41	44 /41	372/157	378/180
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	1 /0	0 /0	2 /0	1 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	2 /0	0 /0	34 /0	1 /0		
Modifications	0 /0	0 /0	0 /0	0 /0	0 /0		
Total	0 /0	3 /0	0 /0	36 /0	2 /0	54/20	55/20
<u>GRAND TOTALS</u>	2 /3	93 /79	6 /4	192 /62	71 /62	690/269	700/299

\* NPDES Permits  
\*\* State Permits

NOTES:

1. Six general Industrial Permits granted (1 up for renewal).
2. One Municipal NPDES added back on report.
3. Two Industrial NPDES renewals dropped.
4. Permit Action Pending adjusted to count.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)	June 1981 (Month and Year)
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PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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Municipal and Industrial Sources NPDES Permits (6)

Multnomah	Northwest Natural Gas Co. Portland	6/12/81	Permit Renewed
Polk	Willamette Industries, Inc. Dallas Division - Plywood & Lumber	6/12/81	Permit Renewed
Polk	Agripac Salem	6/12/81	Permit Renewed
Curry	Twenty Eight Acres (Rainbow Rock PUD) STP Brookings Area	6/22/81	Permit Issued
Washington	USA - Gaston STP	6/22/81	Permit Renewed
Clatsop	City of Astoria, STP	6/22/81	Permit Renewed

Municipal and Industrial Sources State Permits (4)

Umatilla	Lamb Weston Hermiston	6/12/81	Permit Renewed
Jackson	Southern Oregon Tallow Eagle Point	6/12/81	Permit Renewed
Morrow	Port of Morrow Boardman	6//12/81	Permit Renewed
Lake	City of Paisley	6/12/81	Permit Renewed



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality (Reporting Unit)		June 1981 (Month and Year)	
<u>PERMIT ACTIONS COMPLETED</u>			
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action

Municipal and Industrial Sources General Permits  
Filter Backwash - New permits No. 0200 J File 32540 (1)

Jackson	City of Talent WTP 1902 J/87326	6/81	Transferred to General Permit
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Municipal and Industrial Sources General Permits  
Log Ponds - New Permits No. 0440 J File No. 32544 (5)

Clackamas	Avison Lumber co. Molalla 2962 J/4580	6/81	Transferred to General Permit
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Curry	Champion Bldg. Products Gold Beach 3172 J/15819	6/81	" "
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Coos	Georgia Pacific Co. Johnson Log Pond Coos Bay 1979 J/32835	6/81	" "
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Lane	Swanson Bros. Lumber Co. Noti 2524 J/86750	6/81	" "
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Klamath	Weyerhaeuser Co. Bly - Log Pond 2937 J/96177	6/81	" "
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

June 1981  
(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			
<u>General Refuse</u>							
New	-	7	-	5	1		
Existing	1	1	-	4	1		
Renewals	14	68	1	40	41		
Modifications	-	5	4	16	2		
Total	15	81	5	65	45	166	166
<u>Demolition</u>							
New	-	4	1	7	-		
Existing	-	2	-	-	1		
Renewals	-	3	-	4	1		
Modifications	-	2	-	3	-		
Total	-	11	1	14	2	21	21
<u>Industrial</u>							
New	-	10	3	11	2		
Existing	-	3	-	-	-		
Renewals	6	28	-	32	16		
Modifications	1	3	-	3	1		
Total	7	44	3	46	19	101	101
<u>Sludge Disposal</u>							
New	-	5	1	6	1		
Existing	-	-	-	1	-		
Renewals	1	3	-	2	1		
Modifications	-	-	-	-	-		
Total	1	8	1	9	2	15	15
<u>Hazardous Waste</u>							
New	30	351	30	351	-	1	1
Authorizations	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	30	351	30	351	-	1	1
<u>GRAND TOTALS</u>	53	495	40	485	68	304	304

SC371.A  
MAR.5S (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit)		June 1981 (Month and Year)			
<u>PERMIT ACTIONS COMPLETED</u>					
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *	

General Refuse Facilities

Linn	Lebanon Landfill Existing Facility	6/1/81	Permit Issued		
Clatsop	Cannon Beach Landfill Existing Facility	6/5/81	Permit Amended		
Clatsop	Seaside Landfill Existing Facility	6/5/81	Permit Amended		
Hood River	Hood River Landfill Existing Facility	6/10/81	Permit Amended		
Clatsop	Elsie Landfill Existing Facility	6/16/81	Permit Amended		

Demolition Waste Facilities

Coos	Bracelin/Yeager New Facility	6/1/81	Permit Issued		
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Industrial Waste Facilities

Wallowa	Joseph Forest Products New Facility	6/18/81	Letter Authorization Issued		
Lane	Coast Cover-up Decor New Facility	6/19/81	Letter Authorization Issued		
Lane	E.S. Morton New Facility	6/30/81	Letter Authorization Issued		

Sludge Disposal Facility

Klamath	John Nickelson New Facility	6/11/81	Letter Authorization Issued		
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SC371.B  
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division  
(Reporting Unit)

June 1981  
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-NUCLEAR SYSTEMS, GILLIAM CO.

WASTE DESCRIPTION

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	

DISPOSAL REQUESTS GRANTED (30)

OREGON (12)

5/28	Oily washwater	Oil co.	10,000 gal.	10,000 gal.	
5/28	Caustic kolene	Foundry	20 drums	20 drums	
5/28	PCB waste	Paper mill	5 drums	5 drums	
6/1	Pentachlorophenol sldg.	Wood treatment	75 drums	200 drums	
6/4	Magnesium salt	Titanium production	0	240,000 lb.	
6/8	Sulfuric acid, hydrochloric acid, etc.	Industrial clean. serv.	0	20,000 gal.	
6/8	Pesticide-contaminated water	County	0	1,000 gal.	
6/8	Pentachlorophenol-contaminated soil, rocks, etc.	Wood treat.	2,500 gal.	0	
6/8	Acid pickling solutions	Galvanizing co.	5,500 gal.	15,000 gal.	
6/17	Solid sodium cyanide	Machine shop	1,000 lb.	2,000 lb.	
6/22	Acid mixture of sulfuric, muriatic & nitric	Electronic co.	0	460 drums	
6/17	Nickel sludge	Electroplating	35 drums	5 drums	

SC371.E  
MAR.15 (4/79)

WASHINGTON (14)

5/28	Vanadium-contaminated refractory and sand	Oil refinery	40 drums	20 drums
5/28	Heavy metals sludge & spent acids	Electroplating	2,800 gal.	2,800 gal.
5/28	Assorted lab chemicals, hydrazine solutn. & lithium bromide	Federal agcy.	2,500 gal.	0
5/28	Lime-treated sulfuric acid & fluoboric acid	Industrial clean. serv.	4,000 gal.	0
5/28	Pesticide waste	Pesticide formulator	30 drums	30 drums
6/3	Transformer fluid	Federal agcy.	12 drums	0
6/8	Tetrachlorophenate solution	Wood treat.	10,000 gal.	0
6/9	Paint sludge	Paint manuf.	0	4,320 gal.
6/10	Hydraulic oil-contaminated dirt & gravel	Aerospace co.	34 drums	0
6/16	Paint sludge	Waste process.	50 drums	300 drums
6/16	Solid mix of CdS, selenium oxide, soda ash and sand	Glass manuf.	0	25 drums
6/17	Lead-containing baghouse dust	Iron smelting	0	120 cu.yd.
6/17	Ferric ferrocyanide-contaminated sand	Chemical co.	16 drums	0
6/22	Penta sludge, polyester resin, phenol still bottoms, etc.	Chemical co.	0	990 drums

OTHER STATES (4)

6/8	Paint sludge (Montana)	Paint manuf.	10 drums	0
6/8	PCB-contaminated debris/soil (Utah)	Utility	40,000 lb.	7 truckloads

SC371.E  
MAR.15 (4/79)

6/10	Process chemicals, ethylene dichloride, red and orange dye, & PCB-contaminated rags & spent caustic (Utah)	Oil refinery	10,800 gal.	258,000 gal.
6/22	Lab chemical-contami- nated soil (Idaho)	University	900 cu.yd.	0

SC371.E  
MAR.15 (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program  
(Reporting Unit)

June 1981  
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

<u>Source Category</u>	<u>New Actions Initiated</u>		<u>Final Actions Completed</u>		<u>Actions Pending</u>	
	Mo.	FY	Mo.	FY	Mo.	Last Mo.
Industrial/ Commercial	0	22	1	25	63	60
Airports			1	15		

MONTHLY ACTIVITY REPORT

Noise Control Program  
(Reporting Unit)

June 1981  
(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

* County	* Name of Source and Location	* Date	* Action
Umatilla	St. Anthony's Heliport Pendleton	6/81	Exception Granted



CIVIL PENALTY ASSESSMENTS

Department of Environmental Quality  
1981

CIVIL PENALTIES ASSESSED DURING MONTH OF JUNE, 1981:

<u>Name and Location of Violation</u>	<u>Case No. &amp; Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Arthur W. Pullen dba/ Foley Lakes Mobile Home Park Wasco County	WQ-CR-81-60 Failure to comply with an Order of the Commission.	6/24/81	\$500	Hearing request and answer due by 7/15/81.
Loretta Young Clackamas County	AQ-NWR-81-54 Open burning of household garbage.	6/24/81	\$ 50	Awaiting service.
John Ellsworth dba/Willamette Valley Sanitation Clackamas County	SS-NWR-81-52 Conducting sewage disposal services without a license.	6/30/81	\$500	Awaiting service.

Other Significant Actions Issued in June:

<u>Name and Location</u>	<u>Case No. &amp; Type</u>	<u>Date Issued</u>	<u>Status</u>
Don Turner Multnomah County	SS-NWR-81-49 Notice of Violation and Order Requiring Remedial Action (abandon failing experimental system and connect to areawide sewerage system).	6/10/81	Answer filed 7/1/81.

GO278 (2)  
CPASES

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	4	3
Discovery	2	2
Settlement Action	3	6
Hearing to be scheduled	3	4
Hearing scheduled	2	1
HO's Decision Due	6	7
Briefing	1	1
Inactive	3	1
SUBTOTAL of Active Files	<u>24</u>	<u>25</u>
HO's Decision Out/Option for EQC Appeal	1	2
Appealed to EQC	1	1
EQC Appeal Complete/Option for Court Review	0	0
Court Review Option Pending or Taken	1	1
Case Closed	3	0
TOTAL Cases	<u>30</u>	<u>29</u>

15-AQ-NWR-761-178      15th Hearing Section case in 1976 involving Air Quality Division violation in Northwest Region jurisdiction in 1976; 178th enforcement action in Northwest Region in 1976.

ACDP      Air Contaminant Discharge Permit

AQ      Air Quality

CLR      Chris Reive, Enforcement Section

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

Hrnngs      Hearings Section

Hrng Rfrl      Date when Enforcement Section requests Hearing Section schedule a hearing

VAK      Van Kollias, Enforcement Section

LMS      Larry Schurr, Enforcement 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      Litigation over permit or its conditions

Prtys      All parties involved

Rem Order      Remedial Action Order

Resp Code      Source of next expected activity in case

SSD      Subsurface Sewage Disposal

SW      Solid Waste Division

SWR      Southwest Region

T      Litigation over tax credit matter

Transcr      Transcript being made of case

Underlining      New status or new case since last month's contested case log

WVR      Willamette Valley Region

WQ      Water Quality Division

June 1981  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
FAYDREX, INC.	05/75	05/75	RLH	11/77	<u>Prtys</u>	03-SS-SWR-75-02 64 SSD Permits	<u>EQC review of hearing officer's Order scheduled for 8/28/81.</u>
MEAD and JOHNS, et al	05/75	05/75	RLH		All	04-SS-SWR-75-03 3 SSD Permits	Awaiting completion of EQC Faydrex review
POWELL, Ronald	11/77	11/77	RLH	01/23/80	Hrngrs	\$10,000 Fld Brn 12-AQ-MWR-77-241	Decision due
WAH CHANG	04/78	04/78	RLH		<u>EQC</u>	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	<u>Hearing schedule to be determined by EQC at 7/17/81 meeting.</u>
WAH CHANG	04/78	04/78	RLH			08-P-WQ-WVR-78-2012-J NPDES Permit Modification	<u>Hearing schedule to be determined by EQC at 7/17/81 meeting.</u>
M/V TOYOTA MARU No. 10	12/10/79	12/12/79	RLH		<u>Resp</u>	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	<u>Respondent's memo in opposition to summary judgment on all issues due 8/10/81.</u>
LAND RECLAMATION, INC., et al	12/12/79	12/14/79	FWO	05/16/80		19-P-SW-329-NWR-79 Permit Denial	Awaiting Court of Appeals decision.
FORRETTE, Gary	12/20/79	12/21/79	RLH	10/21/80	Hrngrs	20-SS-NWR-79-146 Permit Revocation	<u>Record closed 03-18-81. Decision drafted.</u>
MEDFORD CORPORATION	02/25/80	02/29/80		05/16/80	<u>Prtys</u>	07-AQ-SWR-80 Request for Declaratory Ruling	Parties attempting to effect compromise
J.R. SIMPLOT COMPANY	04/15/80	04/16/80	RLH	<u>08/3/81</u>	<u>Prtys</u>	12-WQ-ER-80-41 Civil Penalty of \$20,000	<u>Hearing postponed. Settlement proposed.</u>
BROWN, Victor	11/05/80	11/12/80	LMS	03/27/81	Hrngrs	29-AQ-WVR-80-163 Civil Penalty of \$1,800	Record closed 03/27/81. Decision due.
LOGSDON, Elton	11/12/80	11/14/80	CLR	02/26/81	Hrngrs	30-AQ-WVR-80-164 Field Burning Civil Penalty of \$950	Decision due.
MORRIS, Robert	11/10/80	11/14/80	RLH		<u>Hrgs</u>	31-SS-CR-80 Permit revocation	<u>Oral argument on Motion for Partial Summary Judgment to be scheduled.</u>
HAYWORTH, John W. dba/HAYWORTH FARMS INC.	12/02/80	12/08/80	LMS	04/28/81	<u>Hrgs</u>	33-AQ-WVR-80-187 Field burning civil penalty of \$4,660	<u>Being transcribed.</u>
ROGERS, Donald E.	12/08/80	12/09/80	RLH		Dept.	35-SS-NWR-80-196 Permit denial	Discovery
HOPPER, Harold	12/09/80	12/09/80	RLH		Depts	36-SS-NWR-80-197 Permit revocation	Discovery
JENSEN, Carl F. dba/JENSEN SEED & GRAIN, INC.	12/19/80	12/24/80	CLR	04/16/81	Hrngrs	37-AQ-WVR-80-181 Field burning civil penalty of \$4,000	<u>Record closed 04/30/81. Decision drafted.</u>
SETERA, Frank	12/27/80	01/05/81	CLR	05-14-81	<u>Resp</u>	01-AQ-NWR-80-199 Open burning civil penalty of \$500	<u>Decision issued 07/10/81.</u>
GINTER, Lloyd M.	01/02/81	01/05/81	CLR		<u>Resp</u>	02-SS-SWR-80-205 Subsurface sewage Civil penalty of \$100	<u>Personal service of hearing officer's Order arranged.</u>
BROOKINGS ENERGY FACILITY, INC.	12/18/80	01/14/81	CLR		<u>Prtys</u>	05-SW-316-SWR-80 Solid waste facility permit modification	Stipulation drafted. Negotiations ongoing
JAL CONSTRUCTION, INC.	02/06/81	02/09/81	LMS	06/12/81	Hrngrs	06-AQOB-NWR-81-02 Open burning civil penalty of \$3000	<u>Hearing held 06/12/81.</u>
CURL, James H., et al	02/09/81	02/12/81			<u>Prtys</u>	07-SS-CR-81 Request for Declaratory Ruling	Attempting informal resolution
OREGON SHORES ASSOCIATES, LTD.	02/11/81	03/09/81	RLH		<u>Resp</u>	09-WQ-NWR-81	<u>Amended Answer Due 07/20/81.</u>

June 1981  
DEQ/EQC Contested Case Log

<u>Pet/Resp</u> <u>Name</u>	<u>Hrng</u> <u>Rqst</u>	<u>Hrng</u> <u>Rfrl</u>	<u>DEQ</u> <u>Atty</u>	<u>Hrng</u> <u>Date</u>	<u>Resp</u> <u>Code</u>	<u>Case</u> <u>Type &amp; No.</u>	<u>Case</u> <u>Status</u>
MAIN ROCK PRODUCTS, INC	03-11-81	03-16-81	CLR		Prtys	10-WQ-SWR-81-16 Water Quality civil penalty of \$6,000	Attempting informal resolution
MID-OREGON CRUSHING COMPANY, INC.	03-18-81	3-23-81	RLH		<u>EQC</u>	11-AQ-CR-81-19 Air Contaminant Discharge Permit application denial	<u>Action delayed pending</u> <u>EQC evaluation of</u> <u>variance application.</u>
MONTGOMERY, Clyde		04-08-81	CLR			12-AQ-WVR-80-166 Field burning civil penalty of \$500	To be scheduled
MEAD, Mel	04-04-81	04-08-81	LMS		<u>Hrgs</u>	13-SS-SWR-81-25 <u>14-SS-SWR-81-26</u> Subsurface sewage permit denial	To be scheduled
<u>TURNER,</u> <u>Donald B.</u>	<u>06-22-81</u>	<u>6-22-81</u>	<u>CLR</u>		<u>Hrgs</u>	<u>15-SS-NWR-81-49</u>	<u>Preliminary matters.</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

June, 1981  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	5	8	4	21	19		
Existing	4	14	1	12	15		
Renewals	18	94	19	144	92		
Modifications	0	1	10	36	3		
Total	27	117	34	213	129	1993	2027
<u>Indirect Sources</u>							
New	0	14	3	24	4		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	0	5	0	6	0		
Total	0	19	3	30	4	190	0
<u>GRAND TOTALS</u>	27	136	37	243	133	2183	2027

Number of  
Pending Permits

Comments

24	To be drafted by Northwest Region
18	To be drafted by Willamette Valley Region
11	To be drafted by Southwest Region
2	To be drafted by Central Region
7	To be drafted by Eastern Region
0	To be drafted by Program Planning Division
8	To be drafted by Program Operations
25	Awaiting Public Notice
34	Awaiting the end of the 30-day period
129	TOTAL

MAR.5 AI1200.A 6 Technical Assistants 12 A-95's

MAR.5 (8/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
 A. QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT  
 PERMITS ISSUED  
 DIRECT STATIONARY SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
DOUGLAS	TRI CITY READY MIX INC	10	0046 00/00/00	PERMIT ISSUED	05/27/81	MOD
KLAMATH	GREGORY TIMBER RESOURCES	18	0023 00/00/00	PERMIT ISSUED	05/28/81	MOD
JACKSON	TIMBER PRODUCTS CO.	15	0025 00/00/00	PERMIT ISSUED	05/29/81	MOD
MULTNOMAH	LINNTON PLYWOOD	26	2073 00/00/00	PERMIT ISSUED	05/29/81	MOD
POLK	DERRY WAREHOUSE CO	27	6008 00/00/00	PERMIT ISSUED	06/03/81	MOD
LINN	WOODX INC.	22	1034 11/17/80	PERMIT ISSUED	06/04/81	RNW
MARION	WALLING SAND & GRAVEL CO	24	5946 00/00/00	PERMIT ISSUED	06/04/81	RNW
MULTNOMAH	REYNOLDS ALUMINUM	26	1851 00/00/00	PERMIT ISSUED	06/04/81	RNW
MULTNOMAH	CHAPPELL MFG CO	26	3005 00/00/00	PERMIT ISSUED	06/04/81	NEW
UNION	EASTERN ORE COLLEGE	31	0026 07/08/80	PERMIT ISSUED	06/04/81	RNW
PORT.SOURCE	OREGON STATE HWY DIVISION	37	0098 09/23/80	PERMIT ISSUED	06/04/81	RNW
DOUGLAS	NORDIC PLYWOOD, INC.	10	0023 00/00/00	PERMIT ISSUED	06/08/81	MOD
CLACKAMAS	GLOBE UNION-CANBY	03	2634 00/00/00	PERMIT ISSUED	06/09/81	MOD
POLK	WILLAMETTE SEED & GRAIN	27	6018 00/00/00	PERMIT ISSUED	06/09/81	MOD
MULTNOMAH	ELKEM METALS CO	26	1873 00/00/00	PERMIT ISSUED	06/18/81	MOD
HARNEY	HARNEY ELECTRIC COOP INC.	13	0012 11/05/80	PERMIT ISSUED	06/19/81	NEW
DESCHUTES	DESCHUTES READY MIX S & G	09	0052 02/18/81	PERMIT ISSUED	06/24/81	RNW
GRANT	EDWARD HINES LUMBER CO	12	0024 07/08/80	PERMIT ISSUED	06/24/81	RNW
JACKSON	MBS DOOR & VENEER	15	0161 03/05/81	PERMIT ISSUED	06/24/81	EXT
LINN	MORSE BROS INC	22	0032 02/18/81	PERMIT ISSUED	06/24/81	RNW
LINN	MORSE BROS INC	22	7134 02/18/81	PERMIT ISSUED	06/24/81	RNW
LINN	MORSE BROS INC	22	7135 02/18/81	PERMIT ISSUED	06/24/81	RNW
MARION	GERLINGER CASTING CORP.	24	4505 01/21/81	PERMIT ISSUED	06/24/81	RNW
UMATILLA	MORRISON-KNUDSEN CO INC.	30	0053 07/03/80	PERMIT ISSUED	06/24/81	RNW
UMATILLA	SNIPES MOUNTAIN S & G	30	0055 07/07/80	PERMIT ISSUED	06/24/81	RNW
UMATILLA	LAMB-WESTON INC	30	0075 09/29/80	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	EUCON CORP	37	0068 01/12/81	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	L W VAIL CO	37	0076 11/05/80	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	HORCAP CONSTRUCTION CO	37	0086 12/19/80	PERMIT ISSUED	06/24/81	NEW
PORT.SOURCE	C. C. MEISEL CO.	37	0132 01/16/81	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	PRODUCTION CRUSHERS	37	0135 01/09/81	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	MORSE BROS INC	37	0137 02/18/81	PERMIT ISSUED	06/24/81	RNW
PORT.SOURCE	PENDLETON READY MIX	37	0149 01/21/81	PERMIT ISSUED	06/24/81	MOD
PORT.SOURCE	MID-OREGON READY MIX	37	0269 01/27/81	PERMIT ISSUED	06/24/81	NEW

TOTAL NUMBER QUICK LOOK REPORT LINES

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

June, 1981  
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Washington	Tri-Met Merlo Rd. Operations & Maintenance Expansion Base 406 Spaces File No. 34-8102	6/2/81	Final Permit Issued	
Multnomah	Olympia & York Fountain Plaza 670 Spaces File No. 26-8103	6/23/81	Final Permit Issued	
Multnomah	Portland Fabrication Site 1,300 Spaces File No. 26-8104	6/19/81	Final Permit Issued	

MAR.6 A11200.B

MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

PERMIT APPLICATIONS PENDING  
AIR QUALITY DIVISION

DIRECT SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
BAKER	ELLINGSON LUMBER COMPANY	01	0003	01/21/80	APPL SUB- RO	/ / RNW
BAKER	ELLINGSON TIMBER COMPANY	01	0004	07/08/80	PUB NOT ISSUEDP	05/19/81 RNW
BAKER	OREGON PORTLAND CEMENT	01	0010	11/10/80	APPL SUB- RO	/ / RNW
BAKER	OREGON PORTLAND CEMENT	01	0015	10/16/80	PUB NOT ISSUEDP	06/01/81 RNW
BAKER	BAKER REDI-MIX INC.	01	0022	06/01/81	APPL SUB- RO	/ / RNW
BENTON	MORSE BROS	02	2088	02/13/81	PMT DRFTD-NPN	06/10/81 RNW
BENTON	EVANS PRODUCTS CO.	02	2366	06/02/81	APPL SUB- RO	/ / EXT
BENTON	BOISE CASCADE CORP	02	2478	06/26/81	APPL SUB- RO	/ / RNW
BENTON	LEADING PLYWOOD CORP	02	2479	04/09/81	APPL SUB- RO	/ / RNW
BENTON	MORSE BROS BLDG SUPPLY	02	2555	02/18/81	APPL SUB- RO	/ / RNW
BENTON	WILLAMETTE INDUSTRIES	02	7070	06/10/81	APPL SUB- RO	/ / RNW
BENTON	PUBLISHERS PAPER CO	02	7091	06/01/81	APPL SUB- RO	/ / RNW
CLACKAMAS	KAISER FOUNDATION REG LAB	03	2640	03/12/81	APPL SUB- RO	/ / RNW
CLACKAMAS	JOE BERNERT TOWING CO	03	2657	06/11/80	APPL SUB- RO	/ / RNW
CLACKAMAS	WILLAMETTE VIEW MANOR	03	2684	04/09/81	APPL SUB- RO	/ / EXT
CLACKAMAS	SOUTHGATE ANIMAL CLINIC	03	2686	06/25/81	APPL SUB- RO	/ / NEW
CLATSOP	NORM SAARHEIM	04	0048	06/25/81	APPL SUB- RO	/ / RNW
COLUMBIA	CEDARWOOD TIMBER COMPANY	05	1775	12/08/80	APPL SUB- RO	/ / RNW
COLUMBIA	MULTKOMAH PLYWOOD CORP	05	2076	01/16/81	APPL SUB- RO	/ / RNW
COLUMBIA	PORTLAND GENERAL ELECTRIC	05	2520	11/17/80	PUB NOT ISSUEDP	05/19/81 RNW
COLUMBIA	FOSTER CEDAR INC RIDGE	05	2573	11/21/80	PUB NOT ISSUEDP	06/01/81 EXT
COLUMBIA	NIEDERMAYER-MARTIN CO.	05	2579	12/19/80	APPL SUB- RO	/ / NEW
COOS	WESTBROOK WOOD PRODUCTS	06	0032	04/09/81	APPL SUB- RO	/ / RNW
CURRY	R D TUCKER SAWMILL	08	0009	10/06/80	APPL SUB- RO	/ / RNW
CURRY	TIDEWATER CONTRACTORS INC	08	0041	06/24/80	PMT DRFTD-NPN	06/01/81 NEW
CURRY	TED L FREEMAN ROCK ENTERP	08	0042	04/09/81	APPL SUB- RO	/ / RNW
DESCHUTES	BEND MILL WORKS CO.	09	0015	06/01/81	APPL SUB- RO	/ / RNW
DESCHUTES	WICKIUP HFG	09	0066	02/10/81	PUB NOT ISSUEDP	06/15/81 EXT
DOUGLAS	HANNA NICKEL SMELTING	10	0007	09/15/80	PUB NOT ISSUEDP	04/20/81 RNW
DOUGLAS	LONE STAR MINERALS INC	10	0066	11/10/80	APPL SUB- RO	/ / RNW
DOUGLAS	RALF HAKANSON	10	0113	02/23/81	PUB NOT ISSUEDP	06/01/81 RNW
DOUGLAS	UMPQUA SAND & GRAVEL INC	10	0116	02/07/80	PMT DRFTD-NPN	05/07/81 MOD
DOUGLAS	TRI CITY REDY MIX	10	0117	06/17/81	APPL SUB- RO	/ / RNW
DOUGLAS	TYEE TIMBERS, INC	10	0124	06/25/81	APPL SUB- RO	/ / EXT
GRANT	HUDSPETH SAWMILL CO.	12	0004	04/09/81	PUB NOT ISSUEDP	05/19/81 RNW
GRANT	BLUE MT FOREST PRODUCTS	12	0022	06/12/80	PUB NOT ISSUEDP	06/01/81 RNW
JACKSON	SOUTHWEST FOREST INDUSTR.	15	0039	04/09/81	APPL SUB- RO	/ / RNW
JACKSON	REICHHOLD CHEMICALS	15	0041	04/11/79	APPL SUB- RO	/ / RNW
JACKSON	BOISE CASCADE CORP	15	0046	06/01/81	APPL SUB- RO	/ / RNW
JACKSON	MEDFORD CORP	15	0048	04/09/81	APPL SUB- RO	/ / RNW
JACKSON	PEAR VALLEY WOOD PRODUCTS	15	0148	00/00/00	PMT DRFTD-NPN	05/29/81 EXT
JACKSON	LITWILLER FUNERAL HOME	15	0163	03/26/81	PUB NOT ISSUEDP	06/01/81 NEW
JOSEPHINE	HARMONY MINES, INC.	17	0050	01/08/81	APPL SUB- RO	/ / NEW
JOSEPHINE	COPELAND PAVING INC	17	0055	04/09/81	PMT DRFTD-NPN	05/29/81 RNW
KLAMATH	MAYWOOD INDUSTRIES	18	0063	06/01/81	APPL SUB- RO	/ / RNW
LINN	PLYBOARD CORPORATION	22	1037	12/07/79	APPL SUB- RO	/ / NEW



DEPARTMENT OF ENVIRONMENTAL QUALITY  
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PERMIT APPLICATIONS PENDING  
AIR QUALITY DIVISION

DIRECT SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
LINN	YOUNG & MORGAN LUMBER CO	22	2520	06/03/81	APPL SUB- RO	/ / RNW
LINN	WILLAMETTE INDUSTRIES	22	3010	07/07/80	APPL SUB- RO	/ / RNW
LINN	HAYWORTH SEED UNSE. INC.	22	4017	00/00/00	PUB NOT ISSUEDP	09/19/80 EXT
LINN	WILLAMETTE INDUSTRIES	22	5193	04/09/81	APPL SUB- RO	/ / RNW
LINN	WILLAMETTE INDUSTRIES	22	5194	06/11/80	PUB NOT ISSUEDP	06/01/81 RNW
LINN	WILLAMETTE INDUSTRIES	22	7128	08/15/80	APPL SUB- RO	/ / RNW
LINN	NORMARC INC	22	8035	01/21/81	PUB NOT ISSUEDP	05/19/81 RNW
MALHEUR	AMALGAMATED SUGAR CO	23	0002	06/01/81	APPL SUB- RO	/ / RNW
MALHEUR	ORE-IDA FOODS INC.	23	0003	09/16/80	FMT DRFTD-NPN	05/20/81 RNW
MALHEUR	ONTARIO ASPHALT PAVING	23	0016	10/06/80	FMT DRFTD-NPN	05/18/81 RNW
MARION	AUMSVILLE PELLET MILL	24	0004	11/21/80	PUB NOT ISSUEDP	06/15/81 RNW
MARION	VALLEY BRASS & ALUMINUM	24	0725	04/09/81	PUB NOT ISSUEDP	06/01/81 RNW
MARION	SHINY ROCK MINING CORP	24	2316	04/09/81	APPL SUB- RO	/ / RNW
MARION	HILLS QUARRY	24	2553	02/17/81	PUB NOT ISSUEDP	06/01/81 RNW
MARION	OREGON STATE HOSPITAL	24	5145	06/25/81	APPL SUB- RO	/ / RNW
MARION	OREGON STATE PENITENTIARY	24	5155	06/25/81	APPL SUB- RO	/ / RNW
MARION	RAWLINSONS LAUNDRY	24	5274	04/09/81	APPL SUB- RO	/ / RNW
MARION	WILLAMETTE UNIVERSTY	24	5790	06/24/81	APPL SUB- RO	/ / RNW
MARION	OREGON STATE CORRECTIONAL	24	5835	06/01/81	APPL SUB- RO	/ / RNW
MORROW	EASTERN OREGON FARMING CO	25	0012	09/09/80	APPL SUB- RO	/ / RNW
MULTNOMAH	OWENS-ILLINOIS	26	1876	06/10/81	APPL SUB- RO	/ / RNW
MULTNOMAH	MALARKEY ROOFING CO	26	1894	02/18/81	APPL SUB- RO	/ / RNW
MULTNOMAH	WESTERN PACIFIC CHST MTL	26	1895	04/13/81	PMT DRFTD-NPN	05/29/81 RNW
MULTNOMAH	MCCLOSKEY VARNISH CORP	26	1902	12/23/80	APPL SUB- RO	/ / EXT
MULTNOMAH	WESTERN PACIFIC CHST MTL	26	1910	04/13/81	APPL SUB- RO	/ / RNW
MULTNOMAH	ALBERS MILLING	26	2008	06/01/81	APPL SUB- RO	/ / RNW
MULTNOMAH	VANRICH CASTING CORP.	26	2018	06/01/81	APPL SUB- RO	/ / RNW
MULTNOMAH	MOBIL OIL CORP	26	2029	02/17/81	PUB NOT ISSUEDP	06/01/81 NEW
MULTNOMAH	PORTLAND WIRE & IRON WKS	26	2486	06/01/81	APPL SUB- RO	/ / EXT
MULTNOMAH	NORTHWEST MARINE IRON WKS	26	2592	02/18/81	APPL SUB- RO	/ / MOD
MULTNOMAH	MULTNOMAH CO ANIMAL CNTRL	26	2960	02/23/81	PUB NOT ISSUEDP	06/15/81 RNW
MULTNOMAH	PORTLAND TERMINALS, INC.	26	2966	06/10/81	APPL SUB- RO	/ / RNW
MULTNOMAH	CHAPPELL MFG CO	26	3005	00/00/00	PUB NOT ISSUEDP	04/20/81 NEW
MULTNOMAH	MASTER CLEANERS	26	3025	11/06/80	PMT DRFTD-NPN	11/06/80 EXT
MULTNOMAH	CARNATION CO.	26	3062	06/03/81	APPL SUB- RO	/ / NEW
MULTNOMAH	OWENS-CORNING FIBERGLAS	26	3067	04/13/81	APPL SUB- RO	/ / NEW
MULTNOMAH	MARTIN MARIETTA ALUMINUM	26	3069	06/17/81		
					PMT DRFTD-NPN	06/24/81 NEW
POLK	BOISE CASCADE CORP	27	4078	12/08/80	APPL SUB- RO	/ / RNW
POLK	STUIVINGA BOX MILL	27	8005	06/09/81	APPL SUB- RO	/ / RNW
TILLAMOOK	ERICKSON LUMBER COMPANY	29	0011			
				05/05/81	PMT DRFTD-NPN	06/17/81 RNW
TILLAMOOK	COAST WIDE READY MIX S&G	29	0057	01/16/81	APPL SUB- RO	/ / RNW
TILLAMOOK	S-C PAVING COMPANY	29	0060	06/17/81	APPL SUB- RO	/ / RNW
TILLAMOOK	WESTERN SHAKE CO.	29	0069	11/21/80	PUB NOT ISSUEDP	01/19/81 EXT
TILLAMOOK	NOBLE & BITTNER PLUG CO.	29	0072	07/01/80	PMT DRFTD-NPN	09/03/80 NEW
UMATILLA	HARRIS PINE MILLS	30	0005	10/17/80	PUB NOT ISSUEDP	06/01/81 RNW

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PERMIT APPLICATIONS PENDING  
AIR QUALITY DIVISION

DIRECT SOURCES

COUNTY	SOURCE	PERMIT NUMBER	APPLIC. RECEIVED	STATUS	DATE ACHIEVED	TYPE OF APPLICATION
UMATILLA	GENERAL FOODS CORP	30	0012 02/18/81	PMT DRFTD-NPN	05/08/81	RNW
UMATILLA	GENERAL FOODS CORP	30	0064 02/18/81	PMT DRFTD-NPN	05/20/81	RNW
UMATILLA	ROGERS CONSTRUCTION, INC.	50	0066 04/09/81	PUB NOT ISSUEDP	06/01/81	RNW
UMATILLA	PIONEER ASPHALT, INC.	30	0067 01/05/81	PMT DRFTD-NPN	05/15/81	RNW
UMATILLA	PRECISION WOOD PRODUCTS	30	0094 10/09/79	PUB NOT ISSUEDP	01/15/80	EXT
UMATILLA	HERMISTON READY MIX	30	0095 01/08/81	APPL SUB- RO	/ /	NEW
UMATILLA	HERMISTON READY MIX	30	0096 01/08/81	APPL SUB- RO	/ /	NEW
UNION	BOISE CASCADE CORP	31	0011 06/11/80	PUB NOT ISSUEDP	01/02/81	RNW
WASCO	MT FIR LUMBER CO	33	0008 07/08/80	PUB NOT ISSUEDP	10/17/80	RNW
WASHINGTON	VAANDERING CRUSHED ROCK	34	2621 03/05/81	PMT DRFTD-NPN	05/18/81	RNW
WASHINGTON	BANKS ROCK PRODUCTS	34	2635 04/09/81	APPL SUB- RO	/ /	RNW
WASHINGTON	OREGON ASPHALTIC PAVING	34	2636 04/09/81	PMT DRFTD-NPN	05/18/81	RNW
WASHINGTON	TUALATIN VALLEY PAVING 2	34	2637 04/08/81	PMT DRFTD-NPN	05/18/81	RNW
WASHINGTON	PACIFIC FIREPLACE FURNISH	34	2676 06/05/81	APPL SUB- RO	/ /	EXT
YAMHILL	MCMINNVILLE ROCK PRODUCTS	36	0027 04/09/81	PMT DRFTD-NPN	05/29/81	RNW
YAMHILL	CASCADE STEEL MILLS	36	5034 12/11/80	PMT DRFTD-NPN	06/10/81	MOD
YAMHILL	KEUBERG RIVER ROCK PROD.	36	6048 06/13/80	PUB NOT ISSUEDP	06/01/81	NEW
YAMHILL	KAMPH ROCK CRUSHING	36	7023 04/09/81	PMT DRFTD-NPN	05/29/81	RNW
PORT.SOURCE	CH STINSON INC	37	0047			
			06/26/81	APPL SUB- PO	06/26/81	RNW
PORT.SOURCE	S D SPENCER & SON	37	0052 12/11/79	APPL SUB- PO	/ /	RNW
PORT.SOURCE	BOHEMIA UMPQUA DIVISION	37	0063 06/01/81	APPL SUB- RO	/ /	NEW
PORT.SOURCE	R.S. BURCH CO	37	0066 11/14/80	PUB NOT ISSUEDP	05/19/81	RNW
PORT.SOURCE	JARL CONSTRUCTION INC.	37	0069 10/02/80	PMT DRFTD-NPN	12/04/80	RNW
PORT.SOURCE	SUN STUDS INC.	37	0089 09/04/80	PMT DRFTD-NPN	12/04/80	RNW
PORT.SOURCE	GRANT I SHARP CO	37	0099 12/05/80	APPL SUB- PO	/ /	RNW
PORT.SOURCE	NORTH SANTIAM SAND & GRAV	37	0122 12/19/80	PUB NOT ISSUEDP	05/19/81	NEW
PORT.SOURCE	CAPITOL CRUSHING CO.	37	0131 01/16/81	PUB NOT ISSUEDP	05/19/81	RNW
PORT.SOURCE	M E MAIN & SONS	37	0136 02/23/81	PUB NOT ISSUEDP	05/19/81	RNW
PORT.SOURCE	MORSE BROS INC	37	0138 02/18/81	PUB NOT ISSUEDP	05/19/81	RNW
PORT.SOURCE	MID-OREGON CRUSHING CO	37	0174 11/27/79	APPL SUB- PO	/ /	RNW
PORT.SOURCE	TILLAMOOK COUNTY CRUSHER	37	0185 01/15/81	PMT DRFTD-NPN	/ /	RNW
PORT.SOURCE	EUCON CORP	37	0192 01/12/81	PUB NOT ISSUEDP	05/19/81	RNW
PORT.SOURCE	R.L. COATS	37	0207 12/08/80	PUB NOT ISSUEDP	06/01/81	RNW
PORT.SOURCE	MOBILE CRUSHING CO., INC.	37	0261 05/05/80	PMT DRFTD-NPN	12/03/80	EXT
PORT.SOURCE	KARBAN ROCK, INC.	37	0272 00/00/00	PUB NOT ISSUEDP	06/01/81	NEW
PORT.SOURCE	HI-LAND CONSTRUCTION, IN	37	0276 06/01/81	APPL SUB- PO	/ /	RNW
PORT.SOURCE	TIDEWATER CONTRACTORS INC	37	0277 06/08/81	APPL SUB- PO	/ /	NEW
PORT.SOURCE	E & G CRUSHING CO.	37	0278 06/09/81	APPL SUB- PO	/ /	EXT

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit)	June, 1981 (Month and Year)
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PERMIT ACTIONS PENDING

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Initial * Action	* Date of * Completed * Action	* Type * of Action * and Status
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Indirect Sources

*Clackamas	82nd & King Rd. Multi-family Units 275 Spaces	08/26/77		Additional Information Requested
Marion	Douglas McKay High School, 342 Spaces File No. 24-8001	01/01/78		Additional Information Requested
Multnomah	Columbia Square Office Complex 240 Spaces File No. 26-7018	09/07/77		Additional Information Requested
Josephine	Redwood Plaza 2320 Spaces File No. 17-7936	04/02/81		Additional Information Requested

\* Development sold and changed to single-family housing -- permit not required.

MAR.7 AI1200.C

MAR.7 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit)	June, 1981 (Month and Year)
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SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	7	91	9	105	0	0	46
Small Gasoline Storage Tanks Vapor Controls			51	655			
<b>TOTAL</b>	<b>7</b>	<b>91</b>	<b>60</b>	<b>760</b>	<b>0</b>	<b>0</b>	<b>46</b>
<u>Water</u>							
Municipal	--	--	--	--	--	--	--
Industrial	--	--	--	--	--	--	--
Total	--	--	--	--	--	--	--
<u>Solid Waste</u>							
Gen. Refuse	--	--	--	--	--	--	--
Demolition	--	--	--	--	--	--	--
Industrial	--	--	--	--	--	--	--
Sludge	--	--	--	--	--	--	--
Total	--	--	--	--	--	--	--
<u>Hazardous Wastes</u>	--	--	--	--	--	--	--
 <u>GRAND TOTAL</u>	 --	 --	 --	 --	 --	 --	 --

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
MONTHLY ACTIVITY REPORT

PLAN ACTIONS COMPLETED

DIRECT SOURCES

NONPERMITTED VOC SOURCES

County	Number	Source	Process Description	Date Action	
				ACHIEVED	Status
MULTNOMAH	26	V443 KERN PARK FLORAL		04/23/81	COMPLETED-APRVD
MULTNOMAH	26	V434 HOLLAND BULB INC		04/23/81	COMPLETED-APRVD
MULTNOMAH	26	V451 WESTGATE TRACTOR CO, INC		04/23/81	COMPLETED-APRVD

DEPARTMENT OF ENVIRONMENTAL QUALITY  
 AIR QUALITY DIVISION  
 MONTHLY ACTIVITY REPORT

CERTIFICATES ISSUED FOR GASOLINE DELIVERY TRUCKS  
 PRESSURE - VACUUM TESTED; NON-PERMITTED VOC SOURCES

COUNTY	I.D. NUMBER	OWNER/OPERATOR	TANK NO.	EXPIRATION DATE	
MULTNOMAH	26	V057	ARROW TRANSPORTATION CO.	766	06/10/82
				649	06/10/82
				641	06/01/82
				726	06/01/82
				647	05/18/82
				705	05/19/82
				743	05/14/82
PORT.SOURCE	37	V006	CENEX TRANSPORTATION	252	06/17/82
				206	05/26/82
				195	05/26/82
				55X	05/28/82
				275	05/28/82
				040	06/03/82
				524	06/03/82
MULTNOMAH	26	V332	CHEVRON U. S. A., INC.	688	06/19/82
				688	06/19/82
LINN	22	V002	CUMMINGS TRANSFER	33T	05/27/82
MULTNOMAH	26	V054	D & H OIL CO., INC.	133	05/21/82
				TL1	06/01/82
MULTNOMAH	26	V334	DON THOMAS PETROLEUM	7	06/03/82
CLACKAMAS	03	V085	FLYING "J"	292	05/18/82
				4A	06/17/82
COLUMBIA	05	V001	FRED SCHALL OIL CO.	4	06/17/82
				8	05/22/82
MULTNOMAH	26	V507	LEATHER,S OIL CO.	8A	05/21/82
				7	06/12/82
MULTNOMAH	26	V506	MCCALL OIL CO.	6B	06/05/82
				720	06/25/82
MARION	24	V010	MERRITT TRUAX INC.	987	06/25/82
				65	05/29/82
WASHINGTON	34	V074	METRO WEST ENERGY CO.	401	05/18/82
MULTNOMAH	26	V053	MORRISON OIL CO.	01A	06/11/82
MULTNOMAH	26	V417	POWELL DISTRIBUTING CO.	6	06/12/82
				P36	06/04/82
MARION	24	V039	PTI	36R	06/05/82
MULTNOMAH	26	V416	TOWER OIL CO.	02-	05/29/82
				P5	05/29/82
MULTNOMAH	26	V337	UNION OIL CO. CALIFORNIA	UMA	06/08/82
				18A	06/09/82
MULTNOMAH	26	V505	ZANDELL OIL CO.	591	06/05/82
				788	06/10/82
MULTNOMAH	26	V505	ZANDELL OIL CO.	737	05/18/82
				9	06/02/82
				7	06/02/82

TOTAL NUMBER QUICK LOOK REPORT LINES

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
MONTHLY ACTIVITY REPORT  
PLAN ACTIONS PENDING FOR DIRECT SOURCES

County	Number	Source	Process Description	Date	Status	Assigned
JACKSON	596	CHEVRON USA INC.	BULK PLANT VOC CONTROL	04/30/79	RECEIVED	RO
JACKSON	593	TEXACO INC.	BULK PLANT VOC CONTROL	05/02/79	RECEIVED	RO
MULTNOMAH	598	POWELL DISTRIBUTING CO.	BULK PLANT VOC CONTROL	05/04/79	RQST AD INFO	RO
LANE	504	TRUS JOIST CORP.	YARD PAVING	10/01/79	RECEIVED	PO
WASHINGTON	525	DANT & RUSSELL INC.	YARD PAVING	11/16/79	RECEIVED	RO
WASHINGTON	534	VALLEY PETROLEUM INC	VAPOR RETURN	12/12/79	RECEIVED	RO
JACKSON	555	M C LININGER & SONS INC	YARD PAVING	02/11/80	RECEIVED	PO
JACKSON	556	ROGUE RIVER PAVING	YARD PAVING	02/11/80	RECEIVED	PO
CLACKAMAS	623	OREGON PORTLAND CEMENT	EXTEND KILN 4 STACK 50 FT.	05/30/80	RECEIVED	RO
PORT SOURCE	625	TRU MIX LEASING CO.	YARD PAVING AT MEDFORD SITE	06/03/80	RECEIVED	PO
JACKSON	703	UNITED PIPE & SUPPLY	YARD PAVING	06/17/80	RECEIVED	PO
LANE	635	TREE PRODUCTS HARDWOODS	WELLONS BOILER, NC BY LRAPA	06/18/80	RECEIVED	PO
MULTNOMAH	715	CARSON OIL CO.	VAPOR RECOVERY SYSTEM	07/28/80	RECEIVED	RO
CLACKAMAS	655	CLACKAMAS COUNTY GRANGE	BULK PLNT & SERVICE STATION	08/29/80	RQST AD INFO	RO
LANE	664	TRIANGLE VENEER	SCRUBBER SYSTEM (LRAPA)	09/03/80	RQST AD INFO	PO
JACKSON	660	ENERGY COOPERATION INC	EXP ALCOHOL FUEL PLANT	09/16/80	RECEIVED	PO
LANE	626	ALPINE VENEERS INC	PAVING (LRAPA)	09/20/80	RECEIVED	PO
JACKSON	668	CULBERTSON ORCHARDS	OVERTREE SPRINKLER SYSTEM	09/23/80	RECEIVED	PO
LANE	650	CLEAR FIR PRODUCTS CO	FUEL BIN VENT BAGHOUSE, LRAPA	09/24/80	RECEIVED	PO
LANE	672	W W LUMBER CO., INC.	PAVING, LOG YARD, LRAPA	09/26/80	RECEIVED	PO
MULTNOMAH	687	CONTINENTAL LIME INC	STORAGE/TRANSFER FACILITY	10/27/80	RECEIVED	RO
LANE	702	GREEN RIVER LUMBER	YARD PAVING	11/20/80	RECEIVED	PO
COLUMBIA	714	BERGSOE METAL CORP	GAS & FUME CONTROL EQUIP.	01/10/81	RECEIVED	RO
JACKSON	718	EARNEST ORCHARDS & PACK	OVERTREE SPRINKLER SYSTEM	01/14/81	RECEIVED	PO
POLK	726	PRAEGITZER INDUSTRIES INC	BAGHOUSE	02/04/81	RECEIVED	RO
CLACKAMAS	729	CLACKAMAS COUNTY GRANGE	VOC VAPOR RECOVERY SYSTEM	02/05/81	RECEIVED	RO
HOOD RIVER	727	MERZ ORCHARDS INC.	ELECT WIND MACHINE INSTAL	02/06/81	RECEIVED	PO
JACKSON	730	HILLCREST ORCHARDS	OVERTREE SPRINKLER SYSTEM	02/17/81	RECEIVED	PO
JACKSON	736	MINNESOTA MNG & MFG	THERMAL OXIDIZER INSTAL	02/26/81	RQST AD INFO	PP
JACKSON	738	EARNEST ORCHARDS	WIND MACHINE INSTALLATION	03/20/81	RECEIVED	PO
UNION	744	AMER CAPITOL ETHANOL CORP	ETHANOL FUEL PLANT	04/08/81	RECEIVED	PO
JACKSON	735	SPRA-MULCH INDUSTRIES	BAGHOUSE INSTAL.	04/13/81	RQST AD INFO	PO
CLACKAMAS	746	OREGON PORTLAND CEMENT	TRUCK WASH RACK	04/29/81	RECEIVED	RO
LANE	751	WEYERHAEUSER CO. PPRBRD M	(2) NEW ELECTROSTATIC PRECIO	05/01/81	RECEIVED	RO
YAMHILL	749	SUNSHINE CLEANERS	SELF-CONTAINED PERC. PLANT	05/04/81	RECEIVED	PO
LINN	750	WOODDEX INC.	STEAM RECIRCULATION SYSTEM	05/04/81	RECEIVED	RO
MALHEUR	753	AMALGAMATED SUGAR CO	FLUE GAS RECIRCULATION SYS	05/08/81	RQST AD INFO	PO
MULTNOMAH	752	ESCO CORPORATION PLANT 3	BAGHOUSE INSTALLATION	05/11/81	RECEIVED	RO
CLACKAMAS	754	GLOBE UNION-CANBY	DUCTING FOR VENT OF STACKERS	05/11/81	RECEIVED	RO
MARION	756	GREEN VENEER INC	HOGGED FUEL BOILER	05/19/81	RECEIVED	RO
DOUGLAS	758	HANNA NICKEL SMELTING	UPGRADE CALCINER ESP	05/26/81	RQST AD INFO	PO
MARION	760	WEST COAST BEET SEED	DUST COLLECTION SYSTEM	06/01/81	RECEIVED	RO
LINN	761	OREMET	DUST COLLECTOR SYS MOD	06/02/81	RQST AD INFO	PO
DOUGLAS	762	TYEE TIMBERS, INC	DUST COLLECTION SYSTEM	06/11/81	RECEIVED	PO
CLACKAMAS	763	FOSECO, INC.	SLEEVE LINE DUST COLL SYS	06/15/81	RECEIVED	RO
LANE	766	REAL WOOD PRODUCTS	DUST COLLECTION SYSTEM	06/24/81	RECEIVED	PO

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
MONTHLY ACTIVITY REPORT

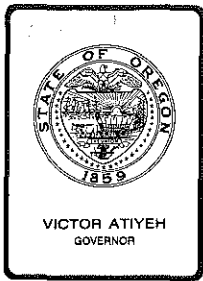
Direct Sources

PLAN ACTIONS COMPLETED

County	Number	Source	Process Description	Date of Action	Action
MARION	592	MERRITT TRUAX OIL CO	BULK PLANT VOC CONTROL	04/14/81	APPROVED
JACKSON	661	PETER FRUIT CO.	18 ORCHARD FANS	09/19/80	APPROVED
HOOD RIVER	688	BICKFORD ORCHARDS INC.	100 HP TROPIC BREEZE FAN	10/28/80	APPROVED
JACKSON	722	EDEM VALLEY ORCHARD INC.	10 WIND MACHINES	06/08/81	APPROVED
MULTNOMAH	734	OWENS-CORNING FIBERGLAS	ASPHALT PLANT	06/12/81	APPROVED
KLAMATH	755	NODOC LUMBER CO	WOOD WASTE BIN W/TARGET BOX	05/21/81	APPROVED
MULTNOMAH	757	LINNTON PLYWOOD	VENEER DRYER W/CONTROLS	06/01/81	APPROVED
LINN	759	TELEDYKE WAH CHANG	DUST COLLECTION SYSTEM	06/23/81	APPROVED
JACKSON	765	WHITE CITY PLY CO.	BOILER INSTALLATION	06/24/81	APPROVED

TOTAL NUMBER QUICK LOOK REPORT LINES                      9





# 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, August 28, 1981, EQC Meeting

### TAX CREDIT APPLICATIONS

#### Director's Recommendation

It is recommended that the Commission take the following actions:

1. Approve Pollution Control Facilities Tax Credit Applications for:

Appl. No.	Applicant	Facility
<del>T-1142</del>	<del>Time Oil Company</del>	<del>Internal floating tank covers</del>
<del>T-1172</del>	<del>Time Oil Company</del>	<del>Internal floating tank covers</del>
T-1315	Husky Industries, Inc.	Waste heat boiler
T-1320	Crown Zellerbach Corp.	Sludge disposal system
T-1347	Lane Plywood, Inc.	Waste wood processing and transfer equipment
T-1359	Ellingson Timber Company	Waste wood storage
T-1363	Daelco, Inc.	Bag filter and associated equipment
T-1370	Weyerhaeuser Company	Electrostatic precipitator wire rappers
T-1372	Weyerhaeuser Company	Transformer rectifier units
T-1373	Weyerhaeuser Company	Automatic voltage control units
T-1375	Sanitary Services, Inc.	Newsprint and cardboard shredder and baler

2. Revoke Pollution Control Facility Certificate 1203 issued to George M. Ackerman and reissue it to Ackerman Orchards, Inc. (see review report).
3. Revoke Pollution Control Facility Certificate 767 and reissue it in a lesser amount because certain portions of the originally certified facility have been taken out of service (see review report).

*Bill*

William H. Young



Contains  
Recycled  
Materials

CASplettstaszer  
229-6484  
8/5/81  
Attachments

PROPOSED AUGUST 1981 TOTALS

Air Quality	\$ 1,070,344
Water Quality	522,964
Solid Waste	1,001,613
Noise	<u>-0-</u>
	\$ 2,633,921

CALENDAR YEAR TOTALS TO DATE

Air Quality	\$ 9,118,882
Water Quality	2,792,112
Solid Waste	430,279
Noise	<u>172,821</u>
	\$12,514,094

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Time Oil Company  
2737 West Commodore Way  
Seattle, WA 98199

The applicant owns and operates a bulk petroleum storage terminal at 12005 North Burgard Road, Portland, Or.

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 seven internal floating tank covers for gasoline storage tanks.

Request for Preliminary Certification for Tax Credit was made on April 30, 1976, and approved on June 8, 1976.

Construction was initiated on the claimed facility in March, 1979; completed in July, 1979; and the facility was placed into operation in July, 1979.

Facility Cost: \$199,229 (Accountant's Certification was provided.)

3. Evaluation of Application

The claimed facility was installed to bring the gasoline tanks into compliance with the Department's Volatile Organic Compounds (VOC) regulations.

The facility has been inspected by the Department and is operating satisfactorily. It has reduced the VOC emissions by an estimated 400 tons (131,417 gallons) per year.

At the time the decision to install the facility was made gasoline was 40.26 cents per gallon which would have resulted in a 22.9 percent return on investment. This established that the "substantial purpose" of the facility was air pollution control.

The approximate value of the gasoline recovered by the facility during the first year of operation, \$116,646 (88.76 cents per gallon), provided a return on investment of 58 percent. Although the purpose of the installation was air pollution control, less than 20 percent allocable to pollution control is allowable using the Department's guidelines "Allocation of Costs to Pollution Control." It should be noted that this facility was constructed during a period of rapid gasoline price transition and it is unlikely that similar facilities built today would receive certification as a result of the large return on investment.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The amount allocable to pollution control is less than 20 percent.

5. Director's Recommendation

Based on the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$199,229 with less than 20% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1142.

FASKirvin:ahe  
(503) 229-6414  
July 8, 1981

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Time Oil Company  
2737 West Commodore Way  
Seattle, WA 98199

The applicant owns and operates a bulk petroleum storage terminal at 9400 St. Helens Road, Portland, OR.

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 internal floating tank covers for four new gasoline storage tanks.

Request for Preliminary Certification for Tax Credit was made on January 6, 1979, and approved on February 3, 1979.

Construction was initiated on the claimed facility in March, 1979; completed in September, 1979; and the facility was placed into operation in September, 1979.

Facility Cost: \$163,805 (Accountant's Certification was provided.)

3. Evaluation of Application

The claimed facility was installed to assure that the new installed tanks would meet the Department's Volatile Organic Compounds (VOC) regulations.

The facility has been inspected by the Department and is operating satisfactorily. The facility prevented VOC emissions of approximately 233 tons (27,271 gallons) per year.

At the time the decision to install the facility was made, gasoline was 40.26 cents per gallon which would have resulted in an 18.5 percent return on investment. This established that the "substantial purpose" of the facility was air pollution control.

The approximate value of the gasoline recovered by the facility during the first year of operation, \$66,811 (88.76 cents per gallon), provided a return on investment of 40.8 percent. Although the purpose of the installation was air pollution control, less than 20 percent allocable to pollution control is allowable using the Department's guidelines "Allocation of Costs to Pollution Control." It should be noted that this facility was constructed during a period of rapid gasoline price transition and it is unlikely that similar facilities built today would receive certification as a result of the large return on investment.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1) (a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility was required by the Department and is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is less than 20 percent.

5. Director's Recommendation

Based on the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$163,805 with less than 20 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1172.

FASkirvin:ahe  
(503) 229-6414  
July 8, 1981

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REPORT

---

1. Applicant

Husky Industries Inc.  
62 Perimeter Ctr. East  
Atlanta, Georgia 30346

The applicant owns and operates a charcoal manufacturing plant at White City, Oregon.

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 waste heat boiler and associated controls, piping and ductwork.

Request for Preliminary Certification for Tax Credit was made on 3/4/80, and approved on 3/24/80.

Construction was initiated on the claimed facility on 4/1/80, completed on 6/27/80, and the facility was placed into operation on 6/30/80.

Facility cost: \$526,604 (Accountants's Certification was provided).

3. Evaluation of Application

This boiler was added to the charcoal plant as part of phase II of the control of the charcoal furnace. The boiler will produce steam and lower the temperature of the exhaust gases sufficiently to allow installation of additional air pollution equipment. Source testing it will be done to determine whether or not additional controls will be necessary.

The boiler will generate approximately 100,000 pounds steam per hour and allow phase out of the existing hogged fuel boiler with the remainder of the steam being sold to a nearby plant. The phase out of the existing boiler will reduce particulate emissions by 35 tons per year.

At the Department's request, the company supplied the interest expense (\$86,964), property taxes (\$10,085) and insurance costs (\$8,255) for the first year of operation. Using these values and the utilities and maintenance costs from the application, the Return on Investment for

this project is 9%. The primary purpose is air pollution control. Therefore, under the Department's guidelines, 60% or more but less than 80% of the cost of this facility is allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost is properly allocable to pollution control is 60% or more but less than 80%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$526,604 with 60% or more but less than 80% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1315.

F.A.Skirvin:ib  
(503) 229-6414  
June 22, 1981  
AI1168




# HUSKY INDUSTRIES

Inc.



POST OFFICE BOX 2367, WHITE CITY, OREGON 97501 | TELEPHONE (503) 826-2756

  
Mr. Fritz Skiryin  
Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

July 10, 1981  
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
JUL 13 1981

AIR QUALITY CONTROL

Dear Fritz:

Confirming my earlier phone conversation with Ed Woods, the following are additional first year costs for our waste heat boiler covered by tax credit application No. T-1315:

Interest expense	-	\$86,964
Property taxes	-	\$10,085
Boiler insurance	-	\$8,255

If you need additional information, please let us know.

Sincerely,

  
William H. Carlson  
Area Vice President

WHC/bl

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Crown Zellerbach Corporation  
Wauna Division  
Clatskanie, Oregon 97016

The applicant owns and operates a pulp and paper mill at Wauna.

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. a belt press for dewatering secondary sludge
- b. a blower and pipeline for transporting primary sludge, and
- c. dike modifications at the secondary sludge landfill.

Request for Preliminary Certification for Tax Credit was made April 11, 1979, and approved May 15, 1979. Construction was initiated on the claimed facility May 1979, completed August 1980, and the facility was placed into operation August 1980.

Facility Cost: \$552,964 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, primary and secondary waste water clarifier sludge was blended and dewatered on four coil filters. The partially dewatered sludge was collected in trucks and hauled to an industrial landfill. Since the combined sludge contained about 85 percent water, the landfill was filling quickly. Since the installation of the belt press, the sludges have been dewatered separately. Secondary sludge is dewatered on the new belt press while primary sludge is dewatered on the coil filters. The secondary sludge, which now contains about 40 percent solids, is hauled to the old landfill. The dikes of this landfill were raised to extend the life of the site. The primary sludge is conveyed by a blower and pipeline to a separate landfill.

The belt press, the dike modifications, and the sludge blower are all integral parts of the waste water treatment system. The separation of the primary and secondary sludges has extended the life of the secondary sludge landfill area. This site now has the capacity to store secondary sludge until a use for the sludge can be found. At present there is no return on investment from this installation.

The installation of the primary sludge blower and pipeline has eliminated the need for truck hauling of primary sludge. However, a sludge pile forms at the end of the blower pipe which necessitates the use of a caterpillar tractor for spreading. It is estimated that the annual cost of operating the blower and caterpillar is about \$8,000 more than hauling primary sludge by truck. There is no return on investment from this installation.

Applicant claims that 80 percent or more of the cost of the facility is properly allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$552,964 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1320.

CKA:l  
(503) 229-5325  
July 15, 1981  
WL926 (1)

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Lane Plywood, Inc.  
65 North Bertelen Road  
Eugene, OR 97402

The applicant owns and operates a plywood production plant at Eugene, Oregon.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application includes waste wood processing and transfer equipment, a waste wood-fired boiler and pollution control equipment to reduce air contaminant discharges.

Request for Preliminary Certification for Tax Credit was made on January 19, 1978, and approved on August 16, 1978.

Construction was initiated on the claimed facility on May 24, 1978, completed on October 17, 1980, and the facility was placed into operation on October 20, 1980.

Facility Cost: \$769,567.15 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant had previously disposed of surplus wood wastes by sales to other companies or by landfilling in a nearby disposal site. The company secured a contract to sell the material to another firm, and spent \$70,000 in installing storage and loading equipment. This market and the nearby disposal site both closed within a few months of each other. The applicant then disposed of this waste wood by occasional sales, by giving some away and by burning the remainder in the Dutch oven boilers. This dry fuel caused considerable air quality problems and no new markets were developed. The applicant then began planning to add the new boiler to supply steam to permit the three existing boilers to operate at their design steaming rate.

The Department would not recommend approval of this application under current policy (effective December 31, 1980). However, this facility was commenced before adoption of the present policy and is therefore eligible for consideration.

Attached is a copy of the current policy discussed above.

4. Summation

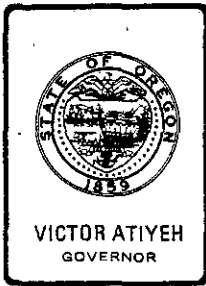
- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. As required by ORS 468.165, the facility was under construction on or after January 1, 1973, and
  - (1) The substantial purpose of the facility is to utilize material that would otherwise be solid waste by burning to produce steam for use in the facility;
  - (2) The end product of the utilization is a usable source of power of real economic value;
  - (3) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.
- c. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- d. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$769,567.15 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1347.

R. L. Brown:c  
SC379  
Attachment  
(503) 229-5157  
July 31, 1981

T-1347



# Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

## Policy Guidance on Solid Waste Tax Credits:

### Information to Tax Relief Applicants

Effective December 31, 1980, significant changes occurred in the tax credit statutes relative to solid waste pollution control facilities.

#### Discussion

ORS 468.170(8)(b) states, in part, that a facility commenced after December 31, 1980, and prior to December 31, 1983, shall only be certified for tax credit if it meets one or more of the following conditions:

1. The facility is necessary to assist in solving a severe or unusual solid waste, hazardous waste or used oil problem;
2. The facility will provide a new or different solution to a solid waste, hazardous waste or used oil problem than has been previously used, or the facility is a significant modification and improvement of similar existing facilities; or
3. The Department has recommended the facility as the most efficient or environmentally sound method of solid waste, hazardous waste or used oil control.

The intent of this legislation is clearly to restrict the number and types of facilities being certified for tax credit. Some types of waste are now commonly recycled or used for productive purposes and the availability of a tax credit does not seem to be a necessary incentive. With other materials, potential profits are less obvious and tax credits may be a major incentive. To provide guidance in implementing the new statutory requirements, the following policy statements were adopted by the Environmental Quality Commission on December 19, 1980.

1. In determining if a facility provides the most efficient or environmentally sound method of producing energy or a salable product from solid waste, the Department shall consider the facility's cost effectiveness and the cost to the public of diverting material from the solid waste stream. For a few waste types, the Department can identify facilities or technologies which are the most efficient or

environmentally sound; specifically, the reprocessing of used motor oil into clean fuel or lubricants and the distillation of waste solvents to recover a clean product. For most waste types, however, the Department is not prepared to name a specific technology as the most efficient or environmentally sound. In these circumstances, judgment shall be made on a case-by-case basis.

2. Wood waste, with a few exceptions, is no longer considered to be a severe solid waste problem. Accordingly, facilities associated with wood waste utilization (e.g., hog fuel boilers, heat sources, hogs, chippers, particleboard plants, log yard paving and assorted hog fuel handling equipment) will normally no longer be certified. Also, the Department will not consider any of the facilities described above to be a new or different solution to a solid waste problem.
3. Waste cardboard and newsprint no longer represent a severe disposal problem. Balers, deinking and repulping equipment are no longer a new or different solution.
4. Grass straw, plastics, and tires, especially large truck tires, continue to represent severe disposal problems.
5. Virtually any hazardous waste management facility may be considered to be a new or different solution, since none have been certified to date.
6. "Commenced" means the date construction started, rather than the date the facility was placed in operation.

Applicants for tax credit relief should be aware that a facility that has already received Preliminary Certification, but where construction has not yet started, could lose its eligibility for tax credit. If there are any questions about this matter, contact your local DEQ office or the Solid Waste Division at 229-5913 in Portland or toll free statewide at 1-800-452-7813 (ask for DEQ).

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Ellingson Timber Company  
Plywood/ELCOBOARD Division  
P.O. Box 866  
Baker, Oregon 97814

The applicant owns and operates a plywood manufacturing and an ELCOBOARD composite panel plant at Baker, Oregon

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a 30-unit Carothers Company storage bunker with a cyclone mounted on top. Waste wood (dry veneer clip, panel edge trim and other plywood plant wastes) is transported to the storage bin pneumatically from a hammerhog.

Request for Preliminary Certification for Tax Credit was made on April 17, 1978, and approved on May 8, 1978.

Construction was initiated on the claimed facility in April 1979, completed in May 1979, and the facility was placed into operation in May 1979.

Facility Cost: \$27,639.05 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to the installation of this storage system, these wastes were combusted in a wigwam burner. The bunker was located at the plywood plant so as to collect dry wood wastes for shipment to the ELCOBOARD plant at Baker or the particleboard plant at Island City. The applicant projects that 7,700 pounds of shavings, 20,000 pounds of chip refuse, 10,000 pounds of dry clip material and 20,000 pounds of dry panel trim will be recovered each day using this storage/loading system that would have been wasted previously.

The Department would not recommend approval of this application under current policy (effective December 31, 1980). However, this facility was commenced before adoption of the present policy and is therefore eligible for consideration.



4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. As required by ORS 468.165, the facility was under construction on or after January 1, 1973, and
  - (1) The substantial purpose of the facility is to utilize material that would otherwise be solid waste by mechanical process through the production, processing, or use of materials for their materials which have useful chemical or physical properties;
  - (2) The end product of the utilization is a usable item of real economic value;
  - (3) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and
  - (4) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.
- c. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- d. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$27,639.05 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1359.

R. L. Brown:c  
SC391  
(503) 229-5157  
August 4, 1981

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Daelco, Inc.  
5909 E. Randolph Street  
City of Commerce, CA 90040

The applicant owns and operates a lead oxide plant at Beaverton, OR.

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 bag filter dust collection system to control emissions from the storage silos, conveyor systems and the truck or rail car loading.

Request for Preliminary Certification for Tax Credit was made on September 18, 1979, and approved on November 26, 1979. Construction was initiated on the claimed facility in January, 1980, completed in July, 1980, and the facility was placed into operation in June, 1980.

Facility Cost: \$25,724.89 identified by Daelco, Inc. as the portion of the plant cost of \$322,585.00 (accountant's certification provided) that is attributable to pollution control.

3. Evaluation of Application

Installation of the micro-pulsaire dust collection system employing high efficiency Gore-Tex expanded teflon membrane filter bags was required to limit emissions to 0.022 gr/sdcfm. The facility has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions. Lead oxide collected by the dust collection system is automatically conveyed to the storage silos. The value of the 250 lbs of lead oxide collected annually is approximately \$600.00. The portion of the plant cost of \$322,585.00 that is attributable to pollution control was identified in the tax credit application and is \$25,724.89. Operation of the dust collection system and maintenance before taxes exclusive of depreciation is \$3,133.00 per year. Therefore, there is no return on the investment in the air pollution control facility and 80 percent or more of the cost is allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% or more of \$25,724.89.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,724.89 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1363.

FAS:a  
AA163 (1)

(503) 229-6414  
July 2, 1981

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Weyerhaeuser Company  
Willamette Region - Paperboard Manufacturing  
Tacoma, WA 98477

The applicant owns and operates a paperboard mill utilizing the Kraft process at Springfield, Oregon.

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 six(6) air operated electrostatic precipitator wire rappers with associated mounting and control hardware.

Request for Preliminary Certification for Tax Credit was made on 10/22/76, and approved on 12/22/76.

Construction was initiated on the claimed facility in December, 1976, completed in January, 1977, and the facility was placed into operation in January, 1977.

Facility Cost: \$ 23,959 (Accountant's Certification was provided).

3. Evaluation of Application

The facility was required to prevent excess saltcake (sodium carbonate) build-up on the No.4 recovery furnace electrostatic precipitator electrodes. This rapid build-up reduced the electrostatic precipitator performance resulting in less than optimum particulate removal and increased emissions. The Department has inspected the facility and adequate removal of the saltcake has been effected with the No.4 recovery furnace and electrostatic precipitator operating in compliance with regulations and permit conditions. The annual value of the saltcake collected exceeds the annual operating expenses exclusive of depreciation by \$555.00. The resulting rate of return on investment (ROI) before taxes is 2.3 percent. Therefore, since the ROI is less than 7 percent, 80% or more of the facility cost is allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.

- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$23,959 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1370.

F.A. Skirvin:ib  
(503) 229-6414  
AI1183  
June 25, 1981

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Weyerhaeuser Company  
Willamette Region - Paperboard Manufacturing  
Tacoma, WA 98477

The applicant owns and operates a paperboard mill utilizing the Kraft process at Springfield, Oregon.

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 two transformer-rectifier units and two automatic voltage control units to power and control the No. 4 electrostatic precipitator.

Request for Preliminary Certification for Tax Credit was made on 10/22/76, and approved on 12/22/76.

Construction was initiated on the claimed facility in July, 1977, completed in November, 1977, and the facility was placed into operation on November 29, 1977.

Facility Cost: \$100,865 (Accountant's Certification was provided).

3. Evaluation of Application

Installation of the two transformer - rectifier units and the two automatic voltage control units were required because existing power supplies and controls were not adequate resulting in reduced electrostatic precipitator performance. The installation has resulted in reducing the No. 4 recovery furnace electrostatic precipitator emissions by 0.4 lbs/ADT. The installation has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions. The annual operating costs of the installation before taxes, exclusive of depreciation, are greater than the value of the sodium carbonate collected, therefore, there is no return on investment in the facility and 80 percent or more of the cost is allocable to pollution control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.

- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$100,865 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1372.

F.A. Skirvin:ib  
(503) 229-6414  
A11182  
June 26, 1981

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Weyerhaeuser Company  
Willamette Region - Paperboard Manufacturing  
Tacoma, WA 98477

The applicant owns and operates a paperboard manufacturing plant, utilizing the Kraft process, at Springfield, Oregon.

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 three (3) automatic voltage control units to regulate the No.3 recovery electrostatic precipitator electrical power loads.

Request for Preliminary Certification for Tax Credit was made on 10-20-76, and approved on 12-22-76.

Construction was initiated on the claimed facility in December, 1976, completed in January, 1977, and the facility was placed into operation in January, 1977.

Facility Cost: \$30,158.00 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility consisting of three (3) L.L. Little, model P-30, automatic voltage control units, replaced an existing 1965 voltage control system which had not been certified for pollution control. The replacement was considered necessary because the existing control system resulted in reduced electrostatic precipitator performance. The installation has resulted in reducing the No.3 recovery furnace electrostatic precipitator emissions of sodium carbonate by 0.9 lbs/ADT at a firing rate of 650 ADT/day. The installation has been inspected by Department personnel and has been found to be operating in compliance with regulations and permit conditions.

The annual value of the sodium carbonate collected exceeds the annual operating expense, exclusive of depreciation, by \$3,750.00. The resulting rate of return on investment (ROI) is 11.84%. Therefore, since the ROI is greater than 7% and less than 12%, 60% or more but less than 80% is allocable to pollution control.



4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- 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 is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 60 percent or more but less than 80 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$30,158.00 with 60 percent or more but less than 80 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1373

FAS:a  
AA1208 (1)  
(503) 229-6414  
July 15, 1981

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

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1. Applicant

Sanitary Services, Inc.  
P.O. Box 316  
Hermiston, OR 97838

The applicant owns and operates Sanitary Disposal, Inc., a garbage collection and recycling firm, at Hermiston, Oregon.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a newsprint and cardboard shredder and baler to process recycled products. Claimed equipment includes:

- a. 40' x 100' x 26' high metal building (\$45,768.50);
- b. BloApCo Model 3CAX-3058-BV shredder with conveyor & motor (\$60,773.71);
- c. K4-72 horizontal baler (\$27,164.87);
- d. 1980 International truck F-1954 (\$36,500)  
(Memo justifying truck attached);
- e. 22 cubic yard drop box (\$1,800)
- f. (2) 40 cubic yard drop boxes (\$5,000)
- g. (4) 20 cubic yard drop boxes (\$8,400)
- h. Case 584-C forklift (\$15,000)

Request for Preliminary Certification for Tax Credit was made on August 18, 1980, and approved on September 10, 1980.

Construction was initiated on the claimed facility on October 15, 1980, completed on March 2, 1981, and the facility was placed into operation on March 2, 1981.

Facility Cost: \$204,407 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to construction of the facility, 125-150 tons/month of cardboard and 75-100 tons/month of newsprint were disposed of at the Hermiston Landfill.

The claimed facility allows for processing (shredding and baling) to produce a marketable product and provides for transportation of the product to market. The above-listed materials are no longer being landfilled.

Tax Credit Certificates (T-734, October 1979 and T-1337, June 1981) have previously been issued for trucks purchased for use with a claimed facility.

The Department would not recommend approval of this application under current policy (effective December 31, 1980). However, this facility was commenced before adoption of the present policy and is therefore eligible for consideration.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. As required by ORS 468.165, the facility was under construction on or after January 1, 1973, and
  - (1) The substantial purpose of the facility is to utilize material that would otherwise be solid waste, by mechanical process;
  - (2) The end product of the utilization is a usable item of real economic value;
  - (3) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and
  - (4) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.
- c. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- d. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$204,407.00 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1375.

R. L. Brown:c  
(503) 229-5157  
7/29/81  
Attachment  
SC358

ATTACHMENT 1

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Robert L. Brown

DATE: July 29, 1981

FROM: William R. Bree

SUBJECT: Tax Credit Application T1375  
Sanitary Disposal, Inc.  
Hermiston, OR

I visited Sanitary Disposal's recycling facility on July 8, 1981. The facility described in application T1375 is complete as described and is in operation. Mr. Jewitt reported the following information in response to my inquiries.

1. The facility replaces an early inadequate operation which could only handle a portion of the present recycling activities and was scheduled to be closed as inadequate. The material recycled by this new facility would have been waste if the facility was not built.
2. Sanitary Disposal, Inc. owns a fleet of 4 drop box trucks. One additional truck was added to handle the material picked up for recycling. No single truck is used exclusively for recycling, but the equivalent of one additional truck is used to service the cardboard and newspaper boxes (approximately 25 containers).
3. The company built its own drop boxes for recycling. The value which they claim for these boxes is less than normal purchase price for the equivalent container.

I have no further questions on the technical aspects of this facility. If the application meets other criteria, I would recommend that we request approval.

WRB:o  
SO289 (2)

State of Oregon  
Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATE

---

1. Certificate Issued to:

George M. Ackerman  
2175 Mason Road  
Hood River, Oregon 97031

The Certificate was issued for an air pollution control facility

2. Summation

On January 30, 1981, the Environmental Quality Commission issued Pollution Control Facility Certificate 1203 to George M. Ackerman for two Tropic Breeze wind machines at his orchard in Hood River.

By letter of July 9, 1981 (attached) Mr. Ackerman requested that Certificate 1203 be revoked and reissued to Ackerman Orchards, Inc.

3. Director's Recommendation

It is recommended that Pollution Control Facility Certificate 1203 be revoked and reissued to Ackerman Orchards, Inc. The Certificate to be valid only for the time remaining from the date of first issuance.

CASplettstaszer  
229-6484  
8/5/81  
Attachments

George M. Ackerman  
2175 Mason Rd.  
Hood River, Oregon

July 9, 1981

Management Services Division  
Department of Environmental Quality  
P.O. Box 1760  
Portland, Oregon 97207

Attention: Carol Splettsteaszer

Dear Sirs:

Enclosed is a copy of our Pollution Control certificate #1203 dated January 30, 1981. I request that the Department of Environmental Quality revoke this certificate and reissue a new certificate in the name of our corporation Ackerman Orchards, Inc. Please note the election for tax credit was already made on this certificate in favor of the corporation under ORS 317.072.

This request is just to change the title of the credit from personal to corporation. If you have any questions please contact our accountant, Lester E. Henry at 386-1833.

Sincerely,



George M. Ackerman

Enclosure

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1203

Date of Issue 1/30/81

Application No. T-1306

## POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: George M. Ackerman 2175 Mason Road Hood River, Oregon 97031	Location of Pollution Control Facility:  3900 Ackerman Drive Hood River, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Two (2) model 75 hp electric "Tropic Breeze" wind machines, serial numbers 19147 and 19148	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>April 5, 1980</u> Placed into operation: <u>April 5, 1980</u>	
Actual Cost of Pollution Control Facility:      \$ <u>26,509.53</u>	
Percent of actual cost properly allocable to pollution control: <p style="text-align: center;">80% or more</p>	

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of ORS 468.175 and subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE — The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed *Al Densmore*  
 Title Al Densmore, Vice-Chairman

Approved by the Environmental Quality Commission on  
 the 30th day of January, 1981.

State of Oregon  
Department of Environmental Quality

Revision of Pollution Control Facility Certificate

---

1. Certificate Issued to:

Crown Zellerbach Corporation  
Wauna Division  
Clatskanie, Oregon 97016

Certificate was issued for a water pollution control facility.

2. Discussion

By letter of July 8, 1981 (attached), Crown Zellerbach notified the Department that certain facilities certified in Pollution Control Facility Certificate 767 had been taken out of service. Accordingly, the originally certified amount of \$7,402,913 should be reduced by \$97,012 (see Larry Patterson memorandum, attached).

3. Summation

Pursuant to ORS 317.072(10), Certificate 767 should be revoked and reissued in the amount of \$7,305,901 to reflect a reduction of \$97,012--costs of portions of the originally certified facility taken out of service.

4. Director's Recommendation

Revoke Pollution Control Facility Certificate 767 in the amount of \$7,402,913 and reissue it in the amount of \$7,305,901. This reissued certificate to be valid only for the time remaining from the date of first issuance.

CASplettstaszer  
229-6484  
8/5/81  
Attachments





## STATE OF OREGON

## INTEROFFICE MEMO

TO: Carol Spletstaszer  
Management Services Division

DATE:

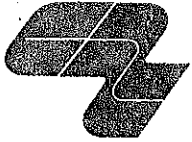
FROM: Larry Patterson  
Water Quality Division

SUBJECT: Pollution Control Facility Certificate 767, Crown Zellerbach, Wauna

In 1975, Crown Zellerbach, Wauna, installed a secondary waste water treatment system which included sludge dewatering equipment. On December 20, 1976, a Pollution Control Facility Certificate was issued with a facility cost of \$7,402,913.

In December 1979, Crown removed one of four coil filters to add a sludge press. The cost of the four filters in 1975 (including installation) was \$388,051. Since the four systems were identical, the cost for the removed unit is  $\$388,051/4 = \$97,012$ .

Certificate No. 767 should be reduced by \$97,012 to show a facility cost of \$7,305,901.



CrownZellerbach  
Environmental Services

July 8, 1981

Mr. Larry Patterson  
Industrial Waste Engineer  
Source Control Section  
Water Quality Division  
Department of Environmental Quality  
P. O. Box 1760  
Portland, Oregon 97207

Dear Mr. Patterson:

I am enclosing the information you wanted which will allow you to continue the processing of our tax relief application No. T-1320, "Belt Press-Secondary Sludge Dewatering".

The four Komline sludge filters included in Certificate No. 767 were priced at \$388,051. One of these filters was removed to make room for the new belt sludge press.

1. The 1975 cost for each filter	\$97,012
2. 5 year depreciation at 5.0%/yr	24,253
3. Cost of filter at removal time	<u>72,759</u>

It is my understanding, you intend to subtract this amount from the \$552,964 figure presented in application No. T-1320. The new value would then be \$480,205.

If there are any questions, please call me at (206) 834-4444, extension 677.

Very truly yours,

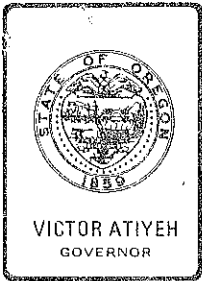
*T. R. Aspitarte*

T. R. ASPITARTE/lg/60

Manager,  
Environmental Development  
Programs

cc:  
Dr. H. R. Amberg - ESD

RECEIVED  
JUL 11 1981



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

File

2/3/28

December 17, 1980

Crown Zellerbach Corporation  
Environmental Services  
904 N.W. Drake St.  
Camas, WA 98607

Attention Dr. H. R. Amberg

Re: Crown Zellerbach, Wauna  
Tax Relief Appl. No. T-1320

Gentlemen:

We have received your application number T-1320 for a pollution control facility tax relief.

The project is for the installation of a new belt press to dewater sludge, a blower to convey primary sludge, and for dike work to increase the landfill capacity.

It is our understanding that one of the Komline sludge filters was removed from service to allow room for the belt press. Certification No. 767, issued on December 20, 1976, included \$388,051 for four sludge filters. Since one of the filters is no longer in service, your tax relief must be revised to reflect the cost of equipment removed from service.

Please submit a list of equipment removed from service and attach a cost sheet. Application No. T-1320 will be placed on hold until receipt of this information.

In addition, it appears that a major reason for installation of the belt press is to separate secondary sludge for possible later utilization. Although the Department supports your efforts to utilize sludge whenever possible, any revenues generated from the sale of sludge materials could result in the need to modify the certification.

If you have any questions, please feel free to contact this office at 229-5374.

Sincerely,

Larry D. Patterson  
Industrial Waste Engineer  
Source Control Section  
Water Quality Division

LDP:1  
WL470 (1)  
cc: Northwest Region, DEQ  
Management Services, Carol Splettstaszer

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 767  
Date of Issue 12-20-76  
Application No. T-847

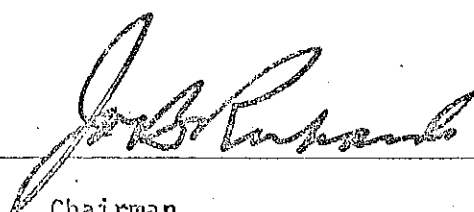
## POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Crown Zellerbach Corporation Wauna Division Clatskanie, Oregon 97016	Location of Pollution Control Facility:  Wauna, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility:  Process secondary treatment system, activated sludge including bleach effluent treatment, and sludge dewatering and filtrate recycling system.	
Type of Pollution Control Facility: <input type="checkbox"/> Air <input checked="" type="checkbox"/> Water <input type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: <u>October 30, 1976</u> Placed into operation: <u>December 1975</u>	
Actual Cost of Pollution Control Facility: <u>\$7,402,913.00</u>	
Percent of actual cost properly allocable to pollution control:  <u>100%</u>	

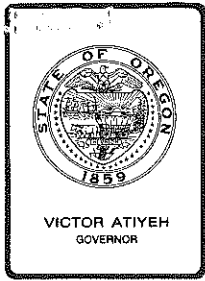
In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air and water or solid waste facility was erected, constructed or installed on or after January 1, 1967, or January 1, 1973 respectively, and on or before December 31, 1980, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapters 459, 468 and the regulations thereunder.

Therefore, this Pollution Control facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

Signed   
Title Chairman

Approved by the Environmental Quality Commission on  
the 20th day of December, 19 76



## *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. D, August 28, 1981, EQC Meeting

Request for Authorization to Hold a Public Hearing on proposed revisions to Oregon Administrative Rules Chapter 340, State Financial Assistance to Public Agencies for Pollution Control Facilities.

### Background and Problem Statement

The Department of Environmental Quality administers the Pollution Control Bond Fund and the related Sinking Fund under ORS 468.195 through 468.260 and corresponding Administrative Rules Chapter 340 Divisions 81 and 82.

SB142 (Chapter 312 Oregon Laws 1981) increased the principal amount of Pollution Control Bonds outstanding from \$160 million to \$260 million. Other provisions which require rule changes are:

- (1) The increase in the percentage of eligible project costs (from 70% to 100%) that can be financed by loans from the Bond Fund. This change recognizes the current reduction and possible elimination of federal and state grants for pollution control facilities.
- (2) The Department may assess those entities to whom grants and loans are made to recover expenses incurred in administering the Bond Fund program.

This administrative responsibility covers all aspects of the purchase of the bonds of cities and other entities and management of fund assets. Engineers and technicians at headquarters and in the regions review facility plans, eligibility of project costs, relation to federal grants and priority listing. Program and business Office staff give advice to applicants on handling of bond sales, preparation of necessary financial and other documents and prepare bond purchase agreements. Accounting, financial reporting, auditing, and legal expenses are sizable for the program. Cash and receivables amount to approximately \$62 million and \$42 million respectively at this time.

Until now, this administrative cost has been paid from the General Fund. The Department's 1981-83 budget provides for charging \$116,000 to the Pollution Control Sinking Fund and reduction of the General Fund Appropriation by this amount.

Evaluation and Alternatives

- (1) Increasing the percentage of eligible project costs (from 70% to 100%) that can be financed by loans from the Pollution Control Bond Fund should result in more loans as cities and counties seek ways to offset the loss of federal and state grants for pollution control facilities. The increased ceiling on bonds outstanding is also designed to accomodate more loans. However, it is not practical to make any estimate of the additional loan volume that might be generated.
- (2) The Department proposes to recover expenses incurred in administering the Pollution Control Bond Fund program by slightly increasing the interest rate it effectively charges on new loans or new purchases of obligations. Over time the additional revenue thus credited to the Sinking Fund will offset the Department's expenses which will be charged to the Sinking Fund.

Specifically, the Department estimates that a surcharge of one tenth of one percent should be sufficient to fund administrative costs over the years. The impact on a sample loan or bond purchase is illustrated below:

\$1 million 20 year bond issue

Interest rate	7.4366%
Surcharge	0.1000%
Effective rate	<u>7.5366%</u>
Average annual interest cost	\$47,743.
Average annual surcharge	\$ 642.
Total Annual Cost	<u>\$48,385.</u>
Total 20 year interest cost	\$954,860.
Total 20 year surcharge	\$ 12,840.
Total Cost	<u>\$967,700.</u>

Alternatively, fees could be charged upon application and granting of loans. The Department does not recommend the creation of additional fees which are cumbersome and expensive to administer.

Summation

- (1) Senate Bill 142 (Chapter 312 Oregon Laws 1981) increased the percentage of eligible project costs (from 70% to 100%) that can be financed by loans from the Pollution Control Bond Fund. It also authorized the Department to assess those entities to whom loans are made to recover expenses incurred in administering the Bond Fund program.
- (2) The Department's 1981-83 budget was amended to include \$116,000 of Bond Fund administrative expense recovery.

Director's Recommendation

Based upon the summation, the Director recommends that the Commission authorize the Department to schedule a public hearing on September 4, 1981 to discuss proposed revisions to Oregon Administrative Rules Chapter 340, Divisions 81 and 82 necessary to make 100% loans and to make assessments to recover Bond Fund administrative expenses.

*Bill*

William H. Young

Attachments (5)

1. Draft rule, Division 81
2. Draft rule, Division 82
3. Notice of Public Hearing
4. Statement of Need and Fiscal Impact
5. SB142

BK102 (2)  
FWO:k  
229-6270  
August 5, 1981

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE FINANCIAL ASSISTANCE

DIVISION 81

STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES  
FOR POLLUTION CONTROL FACILITIES

Purpose

340-81-005 The purpose of these regulations is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities pursuant to Article XI-H of the Oregon constitution.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

Definitions

340-81-010 As used in these regulations unless otherwise required by context:

- (1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.
- (2) "Commission" means Environmental Quality Commission.
- (3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.
- (4) "Agency" means municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, applying or contracting for state financial assistance under these regulations.
- (5) "EPA" means U.S. Environmental Protection Agency.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

WATER POLLUTION CONTROL FACILITIES

Eligible Projects

340-81-015 Projects eligible for state financial assistance under these regulations are defined in ORS 449.455. Priority ranking of eligible projects for each fiscal year will be established by the Department, approved by the Commission, and will be based on published criteria approved by the Commission.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

Eligible Costs

340-81-020 Eligible costs for water pollution control facilities shall include: construction and materials costs; planning;



DEPARTMENT OF ENVIRONMENTAL QUALITY

engineering design and inspection costs; and project related legal and fiscal costs, except those costs related to land acquisition. The Department shall have discretion in the final eligibility determination of specific expenditures.

Statutory Authority:  
Hist.: Filed and Eff. 2-11-71 as DEQ 25

Application Documents

340-81-025 The representative of an agency wishing to apply for state financial assistance under these regulations shall complete, sign, and submit to the Department three copies each of the following documents:

- (1) Federal sewage treatment works construction grant application form currently in use by the EPA at the time of the application for state assistance. This form will be provided by the Department upon request.
- (2) Resolution of the agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA.
- (3) Five year projection of the agency's estimated revenues and expenses (on forms provided by the Department).
- (4) An ordinance or resolution of the agency's governing body establishing sewer user rates, connection, and other charges for the facilities to be constructed.
- (5) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a loan or bond purchase agreement, together with copies of applicable agency ordinance and charter sections.

Applications must be filed with the Department not later than thirty (30) days prior to the fiscal year commencing July 1 for which financial assistance is requested.

An application is not deemed to be complete until any additional information requested by the Department is submitted by the agency.

Applications for planning loans shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body and a projection of estimated revenues and expenses as outlined in subsections (2) and (3) of this section.

Statutory Authority:  
Hist.: Filed and Eff. 2-11-71 as DEQ 25

DEPARTMENT OF ENVIRONMENTAL QUALITY

Application Review

340-81-030 Application documents will be reviewed by the department staff to determine that: the proposed facilities for which state funds are requested are eligible under these regulations and applicable Oregon statutes; the proposed sources of local revenue to be pledged to the retirement of state loans are acceptable and adequate under the statutes; the facilities for which state financing is requested will be [not less than 70%] self-supporting and self-liquidating from approved revenues, gifts, user charges, assessments, and other fees; and federal or state grant funds are assured, or local funds are available, for the completion of the project.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

Loan or Bond Purchase Agreement

340-81-035

- (1) Following review and approval of the application documents and final construction plans and specifications by the Department and legal authorization by the governing body of the agency or its electorate, if necessary, to enter into a loan agreement with the state or to sell general obligation or revenue bonds, the Department may enter into such loan or bond purchase agreement in a principal amount [not to exceed 70%] up to 100% of the eligible project cost including the construction bid accepted, estimated engineering and inspection costs, eligible legal and fiscal costs and a contingency allowance to be established by the Department. Combinations of funds granted and loaned by whatever means shall not total more than 100% of the eligible project costs.
- (2) The loan or bond purchase agreement shall identify sources and amounts of revenue, to be dedicated to loan or bond retirement, sufficient to demonstrate that the facilities to be constructed will be [not less than 70%] self-supporting and self-liquidating. The agency will be required to furnish an annual audit report to the Department to show that adequate and acceptable revenues continue to be available for loan retirement.
- [ (3) The Department must be assured that at least 30% federal or state grant funds, other funds or combinations thereof are available to complete the total project. ]
- (3) [ (4) ] When the state is requested to purchase local bonds and a bond purchase agreement is entered into, the local bonds will be purchased at par to an even multiple of \$5,000, [in an amount not to exceed 70% of the total eligible project cost as determined in subsection (1) of this section]; except that when the amount of local bonds to be purchased by the state is less than \$100,000 they may be purchased at par to a multiple of \$1,000 [in an amount not to exceed 70% of the total eligible project cost].

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- (4) [(5)] The loan or bond interest rate to be paid by the agency shall be equal to the interest rate on the state bonds from which the project is funded, except as provided in [subsection] subsections [(6)] 5 and 6 of this section.
- (5) The Department shall add to the rate of interest otherwise to be charged on loans or obligations a surcharge not to exceed an annual rate of one-tenth of one percent to be applied to the outstanding principal balances in order to offset the Department's expenses of administering the Bond Fund program.
- (6) The loan or bond retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired; except that when a debt retirement schedule longer than the state's bond repayment schedule is legally required, special debt service requirements on the agency's loan will be established by the Department.
- (7) Loan or bond interest and principal payments shall be due at least thirty days prior to the interest and principal payment dates established for the state bonds from which the loan is advanced.

Statutory Authority:

Hist: Filed 2-11-71 as DEQ 25

Construction Bid Documents Required

340-81-040 Following receipt of construction bids, the agency shall submit three copies each of the following documents to the Department for review and approval of contract award: tabulation of all bids received; engineers' analysis of bids; engineer's recommendations; low bidder's proposal; publisher's affidavits of advertising; and Part B of the loan or bond purchase agreement.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

Advancement of Loan Funds

340-81-045

- (1) Upon receipt of three copies of the executed construction contract and Part B of the loan or bond purchase agreement, the Department will approve the final loan amount and authorize the Treasury Department to advance the full amount of the loan to the agency.
- (2) If the funds are advanced under the terms of a previously executed bond purchase agreement, the agreement will specify a period of time, not to exceed six months, following the advancement of funds by the state during which the agency agrees to offer its bonds for public sale. The terms and conditions of the Department's bid offer for the agency's bonds will be made available to other prospective bidders when the notice of sale of the agency's bonds is published. If the state is

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the successful bidder for the agency's bonds, the state will receive the bonds and the bonds will be retired under the terms of the bond purchase agreement. If a private purchaser is the successful bidder, the state will receive reimbursement of the loan funds previously advanced plus interest at the interest rate on the state bonds from which the project would have been funded if the state had been the successful bidder.

- (3) Any excess loan funds held by the agency following completion of the project must be used for the payment of loan principal and interest.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

Advancement of State Grant Funds

340-81-050 Depending on priority ranking as determined by the Department and the current availability of EPA grant funds, a project may receive a state grant in an amount not to exceed 30% of the total eligible project cost under the terms of a separate grant agreement. Grant payments will be advanced during construction, if requested by the agency, in increments of approximately 25% of the total eligible project cost as the work is completed. Each payment will be based on the consulting engineer's latest cost estimate of the completed work in place, plus materials purchased and delivered at the time the payment request is submitted to the Department, and expenditures for engineering, legal and fiscal services that have been documented by the agency to date.

Statutory Authority:

Hist.: Filed and Eff. 2-11-71 as DEQ 25

DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 82

STATE FINANCIAL ASSISTANCE TO PUBLIC AGENCIES FOR POLLUTION CONTROL  
FACILITIES FOR THE DISPOSAL OF SOLID WASTE

## Purpose

340-82-005 The purpose of these rules is to prescribe requirements and procedures for obtaining state financial assistance for planning and construction of pollution control facilities for the disposal of solid waste pursuant to Article XI-H of the Oregon Constitution, and to provide for pass-through of federal funds to designated agencies.

Stat. Auth: ORS Ch.

Hist. DEQ 76, f. 7-29-74, ef. 8-25-74; DEQ 20-1980, f. & ef. 8-1-80; DEQ 31-1980, f. & ef. 11-10-80

## Definitions

340-82-010 As used in these rules unless otherwise required by context:

- (1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.
- (2) "Commission" means Environmental Quality Commission.
- (3) "Director" means Director of the Department of Environmental Quality or his authorized deputies or officers.
- (4) "Agency" means municipal corporation, city, county, or agency of the State of Oregon, or combination thereof, applying or contracting for state financial assistance under these rules.
- (5) "EPA" means U.S. Environmental Protection Agency.
- (6) "Designated Agency" means a governmental unit designated by the State as a planning or implementing solid waste agency, or both.

Stat. Auth.: ORS Ch.

Hist: DEQ 76, f. 7-29-74, ef. 8-25-74; DEQ 20-1980, f. & ef. 8-1-80; DEQ 31-1980, f. & ef. 11-10-80

## Solid Waste Disposal Pollution Control Facilities

## Eligible Projects and Project Priorities

340-82-015 Projects eligible for state financial assistance under ORS 468.220 and priority ranking of such eligible projects will be based on the following criteria approved by the Commission.

- (1) Projects eligible for state financial assistance for pollution control facilities for the disposal of solid waste as authorized in ORS 468.220 shall meet the following criteria:
  - (a) The project or facility is part or parcel of or complementary to a Department approved and locally adopted Solid Waste Management Plan.

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- (b) The project or facility has proven or demonstrated technical feasibility.
- (c) The project or facility is within local economic constraints and abilities to administer.
- (d) The project or facility must be approved by the Department.
- (2) Priority of eligible projects for state assistance for planning and construction of pollution control facilities for the disposal of solid waste shall be based upon the following criteria:
  - (a) The project or facility is replacing existing inadequate or unacceptable methods of solid waste disposal and thereby results in improved environmental quality.
  - (b) The project or facility recovers resources from solid wastes.
  - (c) The projected facility will establish improved solid waste management practices.
  - (d) The need for state assistance is demonstrated.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

Eligible Costs

340-82-020 Eligible costs for state assistance for planning and construction of pollution control facilities for the disposal of solid wastes shall include but not necessarily be limited to:

- (1) Land acquisition limited to that minimum amount of land necessary to the project.
- (2) Engineering costs for design and supervision.
- (3) Legal assistance directly related to project.
- (4) Construction:
  - (a) Site development;
  - (b) Structures (including earth structures);
  - (c) Fixed utilities.
- (5) Major equipment (initial purchase only):
  - (a) Solid waste processing and handling equipment;
  - (b) Landfill operation equipment;
  - (c) Rolling stock;
  - (d) Miscellaneous equipment under \$1,500.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

Special Considerations on Eligible Costs for Equipment

340-82-025 Equipment purchases for solid waste disposal facilities with state assistance shall be given special consideration. Intended equipment purchases shall be itemized in the grant-loan application and the applicability of each individual piece of equipment to the project or facility clearly outlined for Department review. The following criteria shall be applied by the Department to equipment purchases.

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- (1) Equipment purchases shall be limited to initial purchases only and eligibility restricted to only that equipment necessary to sustain the performance of the project or facility.
- (2) Equipment required, whether for processing or landfilling of solid wastes, that has an expected useful or mechanical life less than the anticipated life of the project will require a sinking fund or equivalent replacement fund in the submitted project budget for such equipment replacement throughout the life of the project.
- (3) All major equipment purchases shall be done through open bidding on specified types or equivalents of equipment. Specifications on major equipment needs shall be reviewed by the Department prior to purchase.
- (4) Equipment purchases less than \$1,500 (small tools, office equipment, etc.) do not require specifications but must be reviewed and approved by the Department.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

Application Documents

340-82-030 The representative of an agency wishing to apply for state financial assistance under these regulations shall submit to the Department three signed copies of each of the following completed documents:

- (1) Department Solid Waste Management Projects Grant-Loan application form currently in use by the Department at the time of the application for state financial assistance. This form will be provided by the Department upon request.
- (2) All applications for federal financial assistance to the solid waste projects for which state financial assistance is being requested.
- (3) Resolution of the agency's governing body authorizing an official of the agency to apply for state and federal financial assistance and to act in behalf of the agency in all matters pertaining to any agreements which may be consummated with the Department or with EPA or other federal agencies.
- (4) Five year projection of the agency's estimated revenues and expenses related to the project (on forms provided by the Department).
- (5) An ordinance or resolution of the agency's governing body establishing solid waste disposal user rates, and other charges for the facilities to be constructed.
- (6) A legal opinion of the agency's attorney establishing the legal authority of the agency to enter into a financial assistance agreement together with copies of applicable agency ordinance and charter sections.
- (7) A waste reduction plan which is consistent with ORS 459.055(2) (a) through (e).

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An application is not deemed to be completed until any additional information requested by the Department is submitted by the agency.

Applications for financial assistance for planning under ORS 468.220(1)(e) shall be on special forms provided by the Department and shall be accompanied by a resolution of the agency's governing body.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74; DEQ 20-1980, f. & ef. 8-1-80;  
DEQ 31-1980, f. & ef. 11-10-80

Application Review

340-82-035 Application documents will be reviewed by the Department staff to determine that: the proposed facilities for which state funds are requested are eligible under these regulations and applicable Oregon statutes; the proposed sources of local revenue to be pledged to the retirement of state loans are acceptable and adequate under the statutes; the facilities for which state financing is requested will be [not less than 70%] self-supporting and self-liquidating from approved revenues, gifts, user charges, assessments, and other fees; and federal or state assistance funds are assured, or local funds are available, for the completion of the project.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

Loan or Obligation Purchase Agreement

340-82-040

- (1) Following review and approval of the application documents and final construction plans and specifications by the Department and legal authorization by the governing body of the agency or its electorate, if necessary, to enter into a loan agreement with the state or an agreement to sell its general obligation bonds or other obligations to the state, the Department may enter into such loan or purchase agreement in a principal amount [not to exceed 70%] up to 100% of the eligible project cost including the construction bid accepted, estimated engineering and inspection costs, eligible legal and fiscal costs and a contingency allowance to be established by the Department. Combinations of funds granted and loaned by whatever means shall not total more than 100% of the eligible project costs.
- (2) The loan or purchase agreement shall identify sources and amounts of revenue, to be dedicated to loan or obligation retirement sufficient to demonstrate that the facilities to be constructed will be [not less than 70%] self-supporting and self-liquidating. The agency will be required to furnish an annual audit report to the Department to show that adequate and acceptable revenues continue to be available for loan obligation retirement.



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- [ (3) The Department must be assured that at least 30% federal or state grant funds, other funds, or combinations thereof are available to complete the total project.]
- (3) [(4)] When the state is requested to purchase local obligations and a bond purchase agreement is entered into, the local obligations will be purchased at par to an even multiple of \$5,000, [in an amount not to exceed 70% of the total eligible project cost as determined in section (1) of this rule] except that when the amount of local obligations to be purchased by the state is less than \$100,000 they may be purchased at par to a multiple of \$1,000 [in an amount not to exceed 70% of the total eligible project cost].
- (4) [5] The loan or obligation interest rate to be paid by the agency shall be equal to the interest rate on the state bonds from which the project is funded, except as provided in section s 5 & 6 [(6)] of this rule.
- (5) The Department shall add to the rate of interest otherwise to be charged on loans or obligations a surcharge not to exceed an annual rate of one-tenth of one percent to be applied to the outstanding principal balances in order to offset the Department's expenses of administering the Bond Fund program.
- (6) The loan or obligation retirement schedule of the agency must retire its debt obligation to the state at least as rapidly as the state bonds from which the loan funds are derived are scheduled to be retired except that when a debt retirement schedule longer than the state's bond repayment schedule is legally required, special debt service requirements on the agency's loan or obligation purchase will be established by the Department.
- (7) Loan or obligation interest and principal payments shall be due at least thirty days prior to the interest and principal payment dates established for the state bonds from which the loan or obligation purchase is advanced.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

Construction Bid Documents Required

340-82-045 Following receipt of construction bids, the agency shall submit three copies each of the following documents to the Department for review and approval of contract award: tabulation of all bids received; engineer's analysis of bids; engineer's recommendations; low bidder's proposal; publisher's affidavits of advertising; and a current project cost estimate summary including an estimate of funds available for the project.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

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Advancement of Loan or Obligation Purchase Funds

340-82-050

- (1) Upon receipt of three copies of the executed construction contract and the loan or obligation purchase agreement, the Department will approve the final loan amount and authorize the Treasury Department to advance the full amount of the loan or obligation purchase price to the agency.
- (2) If the funds are advanced under the terms of a previously executed obligation purchase agreement, the agreement will specify a period of time, not to exceed six months, following the advancement of funds by the state during which the agency agrees to offer its obligations for public sale. The terms and conditions of the Department's bid offer for the agency's obligations will be made available to other prospective bidders when the notice of sale of the agency's obligations is published. If the state is the successful bidder for the agency's obligations, the state will receive the obligation and the obligations will be retired under the terms of the obligation purchase agreement. If a private purchaser is the successful bidder, the state will receive reimbursement of the loan or obligation purchase funds previously advanced plus interest at the interest rate on the state bonds from which the project would have been funded if the state had been the successful bidder.
- (3) Any excess loan or obligation purchase funds held by the agency following completion of the project must be used for the payment of loan or obligation principal and interest.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76.f. 7-29-74, ef. 8-25-74

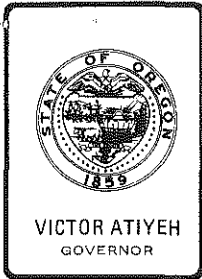
Advancement of State Grant Funds

340-82-055 Depending on priority ranking as determined by the Department and the current availability of EPA or other federal grant funds, a project may receive a state grant in an amount not to exceed 30% of the total eligible project cost under the terms of a separate grant agreement. Grant payments will be advanced during construction, if requested by the agency, in increments of approximately 25% of the total eligible grant project costs as the work is completed. Each payment will be based on the consulting engineer's latest cost estimate of the completed work in place, plus materials purchased and delivered at the time the payment request is submitted to the Department, and expenditures for engineering, legal, and fiscal services that have been documented by the agency to date.

Stat. Auth.: ORS Ch.

Hist.: DEQ 76, f. 7-29-74, ef. 8-25-74

(August 4, 1981)



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Prepared: 8/3/81

Hearing Date: 9/4/81

### NOTICE OF PUBLIC HEARING

#### A CHANCE TO BE HEARD ABOUT:

Proposed revisions to Oregon Administrative Rules Chapter 340 State Financial Assistance to Public Agencies for Pollution Control Facilities.

#### WHAT IS THE DEQ PROPOSING?

Following passage of SB 142, Chapter 312 (Oregon Laws 1981), the Department is proposing to ask the Environmental Quality Commission to amend existing rules Chapter 340 Divisions 81 and 82 to incorporate therein the new legislative provisions. These mainly allow use of the Pollution Control Bond Fund to purchase the obligations of Public Agencies up to 100% of the total project costs for eligible projects (previously limited to 70%) and allow the Department to assess those entities to whom grants and loans are made to recover expenses incurred in administering the program.

#### WHO IS AFFECTED BY THIS PROPOSAL:

Public Agencies applying for State Financial Assistance for Pollution Control Facilities.

#### DOES THE PROPOSAL AFFECT LOCAL LAND USE PROGRAMS?

Considering the reduction in federal sewerage construction grants and the probable unavailability of state grants to assist solid waste projects, the increased percentage of loan financing by the Pollution Control Bond Fund should help cities and counties in funding essential facilities.

#### HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality Water Quality Division, P.O. Box 1760, Portland, Oregon 97207 and should be received by 5:00 p.m. September 3, 1981.

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

<u>Date</u>	<u>Time</u>	<u>City</u>	<u>Location</u>
September 4, 1981	10:00 a.m.	Portland	Room 1400 Yeon Building 522 S. W. Fifth Avenue

**WHERE TO OBTAIN ADDITIONAL INFORMATION:**

Copies of the proposed rules may be obtained from:

DEQ Water Quality Division  
Box 1760  
Portland, Oregon 97207

**LEGAL REFERENCES FOR THIS PROPOSAL:**

The Department administers the Pollution Control Bond Fund and the Pollution Control Sinking Fund under ORS 468.195 through 468.260 and Oregon Administrative Rules Chapter 340 Divisions 81 and 82. SB 142 (Chapter 312) was enacted by the 1981 Legislative Session.

**FURTHER PROCEEDINGS:**

After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, adopt a modified rule on the same subject matter, amend the proposed rule or decline to act. The Commission deliberation should come after the public hearing as part of the agenda of its regularly scheduled meeting on October 9, 1981 in Portland.

A Statement of Need and Fiscal Impact Statement are attached to this notice.

## STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to adopt a rule.

Legal Authority:

The Department administers the Pollution Control Bond Fund and Pollution Control Sinking Fund under ORS 468.195 through 468.260.

Need for the Rule:

SB 142 (Chapter 312 Oregon Laws 1981) changes existing laws; existing rules Chapter 340 divisions 81 and 82 need to reflect these changes.

The Department's 1981-83 budget contains revenue to be provided by the assessment of entities to whom loans are made from the Pollution Control Bond Fund to recover expenses incurred in administering the program.

Principal Documents Relied Upon:

SB 142 (Chapter 312, Oregon Laws 1981).

## FISCAL IMPACT STATEMENT

- (1) Increasing the percentage of eligible project costs (from 70% to 100%) that can be financed by loans from the Pollution Control Bond Fund should result in more loans as cities and counties seek ways to offset the loss of federal and state grants. It is not practical to make any estimate of additional loan volume.
- (2) The Department proposes to recover expenses incurred in administering the Pollution Control Bond Fund program by slightly increasing the interest rate it effectively charges on new purchases of obligation. Over time the additional revenue thus credited to the Pollution Control Sinking Fund will offset the Department's expenses which will be charged to the Sinking Fund.

The Department estimates that a surcharge of one-tenth of one percent should be sufficient to fund administrative costs over the years. The impact on a sample loan or bond purchase is illustrated below:

\$1 million 20 year bond issue

Interest rate	7.4366%
Surcharge	<u>0.1000%</u>
Effective rate	<u>7.5366%</u>
Average annual interest cost	\$47,743
Average annual surcharge	<u>642</u>
Total Annual Cost	<u>\$48,385</u>
Total 20 year interest cost	\$954,860
Total 20 year surcharge	<u>12,840</u>
Total Cost	<u>\$967,700</u>

PRELIMINARY ADVICE OF RELATED MATTER

The Department wishes to take this opportunity to advise recipients of this notice of another matter affecting State Financial Assistance for Pollution Control Facilities. The Department's 1981-83 Budget Report by the Ways and Means Committee contained the following note:

"The Subcommittee also adopted the general policy that the Pollution Control Bond Fund be managed in such a way that jurisdictions that have no other alternatives are assured of funding from the Pollution Control Bond Fund."

The Department is, therefore, considering a procedure for the establishment of a priority list based on financial resources and needs which would be used in determining access to the Pollution Control Bond Fund. This would involve further rule changes and will be the subject of a future hearing.

MO307 (2)

OREGON LEGISLATIVE ASSEMBLY--1981 Regular Session

Enrolled

## Senate Bill 142

PRINTED PURSUANT TO ORS 171.130 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Department of Environmental Quality)

CHAPTER.....<sup>312</sup>.....

AN ACT

Relating to pollution; amending ORS 468.195, 468.220, 468.230 and 468.255.

**Be It Enacted by the People of the State of Oregon:**

Section 1. ORS 468.195 is amended to read:

468.195. In order to provide funds for the purposes specified in Article XI-H of the Constitution of Oregon, the commission, with the approval of the State Treasurer, is authorized to issue and sell such general obligation bonds of the State of Oregon, of the kind and character and within the limits prescribed by Article XI-H of the Constitution of Oregon as, in the judgment of the commission, shall be necessary. The bonds shall be authorized by resolution duly adopted by a majority of the members of the commission at a regular or special meeting of the commission. The principal amount of the bonds outstanding at any one time, issued under authority of this section, shall not exceed [~~\$160~~] \$260 million par value.

Section 2. ORS 468.220 is amended to read:

468.220. (1) The department shall be the agency for the State of Oregon for the administration of the Pollution Control Fund. The department is hereby authorized to use the Pollution Control Fund for one or more of the following purposes:

(a) To grant funds not to exceed 30 percent of total project costs for eligible projects as defined in ORS 454.505 or sewerage systems as defined in ORS 468.700. [*A grant may be made under this paragraph only with the prior approval of the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session or the Emergency Board during the interim period between sessions.*]

(b) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (a) of this subsection in an amount not to exceed [~~70~~] 100 percent of the total project costs for eligible projects.

(c) To acquire, by purchase, or otherwise, other obligations of any city that are authorized by its charter in an amount not to exceed [~~70~~] 100 percent of the total project costs for eligible projects.

(d) To grant funds not to exceed 30 percent of the total project costs for facilities for the disposal of solid waste, including without being limited to, transfer and resource recovery facilities.

(e) To make loans or grants to any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, for planning of eligible projects as defined in ORS 454.505, sewerage systems as defined by ORS 468.700 or facilities for the disposal of solid waste, including without being limited to, transfer

and resource recovery facilities. Grants made under this paragraph shall be considered a part of any grant authorized by paragraph (a) or (d) of this subsection if the project is approved.

(f) To acquire, by purchase, or otherwise, general obligation bonds or other obligations of any municipal corporation, city, county, or agency of the State of Oregon, or combinations thereof, issued or made for the purpose of paragraph (d) of this subsection in an amount not to exceed ~~[70]~~ 100 percent of the total project costs.

(g) To advance funds by contract, loan or otherwise, to any municipal corporation, city, county or agency of the State of Oregon, or combination thereof, for the purpose of paragraphs (a) and (d) of this subsection in an amount not to exceed ~~[70]~~ 100 percent of the total project costs.

(h) To pay compensation required by law to be paid by the state for the acquisition of real property for the disposal by storage of environmentally hazardous wastes.

(i) To dispose of environmentally hazardous wastes by the Department of Environmental Quality whenever the department finds that an emergency exists requiring such disposal.

(j) To acquire for the state real property and facilities for the disposal by landfill, storage or otherwise of solid waste, including but not limited to, transfer and resource recovery facilities.

(2) The facilities referred to in paragraphs (a) to (c) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(3) The facilities referred to in paragraphs (d), (f) and (g) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(4) The real property and facilities referred to in paragraph (j) of subsection (1) of this section shall be only such as conservatively appear to the department to be not less than 70 percent self-supporting and self-liquidating from revenues, gifts, grants from the Federal Government, user charges, assessments and other fees.

(5) The department may sell or pledge any bonds, notes or other obligations acquired under paragraph (b) of subsection (1) of this section.

(6) Before making a loan or grant to or acquiring general obligation bonds or other obligations of a municipal corporation, city, county or agency for facilities for the disposal of solid waste or planning for such facilities, the department shall require the applicant to demonstrate that it has adopted a solid waste management plan that has been approved by the department. The plan must include a waste reduction program.

(7) Any grant authorized by this section shall be made only with the prior approval of the Joint Committee on Ways and Means during the legislative sessions or the Emergency Board during the interim period between sessions.

(8) The department may assess those entities to whom grants and loans are made under this section to recover expenses incurred in administering this section.

Section 3. ORS 468.230 is amended to read:

468.230. (1) The commission shall maintain, with the State Treasurer, a Pollution Control Sinking Fund, separate and distinct from the General Fund. The Pollution Control Sinking Fund shall provide for the payment of the principal and interest upon bonds issued under authority of Article XI-H of the Constitution of Oregon and ORS 468.195 to 468.260 and administrative expenses incurred in issuing the bonds. Moneys of the sinking fund are hereby appropriated for such purpose. With the approval of the commission, the moneys in the Pollution Control Sinking Fund may be invested as provided by ORS 293.701 to 293.776, and earnings from such investment shall be credited to the Pollution Control Sinking Fund.

(2) The Pollution Control Sinking Fund shall consist of all moneys received from ad valorem taxes levied pursuant to ORS 468.195 to 468.260 and assessments collected under ORS 468.220 (8), all moneys that the Legislative Assembly may provide in lieu of such taxes, all earnings on the Pollution Control Fund, Pollution Control Sinking Fund, and all other revenues derived from contracts, bonds, notes or other obligations, acquired, by the commission by purchase, loan or otherwise, as provided by Article XI-H of the Constitution of Oregon and by ORS 468.195 to 468.260.

(3) The Pollution Control Sinking Fund shall not be used for any purpose other than that for which the fund was created. Should a balance remain therein after the purposes for which the fund was created have been



fulfilled or after a reserve sufficient to meet all existing obligations and liabilities of the fund has been set aside, the surplus remaining may be transferred to the Pollution Control Fund at the direction of the commission.

Section 4. ORS 468.255 is amended to read:

468.255. Any funds advanced by the commission by grant shall not exceed 30 percent of the total project costs for eligible projects or for facilities related to disposal of solid wastes, and any obligation acquired by the commission by purchase, contract, loan, or otherwise, shall not exceed ~~[70]~~ 100 percent of the total project costs for eligible projects or for facilities related to disposal of solid wastes. Combinations of funds granted and loaned by whatever means shall not total more than 100 percent of the eligible project costs.

Passed by Senate May 13, 1981

Received by Governor:

Repassed by Senate June 30, 1981

..... M., ..... 1981

Approved:

.....  
Secretary of Senate

..... M., ..... 1981

.....  
President of Senate

.....  
Governor

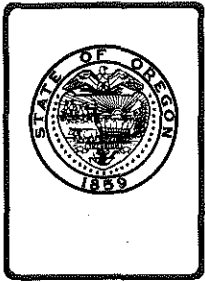
Filed in Office of Secretary of State:

Passed by House June 26, 1981

..... M., ..... 1981

.....  
Speaker of House

.....  
Secretary of State



## *Environmental Quality Commission*

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

### MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Agenda Item E, August 28, 1981 EQC Meeting

Request for Authorization to Conduct a Public Hearing on Housekeeping Modifications to Noise Control Related Rules; OAR 340-35-015, 35-025, 35-030, 35-035, 35-040 and 35-045 and Procedure Manuals; NPC-1, 2 and 21.

### Background and Problem Statement

Oregon Revised Statutes Chapter 467 directs the Environmental Quality Commission to "investigate and after appropriate public hearing, establish maximum permissible levels of noise emission for each category..." Beginning in late 1973, the Department proposed rules establishing maximum permissible levels of noise emission for various categories of sources and held public hearings on the proposed rules throughout the state. To date, the Commission has approved rules for five categories of noise emission sources (new motor vehicles, in-use motor vehicles, industry and commerce, motor racing and airports) and associated procedure manuals. Three of these rules have not been amended for housekeeping purposes since 1977 and the other two rules were approved in 1979 and 1980. After this period of time it is desirable to incorporate minor adjustments to these rules in order to enhance their capability and eliminate misinterpretations.

The Environmental Quality Commission has legal authority to adopt and amend noise control regulations pursuant to ORS Chapter 467.

### Evaluation

Department staff, over time, has recognized that the present rules contain deficiencies and are misinterpreted. Therefore, amendments are proposed to remedy the problem. The major elements contained in this proposal are as follows:

#### Definitions OAR 340-35-015

Several definitions would be amended primarily to provide clarification or to achieve amendments discussed below.

#### Sale of New Motor Vehicles OAR 340-35-025

The standards for the sale of heavy duty trucks (Table 1) would be amended to reflect recent federal Environmental Protection Agency amendments delaying implementation of the 80 dBA standard from 1982 to 1983. These federal standards are preemptive of any state and local standards.



Contains  
Recycled  
Materials

Presently new motorboats powered by an outboard motor exhausting beneath the surface of the water are exempt from the standards in Table 1. It is proposed to also exempt, by means of amending definition 25 (OAR 340-35-015(25)), those motorboats powered by an inboard/outboard power package designed to exhaust beneath the surface of the water.

#### In-Use Motor Vehicles OAR 340-35-030

The standards contained in Table 3 establishing limits for motor vehicles traveling on public roads are primarily used by local police agencies. These standards are somewhat difficult to implement, as the model year of the vehicle must be determined in order to determine the allowable limit. Recent studies by a national organization of noise control officials, with assistance from vehicle manufacturers and enforcement experts, has provided the basis for a revised table of proposed limits for vehicles operated on public roads.

Table 4 provides limits for off-road recreational vehicles. The U.S. Forest Service - Hebo Ranger District, has requested that better enforcement techniques be developed to control noise emissions from these vehicles. It is therefore proposed to re-establish limits for motorcycles and other off-road vehicles under moving conditions, as well as the stationary test.

The new product standards for snowmobiles were amended in late 1978 to rescind the 75 dBA limit and retain 78 dBA as the final limit in the schedule. The in-use standards in Table 4 for snowmobiles are therefore proposed to be amended to be compatible with the new product limits in Table 1.

Emission limits for auxiliary equipment driven by the primary engine of a motor vehicle were established in 1974. However, no limits were proposed for auxiliary equipment on motor vehicles powered by an auxiliary power unit. Staff does not believe that additional emission standards are needed in this rule, but an ambient noise standard would provide the capability to control excessive noise from these operations near noise sensitive uses. Therefore it is proposed to expand the emission limits for auxiliary equipment in Table 6 to apply to all auxiliary motor vehicle equipment driven by either the primary or a secondary power unit. In addition, it is proposed to limit the operation of any auxiliary motor vehicle equipment near noise sensitive uses to a maximum of 15 minutes exceeding 55 dBA during the daytime and 50 dBA during the nighttime.

#### Industry and Commerce OAR 340-35-035

As the interim (1975-1977) standards for industrial and commercial noise sources are no longer applicable, all reference to these standards will be deleted as they are often confusing to those not familiar with these rules. Therefore, Table 7 would be amended to delete the interim standards and the portion of the rule pertaining to modified noise sources (subsection (1)(c)) would be rescinded, as this rule is no longer relevant past the term of the interim standards.

Statistical standards for short duration noise, the  $L_1$  limits, establish limits for sounds that must exceed a total of 36 seconds per hour. Such limits are contained in Tables 7, 8 and 9 for existing sources, new sources and quiet areas respectively. These standards have been somewhat ineffective in controlling short duration sounds due to the present requirement that the duration exceed 36 seconds per hour. Therefore, sounds with a duration shorter than 36 seconds (except for impulse sound) are

exempt from these rules. To address this problem, it is proposed to modify the requirement for such sounds from those exceeding 36 seconds to those exceeding 3.6 seconds by amending the  $L_1$  (1 percent of 60 minutes) descriptor to  $L_{0.1}$  (0.1 percent of 60 minutes).

The impulse sound limits were established to control repetitive sounds that have individual duration of less than one second, such as sounds from a punch press or drop forge. Sounds from rock quarry blasts have greatly exceeded these standards, however, they typically occur only infrequently. Noise controls are available through implementation of various blasting practices, however, the impulse standards often cannot be met and therefore Department granted variances (exceptions) are granted in these cases. Granting an exception is appropriate, as this blasting is an infrequent event and typically occurs only several times per month during daytime hours. To alleviate the necessity of granting exceptions, it is proposed to establish an impulse standard for blasting that is deemed appropriate for such activities. Staff believes the proposed blasting standards would be both achievable by the industry and protective of the public health and welfare for these infrequent occurrences.

Presently, all sounds created by bells, chimes and carillons are exempt from these rules. As this exemption has prohibited the control of some noisy operations, it is proposed to only exempt these devices when associated with specific religious observances. Warning and emergency devices of this type would continue to be exempted under other provisions of this rule.

#### Motor Sports Vehicles and Facilities OAR 340-35-040

Although these rules are not effective until 1982, some amendments are desirable prior to implementation. Oval track "destruction derbies" are a racing event of primarily un-modified automobiles in which speed is not of primary concern. As these vehicles are not operated under typical racing conditions, and they are likely to have un-modified exhaust systems, it is proposed to exempt such events from the burden of the monitoring and reporting requirements of this rule.

Jet engine powered drag race vehicles are one of the loudest types of racing vehicles, although these vehicles are typically not operated in racing events, they are often operated as an exhibition in conjunction with other racing events. There does not appear to be any reasonable method to quiet these vehicles, however, as an "exhibition" attraction, they are most likely an important part of a drag racing "show". Therefore, it is proposed to exempt these vehicles from the requirements of this rule, except for a curfew between 8 p.m. and 9 a.m.

#### Airports OAR 340-35-045

Several amendments are proposed within the noise control rule for airports. Amendments are necessary for the clarification of requirements for any airport that becomes an "air carrier airport" subsequent to rule adoption in late 1979. Therefore, such an amendment is proposed.

Other amendments would clarify the requirement for the submittal of field verification of the impact boundary. At the time of adoption, the Commission made several amendments concerning field verification. It is now proposed to make clear that no field verification is necessary unless required under section (7) of this rule.

Proposed new airports are required to submit information on noise impacts prior to construction or operation. The purpose of this requirement is to describe the extent of impacts and to assist local government in its land use decisions. As most of these proposed airports have gained local land use approval prior to the submittal of noise impact information, it is desirable to require this information prior to local land use approval. Therefore, it is proposed to require the submittal of the noise impact information prior to local land use approval, if required. Also, it would be required that the noise impact information would also be submitted to the local planning unit and the Department of Land Conservation and Development.

#### Procedure Manuals NPCS - 1, NPCS - 2, and NPCS - 3

Several procedure manuals have been approved by the Commission that are necessary to specify requirements and specifications for noise monitoring equipment and procedures for the collection, reporting and interpretation of monitoring data. Several minor amendments are now desirable to clarify portions of these manuals or to reflect proposed amendments in the regulations.

#### Summation

The following information is contained in the background and evaluation portions of this report.

1. After a period of several years, it is now desirable to modify portions of the noise control rules and procedure manuals to enhance their capability.
2. Clarifying amendments are proposed for the Definitions.
3. Minor amendments are proposed for rules controlling the sale of new trucks and motorboats.
4. Operational standards for motor vehicles would be updated and amendments to auxiliary vehicle equipment are proposed.
5. Standards for short duration industrial noise would be amended and the impulse standards for blasting would be modified.
6. Amendments to the motor racing standards would establish provisions for "destruction derbies" and "exhibition" events.
7. The airport rule would be amended to provide noise impact information to local land use authorities prior to construction of any new airport.
8. Clarifying amendments would be made to the procedure manuals.

Director's Recommendation

Based on the Summation, it is recommended that the Commission authorize public hearings to take testimony on proposed amendments to noise control rules OAR 340-35-015, 35-025, 35-030, 35-035, 35-040 and 35-045 and the Procedure Manuals NPC - 1, 2 and 21.

*Bill*

WILLIAM H. YOUNG

Attachments

1. Draft Statement of Need for Rulemaking
2. Draft Hearings Notice
3. Draft Rule Amendments

JH:pw  
July 29, 1981  
(503) 229-5989

Draft Statement of Need for Rulemaking

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

This proposal may be adopted under authority of ORS 467.030.

(2) Need for the Rule

Excessive emissions of noise cause impacts detrimental to the health, safety or welfare of Oregon's citizens.

(3) Principal documents relied upon in this rulemaking:

- a. Existing noise control regulations, OAR 340-35-015, 35-025, 35-030, 35-035, 35-040, and 35-045.
- b. Existing noise control procedure manuals, NPCA - 1, -2, and -21.

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

(4) Statement of Fiscal Impact

As these proposals are primarily "housekeeping" in nature, it is not expected that more than minimal adverse or beneficial impacts may result in this proposal being adopted.

Draft Hearings Notice

\*\*\*\*\*  
\* NOTICE OF PUBLIC HEARING \*  
\*\*\*\*\*

EQC SOLICITS TESTIMONY ON PROPOSED AMENDMENTS TO NOISE CONTROL REGULATIONS

The Oregon Department of Environmental Quality (DEQ) has scheduled public hearings to consider testimony on a proposal to amend various portions of regulations for the control of noise emissions. Hearings will be held on this proposal on \_\_\_\_\_

WHAT IS DEQ PROPOSING?

DEQ is proposing "housekeeping" amendments to the following noise control rules and procedure manuals:

1. OAR 340-35-015 Definitions
2. OAR 340-35-025 Noise Control Regulations for the Sale of New Motor Vehicles.
3. OAR 340-35-030 Noise Control Regulations for In Use Motor Vehicles.
4. OAR 340-35-035 Noise Control Regulations for Industry and Commerce.
5. OAR 340-35-040 Noise Control Regulations for Motor Sports Vehicles and Facilities.
6. OAR 340-35-045 Noise Control Regulations for Airports.
7. NPCCS -1 Sound Measurement Procedure Manual.
8. NPCCS - 2 Requirements for Sound Measuring Instruments and Personnel
9. NPCCS - 21 Motor Vehicle Sound Measurement Procedures Manual.

WHO IS AFFECTED BY THIS PROPOSAL?

The public is affected by excessive noise emissions. The motor vehicle industry, the motoring public, industry and commerce, motor racing participants and facility owners, and airport operators are directly affected by these proposed amendments.



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 hearings:

WHERE TO OBTAIN ADDITIONAL INFORMATION

Copies of the proposed regulation may be obtained from:

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

or phone:

503-229-6086 OR  
1-800-452-7813

LEGAL REFERENCES FOR THIS PROPOSAL

This proposal may amend OAR Chapter 340 Section 35 and procedure manuals under authority of ORS Chapter 467.

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

FINAL ACTION

After public hearing, the Commission may adopt a rule identical to the one proposed, adopt a modified rule on the same subject, or decline to act. The Commission's deliberation should come in October or November 1981 as part of the agenda of a regularly scheduled Commission meeting.

John Hector:pw  
August 11, 1981

PROPOSED AMENDMENTS

AUGUST, 1981

DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 340, OREGON ADMINISTRATIVE RULES

DIVISION 35

NOISE CONTROL REGULATIONS

General

Added material is underlined and deleted material is [bracketed].

**Policy**

340-35-005 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 consistent 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.

## Exceptions

340-35-010 (1) Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

(2) 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.

## Definitions

340-35-015 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 compatibility between an airport and its environs.

(4) "Airport Proprietor" means the person who holds title to an airport.

(5) "Ambient Noise" means the all-encompassing noise associated with a given environment, being usually a composite of sounds from any 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] over a 12-month period.

(7) "Any one hour" means any period of 60 consecutive minutes during the 24-hour day.

(8) "Closed Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition or practice session on a closed course motor sports facility, i.e. where public access is restricted and admission is generally charged.

(9) "Commission" means the Environmental Quality Commission.

(10) "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.

(11) "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.

(12) "Department" means the Department of Environmental Quality.

(13) "Director" means the Director of the Department.

(14) "Drag Racing Vehicle" means any racing vehicle used to compete in any acceleration competition initiated from a standing start and continued over a straight line course.

(15) "Emergency Equipment" means noise emitting devices required to avoid or reduce severity of accidents. Such equipment includes, but is not limited to, safety valves and other unregulated pressure relief devices.

(16) "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.

(17) "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.

(18) "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.

(19) "Four Wheel Drive Racing Vehicle" means any four-wheeled racing vehicle with at least one wheel on the front and rear axle driven by the engine or any racing vehicle partici-

pating in an event with predominantly four wheel drive racing vehicles.

(20) "Go-Kart Racing Vehicle" means a light-weight four-wheeled racing vehicle of the type commonly known as a go-kart.

(21) "Impulse Sound" means either a single pressure peak or single burst (multiple pressure peaks) for a duration of less than one second as measured on a peak unweighted sound pressure measuring instrument or "C" weighted, slow response instrument and specified by dB and dBC respectively.

(22) "In-Use Motor Vehicle" means any Motor Vehicle which is not a New Motor Vehicle.

(23) "Industrial or Commercial Noise Source" means that source of noise which generates Industrial or Commercial Noise Levels.

(24) "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.

(25) "Motorboat" as used in OAR 340-35-025 means a watercraft propelled by an internal combustion engine but does not include a boat powered by an outboard motor or an inboard/outboard power package designed to exhaust beneath the surface of the water.

(26) "Motorcycle" means any Motor Vehicle, except Farm Tractors, designed to travel on not more than three wheels which are in contact with the ground.

(27) "Motor Sports Advisory Committee" means a committee appointed by the Director, from among the nominees, for the purpose of technical advice on racing activities and to recommend Exceptions to these rules as specified in OAR 340-35-040(12).

This Committee shall consist of:

(a) One permanent public member nominated by a noise impacted group or association; and

(b) One representative of each of the racing vehicle types identified in OAR 340-35-040(2) as nominated by the respective sanctioning bodies; and

(c) The program manager of the Department's noise pollution control section who shall also serve as the departmental staff liaison to this body.

(28) "Motor Sports Facility" means any facility, track or course upon which racing events are conducted.

(29) "Motor Sports Facility Noise Impact Boundaries" means the daily 55 dBA day-night (Ldn) noise contours around the motor sports facility representing events that may occur on the day of maximum projected use.

(30) "Motor Sports Facility Owner" means the owner or operator of a motor sports facility or an agent or designee of the owner or operator. When a Racing Event is held on public land, the event organizer (i.e., promoter) shall be considered



the motor sports facility owner for the purposes of these rules.

(31) "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 watercraft.

(32) "New Airport" means any airport for which installation, construction, or expansion of a runway commenced after January 1, 1980.

(33) "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.

(34) "New Motor Sports Facility" is any permanent motor sports facility for which construction or installation was commenced after the effective date of these rules. Any recreational park or similar facility which initiates sanctioned racing after the effective date of these rules shall be considered a new motor sports facility.

(35) "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.

(36) "Noise Impact Boundary" means a contour around the airport, any point on which is equal to the airport noise criterion.

(37) "Noise Level" means weighted Sound Pressure Level measured by use of a metering characteristic with an "A" frequency weighting network and reported as dBA.

(38) "Noise Sensitive Property" means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.

(39) "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).

(40) "Off-Road Recreational Vehicle" means any Motor Vehicle, including watercraft, 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.

(41) "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).

(42) "Open Course Motorcycle Racing Vehicle" means any motorcycle racing vehicle that is operated in competition on an open course motor sports facility, i.e. where public access is not generally restricted. This definition is intended to include the several types of motorcycles such as "enduro" and "cross country" that are used in events held in trail or other off-road environments.

(43) "Oval Course Racing Vehicle" means any racing vehicle, not a motorcycle and not a sports car, which is operated upon a closed, oval-type motor sports facility.

(44) "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.

(45) "Practice Sessions" means any period of time during which racing vehicles are operated at a motor sports facility, other than during racing events. Driver training sessions or similar activities which are not held in anticipation of a subsequent racing event, and which include only vehicles with a stock exhaust system, shall not be considered practice sessions.

(46) "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.

(47) "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] generating infrequent noise emissions shall not be considered as industrial or commercial operations for the purposes of this definition.

(48) "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.

(49) "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.

(50) "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.

(51) "Racing Event" means any time, speed or distance competition using motor vehicles conducted under a permit issued by the governmental authority having jurisdiction, or under the auspices of a recognized sanctioning body. This definition includes, but is not limited to, events on the surface of land and water. Any motor sports event not meeting this definition shall be subject to the ambient noise limits of OAR 340-35-030(1)(d).

(52) "Racing Vehicle" means any Motor Vehicle that is designed to be used exclusively in Racing Events or any New Motor Vehicle that has not been certified by its manufacturer as meeting the applicable noise limits of OAR 340-35-030 or any vehicle participating in or practicing for a Racing Event.

(53) "Recreational Park" means a facility open to the public for the operation of off-road recreational vehicles.

(54) "Road Vehicle" means any Motor Vehicle registered for use on Public Roads, including any attached trailing vehicles.

(55) "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.

(56) "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).

(57) "Special Motor Racing Event" means any racing event in which a substantial or significant number of out-of-state racing vehicles are competing and which has been recommended as a special motor racing event by the motor sports advisory committee and approved by the Department.

(58) "Sports Car Racing Vehicle" means any racing vehicle which meets the requirements and specifications of the competition rules of any sports car organization.

(59) "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 percent of the time, or for six minutes.

(60) "Stock Exhaust System" means an original equipment manufacturer exhaust system or a replacement for original equipment for a street legal vehicle whose noise emissions do not exceed those of the original equipment.

(61) "Temporary Autocross or Solo Course" means any area upon which a paved course motor sports facility is temporarily established. Typically such courses are placed on parking lots, or other large paved areas, for periods of one or two days.

(62) "Top Fuel-Burning Drag Racing Vehicle" means a drag racing vehicle that operates using principally alcohol (more than 50 percent) or utilizes nitromethane as a component of its operating fuel and commonly known as top fuel and funny cars.

(63) "Trackside" means a sound measuring point of 50 feet from the racing vehicle and specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35.

(64) "Warning Device" means any device which signals an unsafe or potentially dangerous situation.

(65) "Watercraft Racing Vehicle" means any racing vehicle which is operated upon or immediately above the surface of water.

(66) "Well Maintained Muffler" means a device or combination of devices which effectively decreases the sound energy of internal combustion engine exhaust without a muffler by a minimum of 5 dBA at trackside. A well maintained muffler shall be free of defects or modifications that reduce its sound reduction capabilities. Each outlet of a multiple exhaust system shall comply with the requirements of this subsection, notwithstanding the total engine displacement versus muffler length requirements. Such a muffler shall be a:

(a) Reverse gas flow device incorporating a multitube and baffle design; or a

(b) Perforated straight core device, fully surrounded from beginning to end with a sound absorbing medium, not installed on a rotary engine, and:

(A) at least 20 inches in inner core length when installed on any engine exceeding 1600 cc (96.7 cubic inches) displacement; or

(B) at least 12 inches in inner core length when installed on any non-motorcycle engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or

(C) at least 6 inches in inner core length and installed at the outlet end of any four-cycle motorcycle engine; or

(D) at least 8 inches in inner core length when installed on any two-cycle motorcycle engine; or an

(c) Annular swirl flow (auger-type) device of:

(A) at least 16 inches in swirl chamber length when installed on any engine exceeding 1600 cc (96.7 cubic inches) displacement; or

(B) at least 10 inches in swirl chamber length when installed on any engine equal to or less than 1600 cc (96.7 cubic inches) displacement; or a

(d) Stacked 360° diffusor disc device; or a

(e) Turbocharger; or a

(f) Go-Kart muffler as defined by the International Karting Federation as specified in Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPC-35; or an

(g) Original equipment manufacturer motorcycle muffler when installed on a motorcycle model such muffler was designated for by the manufacturer; or

(h) Outboard boat motor whose exhaust exits beneath the water surface during operation; or



(i) Any other device demonstrated effective and approved by the motor sports advisory committee and the Department.

#### Noise Control Regulations for the Sale of New Motor Vehicles

##### 340-35-025 (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 1, 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, or a nationally accepted procedure for these vehicles not similar to those specified and approved under subsection (2) (a), the Department shall conduct an evaluation under such new procedure.

(c) After an appropriate evaluation of noise emission data measured under the procedure specified under subsection (1) (b), the Department shall make recommendations to the Commission on the adequacy of the procedure and the necessity of amendments to this rule for incorporation of the procedure and associated standards.

(d) Notwithstanding the provisions of the subsections (1) (b) and (1) (c) the Department shall present a progress and status report on passenger car and light truck noise emission controls to the Commission no later than July 1, 1982.

##### (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 1, the manufacturer or a designated representative shall certify in writing to the Department that vehicles listed in Table 1 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, and racing motorboats, 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 and racing motorboats shall be exempt from the requirements of this section provided that racing motorcycles are operated only at facilities used for sanctioned

racing events, racing motorboats are operated only at areas designated by the State Marine Board for testing or at an approved racing event, and the following conditions are complied with:

(A) Prior to the sale of a racing motorcycle or racing motorboat, 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.

## Noise Control Regulations for In-Use Motor Vehicles

### 340-35-030 (1) Standards and Regulations:

#### (a) Road Vehicles

(A) No person shall operate any road vehicle which exceeds the noise level limits specified in Table 2 or 3, except as otherwise provided in these rules.

(B) No person shall operate a road vehicle with any of the following defects:

- (i) No muffler
- (ii) Leaks in the exhaust system
- (iii) Pinched outlet pipe

(C) Non-conforming "classic" and other "special interest" vehicles may be granted an exception to this rule, pursuant to Rule 340-35-010, for the purpose of maintaining authentic equipment.

#### (b) Off-Road Recreational Vehicles.

(A) No person shall operate any off-road recreational vehicle which exceeds the noise level limits specified in Table 4.

(B) No person shall operate an off-road recreational vehicle with any of the following defects:

- (i) No muffler
- (ii) Leaks in the exhaust system
- (iii) Pinched outlet pipe

(c) Trucks Engaged in Interstate Commerce. Motor vehicles with a GVWR or GCWR in excess of 10,000 pounds which are engaged

in interstate commerce by trucking and are regulated by Part 202 of Title 40 of the Code of Federal Regulations, promulgated Stat. 1248, Pub. L. 92-574, shall be:

(A) Free from defects which adversely affect sound reduction;

(B) Equipped with a muffler or other noise dissipative device;

(C) Not equipped with any "cut-out" devices, "by-pass" devices, or any other similar devices; and

(D) Not equipped with any tire which as originally manufactured or newly retreaded having a tread pattern composed primarily of cavities in the tread, excluding sipes and local chunking, not vented by grooves to the tire shoulder or vented circumferentially to each other around the tire.

(d) Ambient Noise Limits.

(A) No person shall cause, allow, permit, or fail to control the operation of motor vehicles, including motorcycles, on property which he owns or controls, nor shall any person operate any such motor vehicle if the operation thereof increases the ambient noise level such that the appropriate noise level specified in Table 5 is exceeded as measured from either of the following points, if located within 1000 feet (305 meters) of the motor vehicle:

(i) Noise sensitive property, or

(ii) [The boundary of] A quiet area.

(B) Exempt from the requirements of this subsection shall be:

- (i) Motor vehicles operating in racing events;
- (ii) Motor vehicles initially entering or leaving property which is more than 1000 feet (305 meters) from the nearest noise sensitive property or [boundary of a] quiet area;
- (iii) Motor vehicles operating on public roads; and
- (iv) Motor vehicles operating off-road for non-recreational purposes.

(e) Auxiliary Equipment Noise Limits.

(A) No person shall operate any road vehicle auxiliary equipment [powered by the road vehicle's primary power source] which exceeds the noise limits specified in Table 6, except as otherwise provided in these rules.

(B) [As of June 1974, the Department does not have sufficient information to determine the maximum noise levels for road vehicle auxiliary equipment powered by a secondary source. Research on this noise source will be carried out with the goal of setting noise level limits by January 1, 1975.]

(B) No person shall cause, allow, permit, or fail to control the operation of any road vehicle auxiliary equipment for more than 15 minutes exceeding the following limits at any appropriate noise sensitive property measurement point as specified in OAR 340-35-035 (3) (b):

- (i) 55 dBA between 7 am and 10 pm; and
- (ii) 50 dBA between 10 pm and 7 am

(2) Measurement. Sound measurement shall conform to test procedures adopted by the Commission in Sound Measurement Procedures Manual (NPCS-1) and Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

(3) Exemptions:

(a) Motor Vehicles registered as antique or historical motor vehicles licensed in accordance with ORS 481.205(4) are exempt from these regulations.

(b) Motor vehicle warning devices are exempt from these regulations.

(c) Vehicles equipped with at least two snowtread tires are exempt from the noise limits of Table 3.

(d) Motor vehicles described in subsection (1)(c), which are demonstrated by the operator to be in compliance with the noise levels in Table 3, for operation greater than 35 mph, are exempt from these regulations.

(e) Auxiliary equipment operated on construction sites or in the maintenance of capital equipment or to avoid or reduce the severity of accidents.

(4) Equivalency:

(a) The in-use motor vehicle standards specified in Table 2 have been determined by the Department to be substantially equivalent to the 25 foot stationary test standards set forth in 1977 Oregon Laws Chapter 273 (ORS 483.449).



(b) Tests shall be conducted according to the procedures in Motor Vehicle Sound Measurement Procedures Manual (NPCS-21) or to standard methods approved in writing by the Department.

### **Noise Control Regulations for Industry and Commerce**

#### **340-35-035 (1) Standards and Regulations:**

(a) Existing Noise Sources. No person owning or controlling an existing industrial or commercial noise source shall cause or permit the operation of that noise source if the statistical noise levels generated by that source and measured at an appropriate measurement point, specified in subsection (3) (b) of this section, exceed the levels specified in Table 7, except as otherwise provided in these rules.

(b) New Noise Sources.

(A) New Sources Located on Previously Used Sites. No person owning or controlling a new industrial or commercial noise source located on a previously used industrial or commercial site shall cause or permit the operation of that noise source if the statistical noise levels generated by that new source and measured at an appropriate measurement point, specified in subsection (3) (b) of this section, exceed the levels specified in Table 8, except as otherwise provided in these rules.

(B) New Sources Located on Previously Unused Site.

(i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that

noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels  $L_{10}$  or  $L_{50}$ , by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule.

(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source, including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsection (5)(b), (5)(c), (5)(d), (5)(e), (5)(f), (5)(j), (5)(k) and (5)(l) of this rule, shall not be excluded from this ambient measurement.

(c) [Modified Noise Sources. After January 1, 1975 and before January 1, 1978, no person owning or controlling an existing industrial or commercial noise source shall modify that noise source so as to violate the following rules:

(A) If prior to modification an industrial or commercial noise source does not exceed the noise levels in Table 8, the modified industrial or commercial noise source shall not exceed the noise levels in Table 8, except as otherwise provided in these rules.

(B) If prior to modification an existing industrial or commercial noise source exceeds the noise levels in Table 8,

but does not exceed the noise levels in Table 7, then the modification shall not cause an increase in the existing statistical noise levels, except as otherwise provided in these rules.] Repealed

(d) Quiet Areas. No person owning or controlling an industrial or commercial noise source located either within the boundaries of a Quiet Area or outside its boundaries shall cause or permit the operation of that noise source if the statistical noise levels generated by that source exceed the levels specified in Table 9 as measured within the Quiet Area and not less than 400 feet (122 meters) from the noise source.

(e) Impulse Sound. Notwithstanding the noise rules in Tables 7 through 9, no person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if an impulsive sound is emitted in air by that source which exceeds the [peak] sound pressure levels specified below, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule: [100 dB during the hours 7 am to 10 pm and 80 dB between the hours of 10 pm and 7 am.]

(A) Blasting. 98 dBC, slow response, between the hours of 7 am and 10 pm and 78 dBC, slow response, between the hours of 10 pm and 7 am.

(B) All Other Impulse Sounds. 100 db, peak response, between the hours of 7 am and 10 pm and 80 dB, peak response, between the hours of 10 pm and 7 am.

(f) Octave Bands and Audible Discrete Tones. When the Director has reasonable cause to believe that the requirements of subsections (1)(a), (1)(b), [(1)(c)] or (1)(d) of this rule do not adequately protect the health, safety or welfare of the public as provided for in ORS Chapter 467, the Department may require the noise source to meet the following rules:

(A) Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, exceeds applicable levels specified in Table 10.

(B) One-third Octave Bands. No person owning or controlling an industrial or commercial noise source shall cause or permit the operation of that noise source if such operation generates a median one-third octave band sound pressure level which, as measured at an appropriate measurement point, specified in subsection (3)(b) of this rule, and in a one-third octave band at a preferred frequency, exceeds the arithmetic average of the median sound pressure levels of the two adjacent one-third octave bands by:

(i) 5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(ii) 8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

(iii) 15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band.

This rule shall not apply to audible discrete tones having a one-third octave band sound pressure level 10 dB or more below the allowable sound pressure levels specified in Table 10 for the octave band which contains such one-third octave band.

(2) Compliance. Upon written notification from the Director, the owner or controller of an industrial or commercial noise source operating in violation of the adopted rules shall submit a compliance schedule acceptable to the Department. The schedule will set forth the dates, terms, and conditions by which the person responsible for the noise source shall comply with the adopted rules.

(3) Measurement:

(a) Sound measurement procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1) or to such other procedures as are approved in writing by the Department.

(b) Unless otherwise specified the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

(A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source,

(B) That point on the noise sensitive property line nearest the noise source.

(4) Monitoring and Reporting:

(a) Upon written notification from the Department, persons owning or controlling an industrial or commercial noise source shall monitor and record the statistical noise levels and operating times of equipment, facilities, operations, and activities, and shall submit such data to the Department in the form and on the schedule requested by the Department. Procedures for such measurements shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1).

(b) Nothing in this section shall preclude the Department from conducting separate or additional noise tests and measurements. Therefore, when requested by the Department, the owner or operator of an industrial or commercial noise source shall provide the following:

(A) Access to the site,

(B) Reasonable facilities, where available, including but not limited to electric power and ladders adequate to perform the testing,

(C) Cooperation in the reasonable operation, manipulation, or shutdown of various equipment or operations as needed to ascertain the source of sound and measure its emission.

(5) Exemptions. Except as otherwise provided in subsection (1)(b)(B)(ii), the rules in section (1) of this rule shall not apply to:

(a) Emergency equipment not operated on a regular or scheduled basis.

(b) Warning devices not operating continuously for more than 5 minutes.

(c) Sounds created by the tires or motor used to propel any road vehicle complying with the noise standards for road vehicles.

(d) Sounds resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad only to the extent that such equipment or facility is regulated by preemptive federal regulations as set forth in Part 201 of Title 40 of the Code of Federal Regulations, promulgated pursuant to section 17 of the Noise Control Act of 1972, 86 Stat. 1248, Pub. L. 92-576; but this exemption does not apply to any standard, control, license, regulation, or restriction necessitated by special local conditions which is approved by the Administrator of the EPA after consultation with the Secretary of Transportation pursuant to procedures set forth in section 17(c)(2) of the Act.

(e) Sounds created by bells, chimes, or carillons associated with specific religious observances.

(f) Sounds not electronically amplified which are created by or generated at sporting, amusement, and entertainment events, except those sounds which are regulated under other noise standards. An event is a noteworthy happening and does not include informal, frequent or ongoing activities such as, but not limited to, those which normally occur at bowling alleys or amusement parks operating in one location for a significant period of time.

(g) Sounds that originate on construction sites.

(h) Sounds created in construction or maintenance of capital equipment.

(i) Sounds created by lawn care maintenance and snow removal equipment.

(j) Sounds generated by the operation of aircraft and subject to preemptive federal regulation. This exception does not apply to aircraft engine testing, activity conducted at the airport that is not directly related to flight operations, and any other activity not preemptively regulated by the federal government or controlled under OAR 340-35-045.

(k) Sounds created by the operation of road vehicle auxiliary equipment complying with the noise rules for such equipment.

(l) Sounds created by agricultural activities.



(m) Sounds created by activities related to the growing or harvesting of forest tree species on forest land as defined in subsection (1) of ORS 526.324.

(6) Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section 340-35-035(1), pursuant to rule 340-35-010, for:

(a) Unusual and/or infrequent events.

(b) Industrial or commercial facilities previously established in areas of new development of noise sensitive property.

(c) Those industrial or commercial noise sources whose statistical noise levels at the appropriate measurement point are exceeded by any noise source external to the industrial or commercial noise source in question.

(d) Noise sensitive property owned or controlled by the person who controls or owns the noise source [or] .

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

#### **Noise Control Regulations for Motor Sports Vehicles and Facilities**

**340-35-040** (1) Statement of Purpose. (a) The Commission finds that the periodic noise pollution caused by Oregon motor sports activities threatens the environment of citizens residing in the vicinity of motor sports facilities. To mitigate motor sports noise impacts, a coordinated statewide program is desirable to ensure that effective noise abatement programs are developed and

implemented where needed. This abatement program includes measures to limit the creation of new noise impacts and the reduction of existing noise impacts to the extent necessary and practicable.

(b) Since the Commission also recognizes the need of Oregon's citizens to participate in recreational activities of their choice, these rules balance those citizen needs which may conflict when motor sports facilities are in operation. Therefore, a policy of continuing participation in standards development through the active cooperation of interested parties is adopted. The choice of these parties is to limit the noise emission levels of racing and recreational vehicles, to designate equipment requirements, and to establish appropriate hours of operation. It is anticipated that safety factors, limited technology, special circumstances, and special events may require exceptions to these rules in some instances; therefore, a mechanism to accommodate this necessity is included in this rule.

(c) This rule is designed to encourage the motor sports facility owner, the vehicle operator, and government to cooperate to limit and diminish noise and its impacts. These ends can be accomplished by encouraging compatible land uses and controlling and reducing the racing vehicle noise impacts on communities in the vicinity of motor sports facilities to acceptable levels.

(d) This rule is enforceable by the Department and civil penalties ranging from a minimum of \$25 to a maximum of \$500 may be assessed for each violation. The motor sports facility owner, the racing vehicle owner and the racing vehicle driver are held

responsible for compliance with provisions of this rule. A schedule of civil penalties for noise control may be found under OAR 340-12-052.

(2) Standards:

(a) Drag Racing Vehicle. No motor sports facility owner and no person owning or controlling a drag racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler.

(b) Oval Course Racing Vehicle. No motor sports facility owner and no person owning or controlling an oval course racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(c) Sports Car Racing Vehicle. No motor sports facility owner and no person owning or controlling a sports car racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(d) Closed Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling a closed course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions

from its operation do not exceed 105 dBA at trackside or 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure.

(e) Open Course Motorcycle Racing Vehicle. No motor sports facility owner and no person owning or controlling an open course motorcycle racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions do not exceed 105 dBA at 20 inches (.5 meter) from the exhaust outlet during the stationary measurement procedure.

(f) Four Wheel Drive Racing Vehicles. No motor sports facility owner and no person owning or controlling a four wheel drive racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(g) Watercraft Racing Vehicle. No motor sports facility owner and no person owning or controlling a watercraft racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(h) Autocross or Solo Racing Vehicle. No motor sports facility owner and no person owning or controlling an autocross or solo racing vehicle shall cause or permit its operation on any temporary autocross or solo course unless the vehicle is equipped

with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 90 dBA at trackside. Autocross and solo events conducted on a permanent motor sports facility, such as a sports car or go kart course, shall comply with the requirements for sports car racing vehicles specified in subsection (2)(c) of this section.

(i) Go Kart Racing Vehicle. No motor sports facility owner and no person owning or controlling a go kart racing vehicle shall cause or permit its operation at any motor sports facility unless the vehicle is equipped with a properly installed and well maintained muffler and noise emissions from its operation do not exceed 105 dBA at trackside.

(3) New Motor Sports Facilities. Prior to the construction or operation of any permanent new motor sports facility, the facility owner shall submit for Department approval the projected motor sports facility noise impact boundaries. The data and analysis used to determine the boundary shall also be submitted to the Department for evaluation. Upon approval of the boundaries, this information shall be submitted to the appropriate local planning unit and the Department of Land Conservation and Development for their review and appropriate action.

(4) Practice Sessions. Notwithstanding section (2) of this rule, all racing vehicles in order to operate in practice sessions, shall comply with a noise mitigation plan which shall have been submitted to and approved by the motor sports advisory committee and the Director. Such plans may be developed and

submitted prior to each racing season. An approved plan may be varied with prior written approval of the Department.

(5) Recreational Park. When a motor sports facility is used as a recreational park for the operation of off-road recreational vehicles, the ambient noise limits of OAR 340-35-030(1)(d) shall apply.

(6) Operations:

(a) General. No motor sports facility owner and no person owning or controlling a racing vehicle shall permit its use or operation at any time other than the following:

(A) Sunday through Thursday during the hours 8 a.m. to 10 p.m. local time; and

(B) Friday through Saturday, state and national holidays and the day preceding, not to exceed three consecutive days, during the hours 8 a.m. to 11 p.m. local time.

(b) Overruns. Each motor sports facility may overrun the specified curfew times, not to exceed 30 minutes, no more than six (6) days per year due to conditions beyond the control of the owner. Each overrun shall be documented to the Department within 10 days of the occurrence.

(c) Special Events. Any approved special motor racing event may also be authorized to exceed this curfew pursuant to subsection (12)(a) of this rule.

(7) Measurement and Procedures. All instruments, procedures and personnel involved in performing sound level measurements shall conform to the requirements specified in Motor Race Vehicle and

Facility Sound Measurement and Procedure Manual, NPCCS-35, or to standard methods approved in writing by the Department.

(8) Monitoring and Reporting:

(a) It shall be the responsibility of the motor sports facility owner to measure and record the required noise level data as specified under section (2) of this rule and the Motor Race Vehicle and Facility Sound Measurement and Procedure Manual, NPCCS-35. The owner shall either keep such recorded noise data available for a period of at least one calendar year or submit such data to the Department for storage. Upon request the owner shall make such recorded noise data available to the Department.

(b) When requested by the Department, any motor sports facility owner shall provide the following:

(A) Free access to the facility

(B) Free observation of noise level monitoring

(C) Cooperation and assistance in obtaining the reasonable operation of any Racing Vehicle using the facility as needed to ascertain its noise emission level.

(9) Vehicle Standards. No motor sports facility owner and no person owning or controlling a racing vehicle shall cause or permit a racing event or practice session unless the vehicle is equipped and operated in accordance with these rules.

(10) Vehicle Testing. Nothing in this section shall preclude the motor sports facility owner from testing or barring the participation of any racing vehicle for non-compliance with these rules.

(11) Exemptions:

(a) Any motor sports facility whose racing surface is located more than 2 miles from the nearest noise sensitive property shall be exempt from this rule.

(b) Any top fuel-burning drag racing vehicle shall be exempt from the requirements of subsection (2) (a) of this section. No later than January 31, 1985 the Department shall report to the Commission on progress toward muffler technology development for this vehicle class and propose any necessary recommendations to amend this exemption.

(c) Operation of oval course racing vehicles in a destruction derby event shall be exempt from the monitoring and recording requirements specified in subsection (8) of this section.

(d) Operation of non-complying exhibition vehicles, such as but not limited to, jet powered dragsters, between the hours of 8 am and 8 pm.

(12) Exceptions. The Department shall consider the majority and minority recommendations of the motor sports advisory committee prior to the approval or denial of any exception to these rules. Exceptions may be authorized by the Department for the following pursuant to OAR 340-35-010:

(a) Special motor racing events.

(b) Race vehicle or class of vehicles whose design or mode of operation makes operation with a muffler inherently unsafe or technically unfeasible.



(c) Motor sports facilities previously established in areas of new development of noise sensitive property.

(d) Noise sensitive property owned or controlled by a motor sports facility owner.

(e) Noise sensitive property located on land zoned exclusively for industrial or commercial use.

(f) Any motor sports facility owner or race sanctioning body that proposes a racing vehicle noise control program that accomplishes the intended results of the standards of section (2), the measurement and procedures of section (7), the monitoring and the reporting of section (8), of this rule.

(g) Any motor sports facility demonstrating that noise sensitive properties do not fall within the motor sports facility noise impact boundaries may be exempt from the curfew limits of section (6) and the monitoring and reporting requirements of section (8) of this rule.

(13) Motor Sports Advisory Committee Actions. The committee shall serve at the call of the chairman who shall be elected by the members in accordance with the rules adopted by the committee for its official action.

(14) Effective Date. These rules shall be effective January 1, 1982.

#### **Noise Control Regulations for Airports**

340-35-045 (1) Statement of Purpose. (a) 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 airport noise emission regulations and land use controls.

(b) 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.

(c) 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.

(d) This rule is designed to 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 designation [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 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 and any required local government land-use approval 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. Upon approval of the boundary, this information shall be submitted to the appropriate local planning unit and to the Department of Land Conservation and Development.

(d) Airport Master Planning. Any airport proprietor who obtains funding to develop an Airport Master Plan shall submit 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.

(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) 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 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; 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.

(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 may be 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) (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 of 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 encroachment 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. The plan may include, but not be limited to, 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 programming 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 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.

(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.

(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 areas 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) (f) of this section.

(6) Noise Sensitive Use Deviations. The airport noise criterion is designed to provide adequate protection of noise sensitive uses based on 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. 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 subsection (3) (e).

(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.

#### **Variances**

340-35-100 (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 such 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 of 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.

TABLE 1

(340-035-025)

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
Trucks in excess of 10,000 pounds (4536 kg) GVWR	1975 Model	86
	1976-1981 Models or Models manufactured after January 1, 1978 and before January 1, [1982] <u>1983</u>	83
	Models manufactured after January 1, [1982] <u>1983</u> , and before January 1, 1985	80
	Models manufactured after January 1, 1985	(Reserved)
Automobiles, Light Trucks, and All Other Road Vehicles	1975 Model	83
	Models after 1975	80
Buses as defined under ORS 481.030	1975 Model	86
	1976-1978 Models	83
	Models after 1978	80
Motorboats	Models offered for sale after June 30, 1980	82

TABLE 2

(340-35-030)

## In-Use Road Vehicle Standards

## Stationary Test

Vehicle Type	Model Year	Maximum Noise Level, dBA	Minimum Distance from Vehicle to Measurement Point
All vehicles described in ORS 481.205(2)(a)	Before 1976	94	25 feet (7.6 meters)
	1976 and After	91	25 feet (7.6 meters)
All other trucks in excess of 8,000 pounds (3629 kg) GVWR	Before 1976	94	25 feet (7.6 meters)
	1976-1981	91	25 feet (7.6 meters)
	After 1981	88	25 feet (7.6 meters)
Motorcycles	1975 and Before	102	20 inches (1/2 meter)
	After 1975	99	20 inches (1/2 meter)
Front-engine automobiles, light trucks and all other front-engine road vehicles	All	95	20 inches (1/2 meter)
Rear-engine automobiles and light trucks and mid-engine automobiles and light trucks	All	97	20 inches (1/2 meter)
Buses as defined under ORS 481.030	Before 1976	94	25 feet (7.6 meters)
	1976 and After	91	25 feet (7.6 meters)

TABLE 3

(340-35-030)

## In-Use Road Vehicle Standards

Moving Test at 50 Feet (15.2 meters) or Greater [at Vehicle Speed]

[Vehicle Type]	[Model Year]	[Maximum Noise Level, dBA]	
		[35 mph (56 kph) or less]	[Greater than 35 mph (56 kph)]
[Vehicles in excess of 10,000 pounds (4536 kg) GVWR or GCWR engaged in interstate commerce as permitted by Title 40, Code of Federal Regulations, Part 202, Environmental Protection Agency (Noise Emission Standards-Motor Carriers Engaged in Interstate Commerce)]	[All]	86	90]
[All Other Trucks in excess of 10,000 pounds (4536kg) GVWR]	[Before 1976]	86	90]
	[1976-1981]	85	87]
	[After 1981]	82	84]
[Motorcycles]	[Before 1976]	84	88]
	[1976]	81	85]
	[1977-1982]	79	83]
	[1983-1987]	76	80]
	[After 1987]	73	77]
[Automobiles, Light Trucks and All Other Road Vehicles]	[Before 1976]	81	85]
	[1976-1980]	78	82]
	[After 1980]	73	77]
[Buses as defined under ORS 481.030]	[Before 1976]	86	90]
	[1976-1978]	85	87]
	[After 1978]	82	84]



Maximum Noise Level, dBA

<u>Operating Conditions</u>	<u>Trucks and Buses exceeding 10,000 pounds GVWR</u>	<u>Automobiles and light trucks</u>	<u>Motorcycles</u>
<u>Posted 45 mph or less under any grade, load, acceleration or deceleration.</u>	<u>86</u>	<u>72</u>	<u>78</u>
<u>Posted greater than 45 mph under any grade, load, acceleration or deceleration.</u>	<u>90</u>	<u>78</u>	<u>82</u>
<u>Moving at 35 mph or less on level roadway under constant speed more than 200 feet from stop.</u>	<u>84</u>	<u>70</u>	<u>74</u>

TABLE 4

(340-35-030)

## Off-Road Recreational Vehicle Standards

## Allowable Noise Limits

Vehicle Type	Model Year	Maximum Noise Level (dBA) and Distance from Vehicle to Measurement Point	
		Stationary Test 20 Inches (1/2 Meter)	Moving Test at 50 Feet (15.2 Meters)
Motorcycles	1975 and Before	102	<u>85</u>
	After 1975	99	<u>82</u>
Snowmobiles	1971 and Before		86
	1972-1975		84
	[1976-1978]	<u>After 1975</u>	80
	[After 1978]		77]
Boats			
Underwater exhaust	All		84
Atmosphere exhaust	All	100	84
All Others			
Front engine	All	95	<u>78</u>
Mid and rear engines	All	97	<u>78</u>

TABLE 5

(340-35-030)

Ambient Standards for Vehicles Operated  
Near Noise Sensitive Property

Allowable Noise Limits

Time	Maximum Noise Level, dBA
7 a.m. - 10 p.m.	60
10 p.m. - 7 a.m.	55

TABLE 6

(340-35-030)

Motor Vehicle Auxiliary Equipment [Driven by Primary Engine] Noise Standards

Stationary Test at 50 Feet (15.2 Meters) or Greater

Model Year	Maximum Noise Level, dBA
Before 1976	88
1976 - 1978	85
After 1978	82

TABLE 7

(340-35-035)

Existing Industrial and Commercial Noise Source Standards

Allowable Statistical Noise Levels in Any One Hour

[Pre-1978]		[Post-1977]	
[7 a.m.-10 p.m.	10 p.m.-7 a.m.]	7 a.m.-10 p.m.	10 p.m.-7 a.m.
[L <sub>50</sub> - 60 dBA	L <sub>50</sub> - 55 dBA]	L <sub>50</sub> - 55 dBA	L <sub>50</sub> - 50 dBA
[L <sub>10</sub> - 65 dBA	L <sub>10</sub> - 60 dBA]	L <sub>10</sub> - 60 dBA	L <sub>10</sub> - 55 dBA
[L <sub>1</sub> - 80 dBA	L <sub>1</sub> - 65 dBA]	[L <sub>1</sub> ] <u>L<sub>0.1</sub></u> - 75 dBA	[L <sub>1</sub> ] <u>L<sub>0.1</sub></u> - 60 dBA

TABLE 8

(340-35-035)

New Industrial and Commercial Noise Source Standards

Allowable Statistical Noise Levels in Any One Hour

7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
L <sub>50</sub> - 55 dBA	L <sub>50</sub> - 50 dBA
L <sub>10</sub> - 60 dBA	L <sub>10</sub> - 55 dBA
[L <sub>1</sub> ] <u>L<sub>0.1</sub></u> - 75 dBA	[L <sub>1</sub> ] <u>L<sub>0.1</sub></u> - 60 dBA

TABLE 9

(340-35-035)

Industrial and Commercial Noise Source Standards for Quiet Areas

Allowable Statistical Noise Levels in Any One Hour

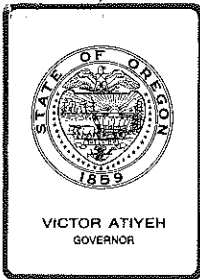
7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
L <sub>50</sub> - 50 dBA	L <sub>50</sub> - 45 dBA
L <sub>10</sub> - 55 dBA	L <sub>10</sub> - 50 dBA
[L <sub>1</sub> ] - <u>L<sub>0.1</sub></u> 60 dBA	[L <sub>1</sub> ] <u>L<sub>0.1</sub></u> - 55 dBA

TABLE 10  
(340-35-035)

Median Octave Band Standards for  
Industrial and Commercial Noise Sources

Allowable Octave Band Sound Pressure Levels

Octave Band Center Frequency, Hz	7 a.m. - 10 p.m.	10 p.m. - 7 a.m.
31.5	68	65
63	65	62
125	61	56
250	55	50
500	52	46
1000	49	43
2000	46	40
4000	43	37
8000	40	34



## *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. G, August 28, 1981, EQC Meeting

Mr. Gary T. Hubbard--Appeal of Subsurface Variance Denial

### Background

The pertinent legal authorities are summarized in Attachment "A".

On June 19, 1979, the Taiyo Corporation submitted a site evaluation application to Tillamook County for property identified as Lot 6, Myers Addition, Tierra Del Mar Subdivision. The property is also known as Tax Lot 3600, Section 6, Township 4 South, Range 10 West, and is approximately 12,600 square feet in size. On June 25, 1979, Mr. Ken Kimsey, Tillamook County Sanitarian, evaluated the property for subsurface sewage disposal suitability, and on the same day issued a Certificate of Favorable Site Evaluation for a system to serve a triplex with up to six (6) bedrooms.

On March 2, 1980, the Environmental Quality Commission adopted a temporary rule that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979. The temporary rule provided that each property owner may request the property be reevaluated without fee.

Mr. Gary T. Hubbard, President, Taiyo Corporation, submitted a request for reevaluation, dated July 14, 1980. The request indicated a triplex with two (2) bedrooms per unit was proposed to be constructed. Mr. John Smits of Department staff, examined the property the same day and determined it did not comply with the Department's minimum standards for installation of either a standard or alternative sewage disposal system to serve a triplex. He found the soil profile to be mottled as close as thirty-six (36) inches from the ground surface (the presence of mottling is indicative of the high fluctuating permanent water table expected during the winter and spring in years of normal precipitation). Free water was observed at seventy-seven (77) inches from ground surface. The size of the property does not provide sufficient area for installation of a full-size initial drainfield with room for future replacement. The sand filter alternative system was considered, but because of the small lot size, future replacement area was not available. Although the property did not meet the Department's siting criteria when considering a system to serve a triplex,

Mr. Smits determined that the area of highest ground was acceptable for installation of a standard system to serve a three (3) bedroom dwelling. Because of the smaller system size, the area of higher ground could accommodate both initial and replacement drainfields while maintaining the minimum four (4) feet of separation to the high permanent groundwater levels. Mr. Hubbard was notified of the denial by letter dated July 18, 1980 (Attachment "B").

An application for a variance from the subsurface rules was received by the Department, and assigned to Mr. Michael G. Ebeling, variance officer. On July 23, 1980, Mr. Ebeling examined the proposed site and held a public information gathering hearing. After closing the hearing, Mr. Ebeling evaluated the information provided by Mr. Hubbard and others. Mr. Ebeling found the site to be located on a deflation plain, with the triplex proposed to be built on the foredune. Two (2) backhoe pits dug in the deflation plain exhibited unconsolidated sand with mottling observed at depths of twenty (20) inches and forty (40) inches, respectively. Fifteen (15) inches of siltstone fill was observed at one pit. The undulating land surface at the proposed drainfield site would require some cutting and filling. Given an estimated peak daily sewage flow of up to nine hundred (900) gallons, disposed of onto a small lot with rapidly drained sandy soil, Mr. Ebeling was not convinced that the sewage effluent would be sufficiently treated to prevent degradation of the shallow permanent groundwater. Mr. Hubbard was notified of the variance denial by letter dated November 18, 1980 (Attachment "C"). Provision was made for reconsideration of this decision based upon the monitoring of water levels during the winter and spring by Tillamook County staff. Tillamook County had agreed to perform the monitoring, record their observations, and forward the data to Mr. Ebeling at the end of the study period.

Mr. Hubbard contacted the Department by letter dated June 5, 1981, inquiring about the results of the water level monitoring (Attachment "D"). Department staff spoke to Tillamook County personnel and was informed that due to workloads caused by reevaluation of sites in the County, they had inadvertently overlooked this commitment. Mr. Hubbard was informed by letter (dated June 9, 1981) that monitoring was not performed, and there was no basis for reconsideration of Mr. Ebeling's decision (Attachment "E").

On July 13, 1981, the Department received a letter from Mr. Hubbard appealing the variance officer's decision (Attachment "F"). The Department notified Mr. Hubbard that his appeal would be scheduled for the August 28, 1981 Commission meeting (Attachment "G").

#### Evaluation

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Such an appeal was made. The Commission must determine if an on-site sewage disposal system can reasonably be expected to function in a satisfactory manner at Mr. Hubbard's proposed site.

After evaluating the site and after holding a public information type hearing to gather testimony relevant to the requested variance, Mr. Ebeling was not able to find that an on-site sewage disposal system would function in a satisfactory manner. Mr. Ebeling provided for reconsideration of his decision upon receipt of water table monitoring data to be collected by Tillamook County staff. Groundwater monitoring was not accomplished and therefore did not provide data to the variance officer that would allow the decision to be reconsidered.

Given the circumstances (failure to monitor) and the subsequent adoption of new alternative system rules, staff have reevaluated the options that might be available to Mr. Hubbard, based on the variance record.

The site can be approved for one single family dwelling, however, Mr. Hubbard wishes to construct a triplex dwelling unit on the property.

The option of a bottomless sand filter was considered because of the high level of treatment it is capable of providing. It can be used where the permanent water levels rise as close as twenty-four (24) inches from ground surface. But, as a sand filter does not totally remove all nitrates from the effluent discharged, its use in rapid and very rapidly drained soils is limited to properties where the projected daily sewage flow does not exceed four hundred fifty (450) gallons per one-half (1/2) acre [OAR 340-71-290(3)(c)] Given the small lot size and the projected sewage flow from a triplex, the resulting loading (approximately 1500 gallons per one-half acre) would require a variance from the rule be granted. Staff does not support this option.

The use of a pressurized distribution system within a seepage bed was also examined. Seepage beds are allowed for use in sands and loamy sands, and are preferred over trench installation because of the difficulty of digging narrow trenches in these less cohesive soils. Their use is limited to sites where the loading rate does not exceed four hundred fifty (450) gallons per one-half (1/2) acre [OAR 340-71-275(3)], and where permanent groundwater levels do not rise closer than six (6) feet below ground surface [OAR 340-71-220(2)(b)(A)]. Treatment of effluent in this system occurs within the sandy soils laying under the seepage bed, and thus is dependent on having at least four (4) feet of unsaturated soils below the seepage bed to provide treatment. Variance from both rules (OAR 340-220(2)(b)(A) and OAR 340-71-275(3)) would need to be granted if installation of this system were authorized. Because of the expected shallow depth of unsaturated soil below the seepage bed, and because of the high loading rate on this small lot, staff does not support this option either.

Staff further considered the option of allowing monitoring of groundwater, as had previously been allowed but which was not accomplished. It is staff's opinion that, due to the size of the parcel, depth of water has little bearing on whether the lot could support a system sized for a triplex.

After considering possible available options, it is staff's opinion that the decision of the variance officer to deny the variance because of expected pollution of public waters was appropriate.



Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. On June 25, 1979, Mr. Ken Kimsey evaluated lot 6, Myers Addition, Tierra Del Mar Subdivision and determined that a standard subsurface sewage disposal system to serve a triplex could be installed. Mr. Kimsey issued a Certificate of Favorable Site Evaluation the same day.
3. The Environmental Quality Commission adopted a temporary rule on March 21, 1980, that voided all Certificates of Favorable Site Evaluation issued in Tillamook County from January 1, 1974 through December 31, 1979.
4. At the request of Mr. Hubbard, the property was reevaluated on July 14, 1980, by Department staff. The site was found not to meet the Department's minimum standards to install an on-site sewage disposal system because of insufficient area on the small lot to place a drainfield, with future replacement, to serve a triplex. The property also has a fluctuating permanent groundwater table, as indicated by mottling, that comes within thirty-six (36) inches of the ground surface. The installation of a sand filter system was prevented for the same reasons. Mr. Smits also determined the areas of highest ground would comply with the Department's minimum standards if a single family dwelling with not more than three (3) bedrooms had been proposed. Mr. Hubbard was notified of the reevaluation denial by letter.
5. A variance application submitted by Mr. Hubbard was assigned to Mr. Michael Ebeling, variance officer. On July 23, 1980, Mr. Ebeling examined the property, and conducted a public information gathering hearing. After closing the hearing, Mr. Ebeling received the variance record and found the testimony did not support a favorable decision. Mr. Hubbard was notified by letter that the variance request was denied. He was also informed that the decision could be reconsidered if monitoring of groundwater levels by Tillamook County during the winter and spring would so warrant.
6. In June, 1981, Mr. Hubbard inquired about the results of the groundwater monitoring. Department staff contacted Tillamook County and learned that due to workloads the County had inadvertently failed to do the monitoring. Mr. Hubbard was then informed that there was no basis for reconsideration of the denial.
7. A letter appealing the variance denial was received by the Department on July 13, 1981.
8. Staff considered other possible options available to Mr. Hubbard as a consequence of recent rule adoption. No other option appears feasible to serve a triplex.

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August 28, 1981  
Page 5

9. Mr. Hubbard was notified by letter dated July 16, 1981, that his request for appeal would be scheduled for the August 28, 1981 Commission meeting.

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.



William H. Young

Attachments: 7  
Attachment "A"  
Attachment "B"  
Attachment "C"  
Attachment "D"  
Attachment "E"  
Attachment "F"  
Attachment "G"

Sherman O. Olson:1  
229-6443  
XL446 (1)  
August 12, 1981

ATTACHMENT "A"

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. Ebeling was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-415.

SOO:1  
XL446.A (1)  
8/6/81



## Department of Environmental Quality

522, S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5209

July 18, 1980

Mr. Gary T. Hubbard  
 Taiyo Corporation ET AL  
 2340 S. W. Hoffman Street  
 Portland, OR 97201

RE: SS-Re-evaluation Denial, T4S  
 T4S, R11W, Sec 1DD, Tax Lot #3600  
 Myers Addition, Lot No. 6  
 Sandlake Road - Tierra Del Mar Area  
 Orig. Site Approval: 6-25-79  
 Tillamook County  
 North Coast Branch Office

Dear Mr. Hubbard:

On July 14, 1980, your property described above was re-evaluated at your request to determine its suitability for subsurface sewage disposal. Unfortunately, the site does not meet the rules in effect in June 1979, or the following current rules for standard or alternative septic tank systems to serve your proposed six (6) bedroom tri-plex:

### Site Conditions

A permanently perched water table as indicated by soil mottling was observed at 36 inches below the surface of the ground, with free water at 77 inches.

Insufficient area exists for full initial and replacement drainfield areas due to required setbacks. 10 feet to property lines and water lines and 100 feet from mean high tide of Pacific Ocean on the 60'x210' parcel.

No site exists on the parcel where the system can be repaired in the future when necessary.

### Oregon Administrative Rules Not Met

OAR 340-71-030(1)(c)  
 (Sand Filter 340-71-037(4)(e)(B))

OAR 340-71-020(1)(b) and  
 (2)(d)(B)(h)(i)(j)  
 (Sand Filter 340-71-037(4)(b))

OAR 340-71-020(3)(a)  
 (Sand Filter 340-71-037(4)(b))

The above cited rules are enclosed for your information.

Mr. Gary T. Hubbard  
Page 2  
July 18, 1980

Please note that the area of high ground is currently acceptable for installation of a standard subsurface system to serve a three (3) bedroom dwelling. It is understood however, that you plan to construct a tri-plex if possible and have secured a construction loan for the structure. Therefore, you wish to pursue a variance to allow construction of the tri-plex.

Although your proposed site does not meet current rules for standard disposal systems to serve the proposed use, it may be possible to approve specific rule variances that would allow development.

To assist in the variance application, it would help if you could provide the following:

1. Review your building plans and determine what location and dimension limitations you can live with regarding west setback and the farthest west the structure could be located.
2. Please bring your plans to the variance hearing on July 23, 1980 (a copy for our files would be helpful).

The Department will likely consider variances to allow installation of a sand-on-sand fill at least 14 to 24 inches deep. The design may be a system of shallow, narrow, pressurized disposal trenches.

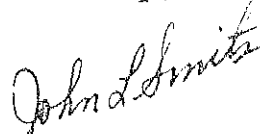
The variance officer may consider the depth to the permanent water table to be a condition that must be monitored through the next winter season. It is difficult to predict the highest level the water table will reach. Therefore, you must be advised that the chances of the variance being granted are 50-50 at this time. It is my understanding you wish to proceed anyway.

When the variance officer is assigned the completed application, he has by statute thirty (30) days to schedule the hearing and forty-five (45) days after the hearing to reach a decision. After the decision has been made, if approved, a permit cannot be issued for an additional twenty (20) days to allow for possible appeals. It could take this long, but usually doesn't.

Mr. Gary T. Hubbard  
Page 3  
July 18, 1980

If you have any questions regarding this letter or your property, please feel free to contact me at our North Coast Branch Office at 3600 E. Third Street, Tillamook, Oregon 97141; or you may call me at 842-6637.

Sincerely,



John L. Smits, R.S.  
Environmental Analyst

JLS:lm  
Enclosures

cc: C. H. Gray, Northwest Region, DEQ  
T. J. Osborne, Subsurface Section, DEQ  
Doug Marshall, Tillamook County  
Assessor's Office, Tillamook County

bcc: Ken Kimsey, Lincoln County



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

November 18, 1980

CERTIFIED MAIL

• Mr. Gary T. Hubbard  
 Taiyo Corporation Etal  
 2340 S. W. Hoffman Street  
 Portland, OR 97201

Re: WQ-888-Variance Denial  
 T.L. 3600; Sec. 1DD;  
 T. 48; R. 11W, W.M.;  
 Tillamook County

Dear Mr. Hubbard

This correspondence will serve to verify that your requested variance hearing, as provided for in Oregon Administrative Rules, Chapter 340, Section 75-045 was held July 23, 1980.

You have requested variance from the Oregon Administrative Rules, Chapter 340, Sections 71-020(1)(d), 71-020(3)(a), 71-030(1)(c), 71-030(1)(h), and 71-030(4)(f)(F).

Just prior to the public information gathering hearing I visited the proposed site to gather soils and topographical information relevant to your variance proposal. The proposed drainfield site is located on a deflation plain. Two (2) test pits were provided for my review. The first pit's profile exhibited twenty (20) inches of unconsolidated sand, twenty-two (22) inches of mottled unconsolidated sand over unconsolidated black sand. The second pit exhibited fifteen (15) inches of siltstone fill, twenty-five (25) inches of unconsolidated sand with mottling occurring at forty (40) inches, over unconsolidated black sand. Water was observed at seventy-seven (77) inches below ground surface. Mottling is used to estimate the depth of the seasonal high groundwater level expected during the winter and spring months. The natural ground slope of the property was nearly level. A permanently perched water table may come as close as twenty-two (22) inches from ground surface.

To overcome the site development limitations you, with the aid of Mr. John Smits our the North Coast Branch Office, have proposed to remove fifteen (15) to eighteen (18) inches of siltstone fill and replace it with twenty-four (24) inches of sand fill. A low-pressure distribution system with six hundred (600) lineal feet of lateral piping, one foot wide trenches, eighteen (18) inches deep and three feet (3') apart would then be installed in the sand fill. This system was designed to serve a triplex with a maximum daily sewage flow of six hundred (600) gallons.

Mr. Gary T. Hubbard

November 18, 1980

Page 2

Variance 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. Sand is a very rapidly draining material, its ability to remove pathogenic agents from the sewage effluent before discharging into the shallow permanent groundwater is questionable. I am not yet convinced that a modified sewage system (pressure seepage trenches) can be installed so as to provide sufficient depth of unsaturated sand above the permanently perched water table to prevent degradation.

Therefore, based on my evaluation of the verbal and written testimony contained in the record, I am not convinced that the proposed drainfield will function in a satisfactory manner so as not to cause pollution of public waters of the state. Your variance request is regretfully denied.

As discussed with you, Tillamook County personnel will monitor water levels on your property through the winter and spring months. The monitoring would normally be completed on or before April 30. Tillamook County staff must keep a record of their observations, and when complete provide me with a copy of their monitoring data. A forthcoming report from Mr. Kent Mathiot, of the Department of Water Resources, on the Tierra Del Mar's aquifer may be of some help. I will review this data, and may reconsider this decision if the data so warrants.

Pursuant to OAR 340-75-080, my decision to deny your variance request 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, Box 1760, Portland, Oregon 97207, within twenty (20) days of the date of the certified mailing of this letter.

Please feel free to contact me at 229-5289 if you have questions regarding this decision.

Sincerely,

Michael G. Ebeling  
Subsurface Sewage Systems Specialist  
Subsurface and Alternative  
Sewage Systems Section  
Water Quality Division

ME:G  
XDD18

cc: Douglas Marshall, Tillamook County  
John Smits, North Coast Branch Office  
Greg Baesler, Northwest Region





CORPORATION

2000 SOUTHWEST HOFFMAN

PORTLAND, OREGON 97201

TELEPHONE (503) 223-1123

 RECEIVED  
 JUN 8 1981  
 Water Quality Division  
 Dept. of Environmental Quality

June 5, 1981

Mr. Michael G. Ebeling  
 Subsurface Sewage Systems Specialist  
 Subsurface and Alternative  
 Sewage Systems Section  
 Water Supply Division  
 Department of Environmental Quality  
 P. O. Box 1760  
 Portland, Oregon 97207

Re: WQ-SSS-Variance Denial  
 T.L. 3600; Sec. 1DD;  
 T. 4S; R.11W, W.M.;  
 Tillamook County

Dear Mr. Ebeling:

Regarding your letter of November 18, 1980, I am anxiously awaiting the results of your winter and spring ~~monitoring~~ MONITORING of my triplex lot as I am hoping to build soon.

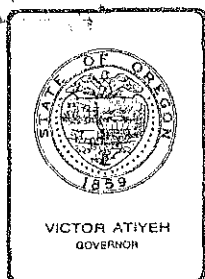
I will not detail here all the money I have lost due to D.E.Q.'s stance in this matter, especially now that it seems certain you will be approving our proposal for variance. My optimism is based on that fact that I, my soils engineer, my septic engineer, and other co-owners of the property visited the site many times during the past several months to find that there never was any water in the holes.

Please reply as soon as possible.

Most sincerely,

*Gary T. Hubbard*  
 GARY T. HUBBARD  
 President, Taiyo Corporation  
 Managing Partner, Tierra Del  
 Mar, Joint Venture

GTH:eb



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

June 9, 1981

Mr. Gary T. Hubbard, President  
TALYO CORPORATION  
2000 S.W. Hoffman  
Portland, OR 97201

Re: WQ-OSS-Variance  
Tillamook County

Dear Mr. Hubbard:

In response to your June 5, 1981 letter to Mr. Ebeling, I have contacted Tillamook County Health Department staff to determine if water levels were monitored on your property (T.L. 3600, Sec. 1 DD, T.4.S., R. 11 W.) during the past winter and spring months. I've been informed that such monitoring was not done.

Mr. Ebeling's November 18, 1980 letter states that he would review the monitoring data collected and recorded by Tillamook County staff once it was provided to him. He indicated the variance denial may be reconsidered based on what the data showed.

As Tillamook County staff did not monitor water levels on your property and therefore did not record or provide this office with such data, I find there is no basis for reconsideration of Mr. Ebeling's decision to deny your variance request.

Please feel free to contact me if you have additional questions. My telephone number is 229-6443.

Sincerely,

Sherman O. Olson, Jr.  
Assistant Supervisor  
On-Site Sewage Systems Section  
Water Quality Division

SOO:ak

cc: Tillamook County  
Northwest Region, DEQ  
North Coast Branch, DEQ



CORPORATION

BUILDERS / DEVELOPERS

2000 SOUTHWEST HOFFMAN • PORTLAND, OREGON 97201 • TELEPHONE (503) 223-1123

July 7, 1981.

William H. Young, Director  
 Department of Environmental Quality  
 522 S.W. 5th Avenue  
 Box 1760  
 Portland, Oregon 97207

ATTENTION: Environmental Quality Commissioner

Re: WQ-OSS-Variance  
 Tillamook County

Dear Mr. Young:

I received a letter from Mr. Sherman Olson dated June 9, 1981 stating that my request for variance has been denied.

Please be advised I would like to exercise my option of a hearing before the Environmental Council to appeal the Hearings Officer's denial.

The areas of concern are:

- (1) Site conditions -- no test or proof is or has been furnished to actually determine what table elevation other than 77" under the surface.
- (2) Sufficient area does exist for a replacement drainfield;
- (3) No basis in fact has been furnished for the revocation of the existing approval except being in Tillamook County;
- (4) The favorable reports that have allowed drainfields north and south of this property have experienced no repair problems, and therefore, the removal of my previously existing site evaluation is a violation of my Civil Rights with due process.

If you are willing to issue my permit for installation of the Rid-Waste System as proposed or other approved aerobic waste system etc., I will drop all appeals and claims.

Sincerely,

  
 GARY T. HUBBARD

GTH:hi

cc: Governor Victor Atiyeh  
 Senator Charles Hanlon  
 Senator Dick Groener  
 Representative Caroline Magruder  
 Representative Ted Bugas  
 Mr. Jack Cox

State of Oregon  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 RECEIVED  
 JUL 14 1981

State of Oregon  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 RECEIVED  
 JUL 13 1981

WATER QUALITY CONTROL OFFICE OF THE DIRECTOR

Same letter to the below listed Senators:

Northwest Region, DEQ  
Sherman O. Olson, Jr.  
Fred W. Heard  
Ted Hallock  
George Wingard  
Tom Hartung  
John Kitzhaber  
Rodney Munroe  
Ted Kulongoski  
Gene Wyers  
E.D. Potts  
L. B. Day  
Ed Fadley  
Wayne Fawbuch  
Tom Throop  
Verner Anderson  
Rick Bauman  
Billy Bellamy  
Bill Grannell  
Tretchen Kafoury  
Al Riebel  
Liz VanLeeuwen  
James F. Nims  
(Civil Engineer)



## Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

July 16, 1981

Mr. Gary T. Hubbard  
 TAIYO Corporation  
 2000 S.W. Hoffman  
 Portland, OR 97201

Re: WQ-SSS-Variance Appeal  
 Tillamook County

Dear Mr. Hubbard:

The Department is in receipt of your July 7, 1981 letter. There appears to be some confusion with respect to the variance proposal you provided to Mr. Ebeling. After reviewing the variance file and taped hearing record, I find no written or verbal comments suggesting that an aerobic system, such as manufactured by Rid-Waste Environmental Systems, Inc., be considered to overcome the difficult situation observed at your small lot. As the use of an aerobic system would most likely require the installation of an absorption facility to treat and dispose of the effluent discharged, the site limitations identified in the enclosed letters from Mr. Smits (dated July 18, 1980) and Mr. Ebeling (dated November 18, 1980) are still applicable.

Your request for appeal of Mr. Ebeling's decision has been scheduled for review and consideration by the Environmental Quality Commission at their regularly scheduled meeting on August 28, 1981. The meeting will be held in Portland. I will notify you of the exact location and approximate time after they are established. You will also be provided a copy of the staff report.

Please contact me at 229-6443 if you need additional information about your appeal.

Sincerely,

Sherman O. Olson, Jr.  
 Assistant Supervisor  
 On-Site Sewage Systems Section  
 Water Quality Division

SOO:1  
 XL411 (1)

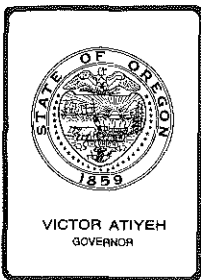
Enclosures =

Gary T. Hubbard  
July 16, 1981  
Page 2

cc: Governor Victor Atiyeh  
Senator Charles Hanlon  
Senator Dick Groener  
Mr. Jack Cox  
Senator Fred Heard  
Senator Ted Hallock  
Senator George Wingard  
Senator Tom Hartung  
Senator John Kitzhaber  
Senator Ted Kulongoski  
Senator Jan Wyers  
Senator E. D. Potts  
Senator L. B. Day  
Senator Edward Fadeley  
Senator Rod Monroe

Representative Ted Bugas  
Representative Wayne Fawbush  
Representative Tom Throop  
Representative Verner Anderson  
Representative Rick Bauman  
Representative Billy Bellamy  
Representative Bill Grannell  
Representative Gretchen Kafoury  
Representative Al Riebel  
Representative Liz Van Leeuwen  
Representative Caroline Magruder

Northwest Region Office, DEQ



## *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. H , August 28, 1981, EQC Meeting

### Weldon Lee--Request for Variance to On-Site Sewage Disposal Rules

### Background

The pertinent legal authorities are summarized in Attachment "A".

Mr. Weldon Lee applied to the Department of Environmental Quality, Astoria Branch Office, for a site evaluation for an on-site sewage disposal system on April 30, 1981. The property is identified as Tax Lot 1800, Section 28, Township 8 North, Range 10 West, Willamette Meridian, Clatsop County, and is located within the City of Warrenton. Mr. Gerald R. Campbell, Waste Management Specialist, DEQ Astoria Branch, evaluated the property on May 18, 1981. Two backhoe pits at the proposed site were examined and observed to be mottled at depths of twenty-six (26) inches and thirty-six (36) inches from the surface. A weathered saphrolite material was found in both pits at depths of thirty-one (31) inches and thirty-six (36) inches, respectively, from the surface. A third pit located approximately fifty (50) feet south of the others was found to be mottled at twenty (20) inches, with saprolite at twenty-four (24) inches from the ground surface. The mottling at this site is indicative of a high, seasonally perched water level. A deep open ditch is located approximately thirty (30) feet north of the proposed drainfield site. Mr. Lee was notified that the proposed site did not comply with the administrative rules because of insufficient room to install three hundred (300) linear feet of drainfield, with area for full replacement, while maintaining a minimum separation distance of fifty (50) feet from the roadside ditch. Further, the property is located in a geographic area within the Clatsop Plains having a moratorium imposed by the Commission, preventing the issuance of either construction permits or favorable reports of evaluation. Mr. Campbell recommended that he apply for a variance from the Clatsop Plains Moratorium (OAR 340-71-460(6)(e)), and from OAR 340-71-220(2)(i)(Table 1)(6) so as to locate a system no closer than thirty (30) feet to the ditch. Providing variances are granted, there is sufficient area in approvable soils to install six hundred (600) linear feet of drainfield (initial drainfield and future replacement).

An application for variance from the on-site sewage disposal rules (OAR 340-71-460(6)(e) and OAR 340-71-220(2)(i)(Table 1)(6)) was received by Water Quality Division on July 7, 1981. The application was found to be complete and was assigned to Mr. Charles H. Gray, variance officer. Mr. Gray scheduled a visit to the proposed site and the variance hearing for July 23, 1981. After closing the hearing, Mr. Gray evaluated the information provided by Mr. Lee and others.

#### Evaluation

The property was found to be 7.2 acres in size; however, only a small area is acceptable for on-site sewage disposal. The proposed drainfield site is located on a high bench above and east of the Skipanon River. The site evaluation is as described by Mr. Campbell. The shallow soil depth to weathered saprolite, as well as the landscape position, support the conclusion that the observed soil mottling was caused by seasonal conditions of saturation rather than a fluctuating permanent water table. Mr. Gray determined there was sufficient area with suitable soils to install a standard subsurface sewage disposal system, with equal area for future replacement, providing the daily sewage flow is limited to a maximum of three hundred seventy-five (375) gallons, while maintaining a thirty-(30) foot minimum separation distance to the roadside ditch. Although the property is within the Clatsop Plains Moratorium boundary, it is outside the Clatsop Plains aquifer boundary. The soils on the property are fine-textured silts and clays as opposed to the coarse sands within Clatsop Plains. Since the property is east of the Skipanon River, the river will act as a hydrogeologic boundary. The disposal of properly treated septic tank effluent on this property will pose no risk to the Clatsop Plains aquifer.

After evaluating this site and after holding a public information hearing to gather testimony relevant to the requested variance, Mr. Gray finds that the proposed location and type of on-site sewage disposal system to be used would function properly and not create a public health hazard or cause pollution of public waters, or degrade the Clatsop Plains aquifer.

#### Variance Officer's Recommendation

Mr. Gray recommends the Environmental Quality Commission find that strict compliance with OAR 340-71-220(2)(i)(Table 1)(6) and OAR 340-71-460(6)(e), as they pertain to Mr. Lee's proposed drainfield site, are inappropriate for cause. Special conditions to be imposed upon granting variance from the two (2) rules include:

1. The on-site system shall be located within the areas identified on the enclosed plan, Attachment "B".
2. The on-site system shall be constructed in accordance with all of the conditions listed in Attachment "C".
3. Before system construction begins, a complete application for a construction installation permit must be submitted to the Department's Astoria Branch Office, and personnel from that office must issue the permit.



Summation

1. The pertinent legal authorities are summarized in Attachment "A".
2. Mr. Lee submitted an application for site evaluation to the Department's Astoria Office. Mr. Gerald Campbell evaluated the property and determined the site did not comply with the Department's minimum standards for issuance of a construction installation permit because of a setback requirement to a roadside ditch, and because the property is within an area within the Commission-authorized Clatsop Plains Moratorium. Mr. Campbell advised that a variance application be made to the Department, with specific suggestions.
3. The Department received a variance application from Mr. Lee, which was reviewed for completeness and assigned to a variance officer, Mr. Charles Gray.
4. Mr. Gray examined the proposed site and conducted a public information-gathering hearing. After closing the hearing, Mr. Gray evaluated the record and found that an on-site sewage disposal system, limited to a maximum daily sewage flow of three hundred seventy-five (375) gallons, and installed pursuant to specific conditions, could be expected to function properly at the site. Mr. Gray recommends the Commission find that strict compliance with OAR 340-71-220(2)(i) (Table 1)(6) and OAR 340-71-460(6)(e), as they pertain to Mr. Lee's proposed drainfield site, are inappropriate for cause, and authorize a construction installation permit be issued subject to special conditions.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission adopt the recommendation of the variance officer as the Commission's findings, and grant variances from OAR 340-71-220(2)(i) (Table 1)(6) and OAR 340-71-460(6)(e).

*Bill*

William H. Young

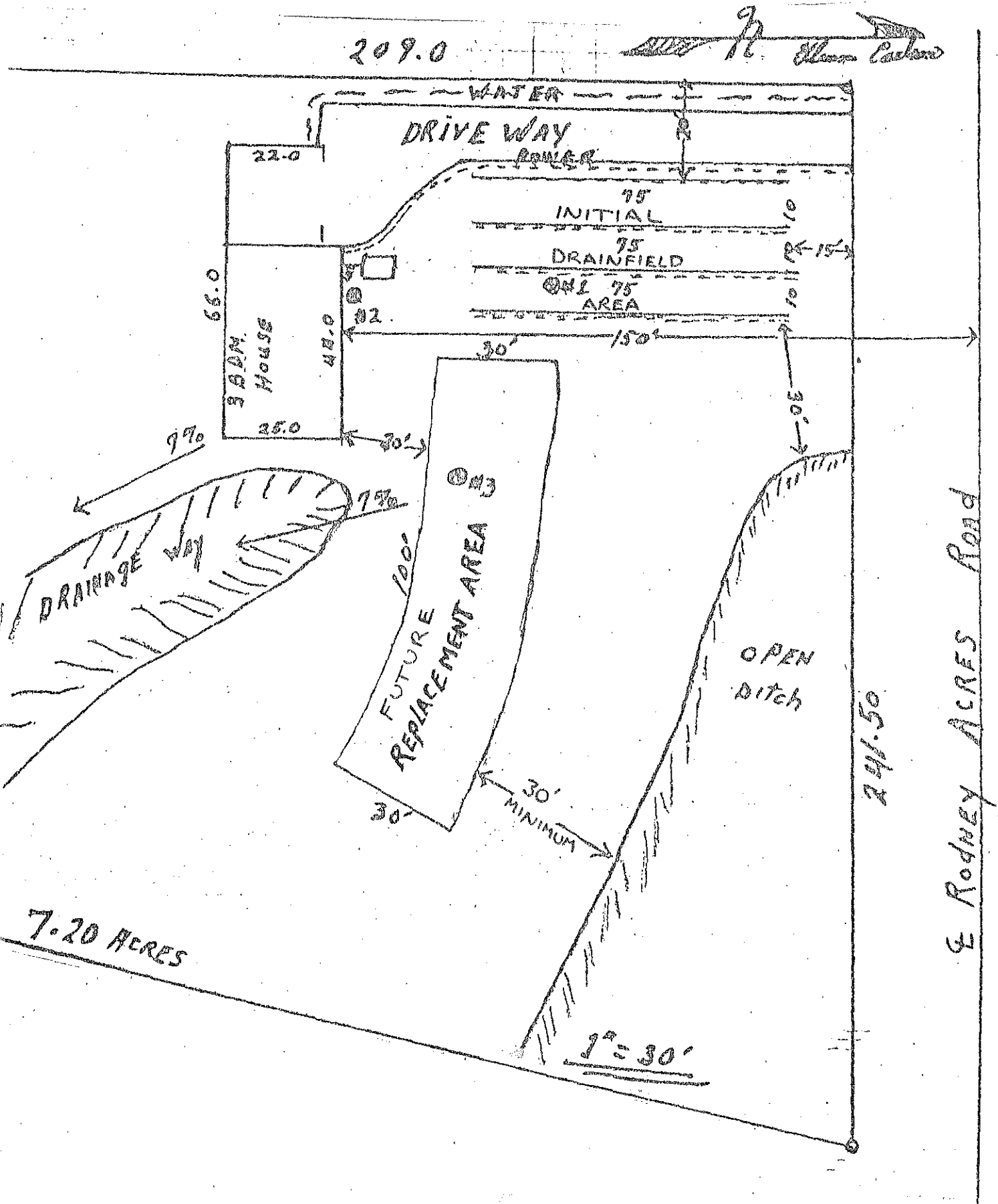
Attachments: 3

Attachment "A"  
Attachment "B"  
Attachment "C"

Charles H. Gray:c  
RC155  
229-5288  
August 6, 1981

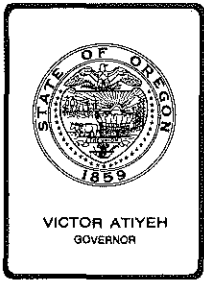
1. Administrative rules governing on-site sewage disposal are provided for by Statute: ORS 454.625.
2. The EQC has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to on-site sewage disposal system if, after hearing, it finds that strict 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. Mr. Gray was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-425.

8/4/81



1. This on-site sewage disposal system shall serve one (1) single family dwelling having an estimated sewage flow not to exceed three hundred seventy-five (375) gallons per day and no more than three (3) bedrooms.
2. A standard subsurface sewage disposal system, consisting of a 1000 gallon (minimum capacity) septic tank and three hundred (300) linear feet of drainfield, shall be installed within the area identified on the system plan (Attachment B). The disposal trenches shall not be dug deeper than twenty-four (24) inches.
3. Except as authorized by specific variance, all requirements of the Oregon Administrative Rules, Chapter 340, 71-100 through 71-600 shall be met.
4. Astoria Branch staff shall inspect the installation of this system at those stages of construction they identify as appropriate to insure proper installation.
5. The permittee shall comply with all local planning, zoning, and building ordinances.

8/5/81



## *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 I, August 28, 1981, EQC Meeting

#### Consideration of Adopting Proposed Plant Site Emission Limit and New Source Review Rules and Proposed Revocation of the following Existing Rules:

- a) Special Permit Requirement for Sources Locating In or Near Nonattainment Areas, OAR 340-20-190 through 198.
- b) Criteria for Approval of New Sources in the Portland Special AQMA, OAR 340-30-005 through 025.
- c) Specific Air Pollution Control Rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.
- d) Prevention of Significant Deterioration, OAR 340-31-105, definitions 1 through 11, 13, 14, and 17 through 22; 340-31-125; 340-31-135 through 195.

### Background

The Proposed Plant Site Emission Limit and New Source Review Rules were considered at the July 17, 1981, EQC meeting. During those deliberations the Commission voted on the following issues:

- 1 - The Commission voted to adopt language eliminating tax credits for offsets that are sold. The following language was added to the introduction paragraph of OAR 340-20-265 after the first sentence:  
". . . except any such emission reduction attributable to facilities for which tax credit has been received on or after January 1, 1981, may be banked or used for contemporaneous offsets but may not be sold without reimbursement of the tax credit."
- 2 - The Commission voted to adopt the staff recommendation to include a definition of "permanent shutdown or curtailment" in reference to the banking provisions.
- 3 - The Commission voted to delete provision 6 from the banking provisions (OAR 340-20-265) which provided for a moratorium on the withdrawal of banked emissions if reasonable further progress toward attaining standards is not maintained.
- 4 - The Commission voted to adopt the staff recommendations that LRAPA

should have the authority to establish minimum bankable emission credits which are lower than the 10 Ton per year level established in OAR 340-20-265(7).

- 5 - The Commission voted to adopt the staff recommendation to clarify language in the bubble provision [OAR 340-20-310(3)] to clarify that separate mass emission limits can be set for process, combustion and fugitive emissions and that this procedure does not preclude bubbling of those emissions within a plant site.
- 6 - The Commission voted to adopt the staff recommendation that the rule not be relaxed from EPA requirements to allow PGE Boardman Unit 1 to fall into the baseline rather than the increment.
- 7 - The Commission voted to adopt the staff recommendation that the VOC growth increment for the Medford-Ashland AQMA be retained in the rule at this time and be reconsidered at the same time the State ozone standard is considered at the October EQC meeting.
- 8 - The Commission voted to adopt a policy statement which was proposed by AOI and amended by the staff which clarifies that the Plant Site Emission Limit rule is not intended to (a) limit the use of existing production capacity, (b) cause undue hardship or expense, or (c) create inequity within a class of sources provided airshed capacity is available.

The Commission proposed to discuss the following items at the August 28, 1981, Commission meeting:

- 1 - Reconsideration of the application of tax credit to offset, bubbling, and banking situations, including an explanation of the dry cleaner offset and tax credit which was discussed.
- 2 - Other unaddressed issues raised in testimony at the July 17, 1981, EQC meeting.
- 3 - Other unaddressed issues raised in correspondence received after the Workshop of June 30 and July 1, 1981.
- 4 - Remaining issues in the addendum report to the July 17, 1981, staff report.
- 5 - Staff responses to comments from EPA (July 17, 1981 staff report).

#### Discussion

##### Issue 1. Tax Credits Related to Offsets, Banking and Bubbling.

Oregon Tax Credit Statutes provide that facilities are eligible for tax credits if they are designed, constructed, and operated with a substantial purpose of preventing, controlling, or reducing pollution. A project need not necessarily result in a net, permanent reduction of emission into an airshed in order to be eligible for tax credit.

The following scenerios could arise under the tax credit program:

1. An existing source installs controls decreasing emissions.
2. A new source is built and applies for tax credit for the cost of the pollution controls.
3. An existing source installs controls but uses the emission reduction for internal offsets.
4. An existing source installs controls and banks or sells the emission reductions.

The case of a new pollution source in an airshed, where tax credits are commonly given for the pollution control facilities, results in a net increase in emissions because the pollution control facilities are not necessarily 100% efficient. Cases 3 & 4 above could result in a short-term reduction in emissions, but if the emission reductions are eventually used as offsets, net emissions would return to their original level except that under the proposed rules the net air quality benefit criterion would have to be satisfied.

Oregon's tax credit laws as they apply to new or expanded sources appear to be, in effect, a State subsidy for new development. They reduce the overall cost of constructing a new industrial facility. Thus to the extent that offsets, banking, and bubbling encourage and allow new industrial growth and development, tax credits associated with these activities would appear to be as justified as they are for new source applications.

The case that was cited in the last meeting of a dry cleaner that installed controls and sold the offset was incorrectly cited in that Preliminary Certification for Tax Credit was granted but the Final Certification has not been granted at this time. Under present application of the tax credit statutes however, it appears that this tax credit should be granted if an application is filed.

Legally, there is some question as to whether the Commission can adopt regulations limiting or revoking tax credits for pollution control equipment in those instances where the resultant emission reductions are sold or traded.

Administratively, the procedures for reimbursement to the State of previously granted tax credits for which the emission reduction was sold would be complex. A program for tracking tax credits from year to year up to the point that the emission reductions were sold and then requiring reimbursement would have to be established. An equitable reimbursement formula would also be difficult to develop considering the offset might be sold immediately or after several years of equipment operation and then only a portion of the emission reduction receiving the tax credit might be sold.

The Department recommends that the Commission reconsider the tax credit motion that was adopted and allow credits for pollution control equipment which produces emission reductions that are sold just as for other pollution control equipment. If it is still felt that the tax credit program should be altered, it is recommended that the Commission consider adopting specific regulations governing tax credits, separate and apart from the proposed PSEL/NSR rules, if it is established that the Commission has the authority to do so.

Issue 2. Plant Site Emission Limits for Specific Sources Discussed at the Last Meeting.

At the last meeting, two sources were cited as having particular problems with the proposed rules. These were the Martin-Marietta plant at The Dalles and the Oregon Steel plant in Portland. The staff has met with both of these companies to see how the proposed rules would apply in those particular cases.

Martin-Marietta

The Martin-Marietta plant has operated at essentially a constant production rate except during 1978 and 1979 when a new process resulted in increased emissions. However, because of improved procedures and controls on the new process since 1978, the emissions of particulate, sulfur dioxide and fluorides have decreased substantially. Particulate emissions have been reduced by approximately 15% and sulfur dioxide emissions by approximately 25%. Under the proposed rules, the Plant Site Emission Limit would be based on the 1977 or 1978 baseline emission rates. Martin-Marietta would be in a particularly good position under the proposed rules because more airshed capacity has been created since 1978. If the company wishes to expand they would be subject to Prevention of Significant Deterioration (PSD) review just as any other source in the country would be. However, because Martin-Marietta has created emission decreases, future expansion would be made easier under the proposed rules because those decreases could be used as internal offsets.

Oregon Steel

The Oregon Steel plant has operated at widely varying production rates from year to year. Oregon Steel would prefer to use their highest year, 1979, as the baseline year for the pelletizing plant rather than 1977 or 1978. Their current permit, which was negotiated and issued this year, allows emissions of 67 Tons/year for the pelletizing plant. These emissions were based on a 1979 production of 304,000 Tons. Their highest production rate prior to 1979 was 245,000 Tons in 1975. The plant was down for considerable periods in 1976, 1977, and 1978 because of market conditions, equipment problems, and a strike. If the 1975 production figures



are used to reflect normal operation as provided by the proposed rules, an actual baseline emission rate of 57 Tons/year would result. Oregon Steel is worried that the rule would therefore curtail their current production.

The proposed rule allows flexibility in two areas for cases like Oregon Steel. First, the rule allows the addition of 10% of the baseline emission rate if the PSEL was previously negotiated which would bring the PSEL to 63 Tons/year. Secondly, the rule allows the source to request an increased level up to a significant emission increase of 25 Tons/year for particulate. Therefore, Oregon Steel's recently negotiated permit and the PSEL contained therein would be sustained since it meets the criteria set forth in the proposed rule.

Issue 3. Control Strategy Baseline for Plant Site Emission Limits.

The Department, in response to several comments, wishes to clarify that the control strategy regulations developed for the nonattainment areas may be used as the baseline for establishing the Plant Site Emission Limits.

Mr. William H. Carlson, in his July 13, 1981 letter, cited the case of a hogged fuel boiler that was meeting a 0.04 grain/scf limitation in the 1977 to 1978 baseline period and the Commission subsequently adopted a 0.05 grain/scf limitation as part of the control strategy. Under the proposed rules, the Plant Site Emission Limit would be based on the 0.05 grain/scf limitation because that limitation was used in developing the control strategy. In effect, a growth margin representing the difference between 0.04 and 0.05 has been established in the adopted strategy for the particular hogged fuel boiler cited and meets the criteria for setting PSEL under the proposed rules.

Issues 4 and 5. (See the July 17, 1981, staff report attached.)

Summary

1. At the July 17, 1981, EQC meeting, the Commission approved several changes to the proposed PSEL and NSR rules and identified five areas for further discussion at the August 28, 1981, EQC meeting.
2. It appears that the tax credit motion adopted at the last meeting should be reconsidered in light of legal, equity, and administrative problems concerning this motion.
3. The application of the Plant Site Emission Limit Rule to Martin-Marietta and Oregon Steel was found not to create particular problems for those sources.
4. The Department has clarified, in response to several commentors, that the proposed rules allow specific control strategy regulations to be used as

the baseline in establishing Plant Site Emission Limits.

5. The Commission indicated at its July 17, 1981, meeting its intent to continue discussion of the remaining issues in the Addendum Report to the July 17, 1981, staff report and to discuss staff responses to comments from EPA as set forth in the July 17, 1981, staff report.

Director's Recommendation

Based on the above Summary and the Summaries of the June 5, 1981 and July 17, 1981 staff reports, it is recommended that the Commission adopt the proposed rules (OAR 340-20-220 through 275 and OAR 340-20-300 through 320) as amended and attached hereto and revoke the existing rules for Plant Site Emission Limits and New Source Review.

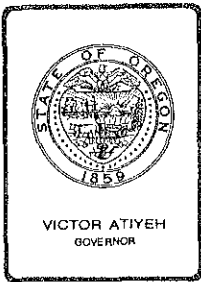
*Bill*

William H. Young

Attachments:

1. July 17, 1981 Staff Report (without attachments)
2. July 17, 1981 Addendum Staff Report
3. August 28, 1981 Revised Proposed Rules
4. Letters of comment from EPA, SOTIA, City of Portland, Port of Portland, AOI, and LRAPA

L.Kostow:ahe  
(503) 229-5186  
August 6, 1981



## 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 O, July 17, 1981, EQC Meeting

Consideration of Adopting Proposed Plant Site Emission Limit and New Source Review Rules and Proposed Revocation of the following Existing Rules:

- a) Special Permit Requirement for Sources Locating In or Near Non-Attainment Areas, OAR 340-20-190 through 198.
- b) Criteria for Approval of New Sources in the Portland Special AQMA, OAR 340-30-005 through 025.
- c) Specific Air Pollution Control Rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.
- d. Prevention of Significant Deterioration, OAR 340-31-105, definitions 1 through 11, 13, 14, and 17 through 22; 340-31-125; 340-31-135 through 195.

### Background

A public hearing concerning proposed revisions to the Plant Site Emission Limit and New Source Review Rules was held before the Commission April 24, 1981. The issues addressed in the public testimony and in the written comments that were received were discussed in a staff report for the Commission meeting of June 5, 1981 (see Attachment 1). Several revisions to the draft rules were proposed in that staff report along with a recommendation for rule adoption. The Commission delayed action on the proposed rules. Subsequently, a workshop was held before the Commission on June 30 and July 1, 1981, at which each issue in the June 5 staff report was reviewed in detail. As a result of the workshop and of comments received from EPA concerning the draft rules (see Attachment 2), several other revisions are proposed as discussed below. All changes proposed since the April 24 public hearing are shown in Attachment 1 (additions underlined and deletions bracketted). Those areas in which proposed changes occurred after the June 5 workshop are indicated by an asterisk (\*).

Discussion

Response to comments from workshop

Comment 1

The criteria for establishing when a permanent shutdown or curtailment occurs (OAR 340-22-265(4)) should be based on a specific action by the applicant or the Department.

Response

It is proposed that the following language be added to OAR 340-20-265: A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked, or expires without renewal pursuant to the procedures and criteria established in OAR 340-14-005 through 050.

Comment 2

The moratorium on the use of banked emission reductions which may be invoked by the Commission pursuant to OAR 340-20-265(6) should have a limited duration and the moratorium period should not count against the ten-year banking period.

Response

It is proposed that OAR 340-20-265(6) be revised to read as follows: The Commission may declare a moratorium not to exceed two years in duration on the withdrawals of emission reduction credits from the bank if it is established that reasonable further progress toward attainment of air quality standards is not being achieved and no other control strategy is available. The time period involved in such a moratorium shall not count against the ten-year banking period specified in OAR 340-20-265(2).

Comment 3

Lane Regional Air Pollution Authority (LRAPA) should have the authority to establish minimum bankable emission credits which are lower than the ten ton per year level established in OAR 340-20-265(7).

Response

It is proposed that OAR 340-20-265(7) be reworded as follows: Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows:

- a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2

- of OAR 340-20-225(22), and
- b) In Lane County the Lane Regional Air Pollution Authority may adopt lower levels.

Comment 4

It should be clear that OAR 340-20-310(3) which allows separate permit limits to be set for process emissions, combustion emissions, and fugitive emissions does not preclude bubbling of those emissions within a plant site.

Response

It is proposed that the reference to "PSELS" be changed to "mass emission limits" such that OAR 340-20-310(3) would read as follows: Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.

Comment 5

The question of whether the PGE Boardman facility falls into the baseline or the increment has not been resolved to PGE's satisfaction. The draft rules would place this plant in the increment as EPA rules appear to require.

Response

PGE has relied on a 1975 letter from EPA in arguing that Boardman falls in the baseline rather than the increment. The EPA regulations have been changed and it now appears that Boardman falls into the increment. The Department has expressed concern about this change and has requested a ruling from EPA to clarify this point (see Attachment 3). It is recommended that the draft rule not be relaxed on this question unless EPA agrees to approve such a relaxation.

Comment 6

A question was raised as to the appropriateness of the growth increment for Volatile Organic Compounds (VOC) for the Medford-Ashland AQMA (OAR 340-20-240(7)), since a plan to achieve the State ozone standard has not yet been developed. Concern was also raised that EPA sanctions may apply if the State ozone standard is not met.

Response

Even though a plan to meet the State ozone standard has not been adopted, it is clear that EPA sanctions would not apply. Sanctions are authorized only for the Federal health standards.

The VOC growth cushion was adopted by the EQC as part of the Medford ozone SIP and appears in the New Source Review Rule for informational purposes. If the EQC wishes to reconsider this growth cushion, it would seem appropriate to do so at the same time the ultimate fate of the State ozone standard is decided (scheduled for the October, 1981, EQC meeting). This information was conveyed by letter to the Jackson County Board of Commissioners (Attachment 4).

Response to Comments from EPA

The Department proposes that the following revisions be made to satisfy the mandatory requirements of EPA from Enclosure 1 of their letter dated June 3, 1981 (Attachment 2).

EPA Comment 1

"An important requirement for emission trades within and between sources (bubbles and offsets), is that the traded emissions have the same or reduced impact on ambient air quality. The DEQ rules require such in 340-20-315(3) and 340-20-260 but fail to include provisions as to how it is to be demonstrated. The DEQ rules must require appropriate dispersion modeling for TSP and SO<sub>2</sub> trades with a sophistication which is dependent upon the type and location of the trades involved."

Response

The Department proposes that the wording underlined in OAR 340-20-260(1) and 340-20-315(3) be added to clarify that dispersion modeling may be required to show that emission trades for bubbles and offsets are appropriate.

EPA Comment 2

"Existing sources in non-attainment areas must employ, at a minimum, Reasonably Available Control Technology (RACT) for the non-attainment pollutants. To be approved, the state bubble rules (OAR 340-20-320) must require that the baseline emissions for bubbling in non-attainment areas be equivalent to RACT on a plant-wide basis."

Response

The staff believes that the Department rules require all existing sources in non-attainment areas to employ Reasonably Available Control Technology (RACT). No change is required to the bubble rules (OAR 340-20-320). However, a demonstration that RACT controls have been required will be submitted to EPA.

EPA Comment 3

"New and modified major stationary sources may construct only if they either employ Best Available Control Technology (BACT) or meet the Lowest Achievable Emission Rate (LAER), whichever is applicable. However, sources may avoid these requirements by accepting voluntary permit limitations on their hours of operation or production rates or both provided that they will be required to retro-fit BACT or LAER should they ever desire to relax the original limitations on hours of operation or production rates. The DEQ definition of "major modifications" in OAR 340-20-225(14) requires such retro-fit control. However, the DEQ has in OAR 340-20-250(3) inappropriately exempted these sources from BACT. The language in 340-20-250(3) must be changed so that it does not exempt from BACT requirements those sources which are proposing increases in hours of operation or production rates above levels which are used to avoid BACT requirements in the first place."

Response

The Department proposes that language be added to OAR 340-20-250(3) to specify that the exemption does not apply to sources that received permits after January 1, 1978. OAR 340-20-250(3) is now proposed to be worded as follows with the added wording underlined: Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a non-attainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

The Department feels that the remaining EPA comments can be adequately addressed at a later time without specific wording changes in the rule.

Summation

1. Several changes have been made in the proposed Plant Site Emission Limit and New Source Review Rules in response to comments raised in the Commission workshop as follows:
  - a. A definition of permanent shutdown or curtailment has been added.
  - b. The moratorium period on the use of banked emission credits has been limited to two years and the moratorium period no longer

- counts against the ten-year banking period.
- c. Authority is given to LRAPA to establish minimum bankable amounts less than 10 tons/year.
  - d. A clarification is added to the provision which allows separate permit limits for process, combustion, and fugitive emissions to insure that this provision does not preclude bubbling among those emissions.
  - e. The Department has sent a letter to EPA requesting a determination on whether PGE Boardman falls in the baseline or the increment.
  - f. The VOC growth increment for the Medford-Ashland AQMA should be reconsidered at the October EQC meeting.
2. Several changes have been proposed in response to comments from EPA as follows:
- a. Wording is added to clarify that dispersion modeling may be required for bubbling and offsets.
  - b. The Department will submit a demonstration of equivalency on EPA's requirement for a RACT baseline for bubbling.
  - c. Wording has been added to satisfy EPA's comment that a conflict existed in the draft rules regarding BACT for sources increasing operating levels.
3. Other changes to the proposed rules which were made subsequent to the April 24, 1981, hearing were discussed in the June 5, 1981, staff report (Attachment 1).

Director's Recommendation

Based on the above Summation and the Summation of the June 5, 1981, staff report, it is recommended that the Commission consider adopting the proposed rules (OAR 340-20-220 through 275 and OAR 340-20-300 through 320) and revoking the existing rules for Plant Site Emission Limits and New Source Review.

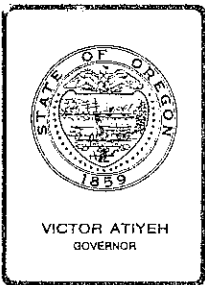
William H. Young

Attachments:

1. Staff report from June 5, 1981, meeting including proposed rules and revocations, Notice of Public Hearing, and Statement of Need for Rulemaking
2. Letter from EPA dated June 3, 1981
3. Letter to EPA regarding PGE Boardman
4. Letter to Jackson County Commissioners

L.Kostow:ahc  
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July 8, 1981





## 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. O, July 17, 1981, EQC Meeting

#### Addendum Report Responding to Letters Received From:

1. Tom Donaca, Associated Oregon Industries
2. Roland Johnson, Portland General Electric
3. James L. Johnson, City of Oregon City

### Background

The Commission has received several letters in the past week providing comments on the proposed Plant Site Emission Limit and New Source Review rules. The concerns raised in three of these letters are addressed in this addendum to the staff report.

### Discussion

#### I. Response to Concerns Raised by Tom Donaca in a Letter Dated July 9, 1981.

##### 1. Suggested Policy Amendment (340-20-300)

The assumption made by Mr. Donaca that the Plant Site Emission Limit (PSEL) is "essentially a management" tool is incorrect. The PSELs are proposed as a regulatory tool providing a legal baseline for administering several programs including control strategies, PSD increments, banking, bubbling, and offsets. Mr. Donaca has suggested that the Commission adopt a policy statement clarifying the intent of the rule. Mr. Donaca's suggested language could be modified as follows to reflect what the Department believes to be the intent of the rule (proposed deletions are bracketted and additions are underlined).

##### 340-20-300 - Policy

The Commission recognizes the need to establish a more definitive method for [measurement of] regulating increases and decreases in air emissions of air quality permit holders as contained in OAR 340-20-301 through 340-20-320. However,

by the adoption of these rules, the Commission does not intend to (a) limit the use of existing production capacity of any air quality permittee; (b) cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or [(3)] (c) create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. [if, the conditions or the permit in effect on the date of adoption of these rules would have allowed the use of the productive capacity. Notwithstanding any other provision of OAR 340-20-301 to 340-20-320 the department is authorized to modify the conditions of these rules to accommodate the provisions of this section on a case-by-case basis, and any permittee unable to resolve any issue involved in this rule may appeal to the Commission for resolution.] PSELs can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

Such language, however, would not appear to add or subtract in any substantial way to the existing proposed rule. Therefore, it would not seem necessary to adopt it. Clearly, the last sentence of Mr. Donaca's suggestion should be deleted as the EQC cannot abrogate its rule making power to the Department and appeals can be made to the EQC under current variance procedures as discussed at the recent workshop.

2. Suggested OAR 340-20-310(1) Deletion

A deletion bracket was inadvertently left out and Mr. Donaca's request to delete the second sentence is in accordance with the Department's intent. The entire second paragraph has also been deleted. It should be noted that the substance of this language is contained in the material that has been added (shown underlined). The Department believes that the option should be kept open to establish PSELs at a rate different than the baseline when they are initially established to minimize workloads and provide the best service to permit holders.

3. Request to Substitute EPA Definition of Major Modification

EPA's definition of "modification" exempts some types of emission increases from detailed PSD analysis but does not exempt such increases from being counted against the PSD increment. Our proposed definition of "modification" requires PSD review of any physical change in the source or any change in the method of operation which results in a significant emission rate increase. Fuel switching or increases in hours of operation would not require full PSD review under our proposed rules as long as the source had the physical capability of making such a change. The

fact that such increases consume increment, however, is reflected in EPA's definitions of "Baseline Concentration" and "Actual Emissions" (see paragraphs 1 and 2 of Attachment 1). Since fuel switches and increases in hours of operation do not require full PSD review but must be counted against the increment, the Department believes some review of these changes must be made at the State level to identify the magnitude of potential increment consumption and impacts on air quality standards. The Department's proposed Plant Site Emission rule requires a review of such increases of less magnitude than a full PSD review. Reviews of fuel switches and increases in hours of operation and other such emission increases are considered highly necessary in Oregon since many of our permits do not adequately address potential major increases in emissions from such changes as was discussed at the workshop. EPA's new PSD rule approach was dictated by the Alabama power court case and clearly recognizes the necessity of including operation changes like voluntary fuel switches and increased hours of operation in the increment as evidenced by EPA's PSD rule preamble (paragraphs 3 and 4 of Attachment 2).

EPA does allow in its definition of "actual emissions" (paragraph 2 of Attachment 1) the presumption that source specific allowable emissions in permits are equivalent to actual emissions but EPA clearly states that source specific emission limits represent actual emissions (paragraph 5 of Attachment 3). In cases when source specific emission limits are not representative of actual emissions as in some Oregon permits, EPA clearly directs the states to revise permits (or the SIP) to reflect actual emissions (paragraph 6 of Attachment 3). This is what DEQ is proposing to do in its PSEL rule.

In summary, EPA's definition of major modifications is inappropriate for Oregon since it would allow many potential major emission increases to occur (through fuel switching, increased operation, etc.) without providing an analysis of whether such changes would violate PSD increments, air quality standards, or reasonable future program requirements. This definition would also allow consumption of PSD increments in some areas without public notice or public participation.

4. OAR 340-20-225(23) Request to Raise Significant Impact Criteria

The Department believes an impact criteria lower than EPA's is justified on the basis of trying to prevent significant eroding or control strategy effectiveness. Many control strategies, out of necessity, are composed of elements which produce small improvements.<sup>3</sup> If just a few sources were allowed to construct at a 1 ug/m<sup>3</sup> TSP impact, for instance, the effectiveness of many severe

and expensive control strategies would be nullified and a search for new strategies would likely be even more severe and costly. For example, the effectiveness of a few prominent strategies is listed below.

	<u>TSP Strategy Effectiveness</u> (ug/m <sup>3</sup> annual average)
<u>Medford</u>	
Weatherization of 50% of homes	3.2
Upgrading Veneer dryer controls	1.4
Clean-up winter sanding	0.4
<u>Eugene</u>	
Pave 10 miles of unpaved roads	1.0
10% reduction in Vehicle Miles Traveled	1.6
Dry wood cyclone controls	0.08
<u>Portland</u>	
Construction site trackout control	0.7
Weatherization of 30% of homes	0.68
Street sweeping	2.56

5. Request to Liberalize Source Shutdown Requirement in Banking Provision

This issue has been addressed in the workshop and tentatively resolved with the EQC by providing a definition of permanent source shutdown or curtailment (see July 17 staff report).

6. Request to Lower the Minimum Banking Limit to 5 Tons

This matter has been discussed several times with the EQC and the Department did reluctantly modify its proposed 25 Ton limit to 10 Tons, but pointed out the inaccuracies and uncertainties introduced when lowering the limits. A further reduction would add further uncertainty to the Banking program.

7. OAR 340-25-265(3) Delete Section on Reserved Control Strategies

Mr. Donaca is correct that "or those that are reserved for control strategies pursuant to OAR 340-20-280" should be deleted from OAR 340-20-265(3).

II. Response to Concerns Raised by PGE Letter Dated July 7, 1981.

1. PGE Boardman Baseline Question

EPA ruled in 1975 that PGE Boardman Unit 1 was not subject to the preconstruction review provisions of PSD because construction had commenced prior to June 1, 1975. While Unit 1 was not subject to review, the emissions from Unit 1 consume increment because construction commenced after January 6, 1975, the date on which the

Clean Air Act requires that increment tracking begin for such sources (see EPA letter, Attachment 4). Thus, there does not appear to be an inconsistency in EPA's handling in this matter. Exemption from PSD review does not convey exemption from counting against the increment. This was true under regulations in effect in 1974 and under the Clean Air Act Amendments of 1977. EPA cannot grant an exemption from this requirement imposed by Congress.

Even though Unit 1 consumes increment, the amount of increment consumed is only 10% of the air quality standard (as required by the EFSC site certificate). Since new units must have sulfur dioxide removal systems under the present New Source Performance Standards to decrease emissions by 70%, any new units should consume even less increment. The Department estimates that approximately five additional 500 megawatt units could be installed at the Boardman site without causing exceedances of the sulfur dioxide increments and without retrofitting sulfur removal on Unit 1.

2. Combustion Turbine Question

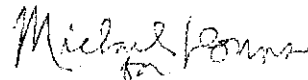
The Department believes that the proposed Plant Site Emission Limit rule provides adequate flexibility to establish limits for the PGE turbines. PSD increment can be allocated for such facilities at the time the initial Plant Site Limit is established. The Department sees no need to establish a special category for combustion.

III. Response to Concern Raised by James L. Johnson, Jr. in Letter Received July 9, 1981

Exemption from Offsets for Resource Recovery Facilities

The proposed rules provide that Resource Recovery Units may be granted an exemption provided that all offsets that are reasonably available have been obtained. The advantage of this approach is that this provision may help to recover valuable material and energy resources. This exemption is allowed by EPA rules.

It should be noted that this exemption is not automatic and that all available offsets must be secured. In the case of the proposed Oregon City facility, the Department believes that substantial offsets are available from Publishers and from other sources and the Department has so indicated to the Metropolitan Services District. The Department's policy with respect to this exemption is to require offsets to the maximum extent reasonably available.

  
William H. Young  
Director

Attachments:

- 1, 2, & 3 - Exerpts from EPA rules
- 4 - Letter from EPA

LKostow:ahe  
229-5186  
07-16-81

design, equipment, work practices or operation, and shall provide for compliance by means which achieve equivalent results.

(13)(i) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (b)(13)(ii);

(b) The allowable emissions of major stationary sources which commenced construction before January 8, 1975, but were not in operation by the applicable baseline date.

(ii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(a):

(a) Actual emissions from any major stationary source on which construction commenced after January 8, 1975; and

(b) Actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14)(i) "Baseline date" means the earliest date after August 7, 1977, on which the first complete application under 40 CFR 52.21 is submitted by a major stationary source or major modification subject to the requirements of 40 CFR 52.21.

(ii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1) (D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(15)(i) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1) (D) or (E) of the Act in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than  $1 \mu\text{g}/\text{m}^3$  (annual average) of the pollutant for which the baseline date is established.

(ii) Area redesignations under section 107(d)(1) (D) or (E) of the Act cannot intersect or be smaller than the area of

impact of any major stationary source or major modification which:

(a) Establishes a baseline date; or  
(b) Is subject to 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

(16) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(i) The applicable standards as set forth in 40 CFR Parts 60 and 61;

(ii) The applicable State Implementation Plan emissions limitation, including those with a future compliance date; or

(iii) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(17) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 and 40 CFR 51.24.

(18) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(i) Emissions from ships or trains coming to or from the new or modified stationary source; and

(ii) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(19) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(21)(i) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subparagraphs (ii)-(iv) below.

(ii) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(iii) The Administrator may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(iv) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(22) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(23)(i) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

*Pollutant and Emissions Rate*

Carbon monoxide: 100 tons per year (tpy)  
Nitrogen oxides: 40 tpy  
Sulfur dioxide: 40 tpy  
Particulate matter: 25 tpy  
Ozone: 40 tpy of volatile organic compounds  
Lead: 0.6 tpy  
Asbestos: 0.007 tpy  
Beryllium: 0.0004 tpy  
Mercury: 0.1 tpy  
Vinyl chloride: 1 tpy  
Fluorides: 3 tpy  
Sulfuric acid mist: 7 tpy  
Hydrogen sulfide (H<sub>2</sub>S): 10 tpy  
Total reduced sulfur (including H<sub>2</sub>S): 10 tpy  
Reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy

(ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Act that paragraph (b)(23)(i) does not list, any emissions rate.

sources and since section 169(4) should be used in establishing baseline concentrations, the court's decision supports EPA's requirement that baseline concentrations reflect actual air quality. In addition, the court implicitly affirmed EPA's approach in ruling that EPA correctly excluded from baseline concentrations emissions increases due to voluntary fuel switches after the baseline date. Since actual air quality on the baseline date would not reflect these increases, their exclusion from baseline concentrations is consistent with EPA's actual air quality approach to baseline concentrations. Finally, the court noted Congress' rejection of a House bill that would have allowed certain source emissions to be included in baseline concentrations, even though the emissions have not occurred by the baseline date. See 13 ERC 2026. The court concluded that Congress considered and rejected an approach that would depart from actual air quality in calculating baseline concentrations, except in the limited circumstances set forth in section 169(4).

In its September 5, 1979 response to the court's decision, EPA proposed to delete the uniform August 7, 1977 baseline date and to define baseline date as the date of the first complete application, after August 7, 1977, for a PSD permit to construct or modify a major stationary source in an area subject to PSD requirements. As part of that definition, EPA proposed to define baseline area as all parts of an Air Quality Control Region (AQCR) designated as attainment or unclassifiable under section 107(d) of the Act. Under that definition, an application of a major stationary source to construct in any part of an AQCR, designated as attainment or unclassifiable would trigger the baseline date for both SO<sub>2</sub> and PM in all portions of the AQCR.

EPA's proposed definition of baseline area was based in part on its consistency with the term "area" as used in section 107, which requires air quality designations for AQCRs or portions thereof. The definition was also intended to avoid implementation problems that might result from having different baseline areas and dates within the same AQCR. EPA proposed, however, to allow states some flexibility in defining baseline area. See discussion at 44 FR 51942.

EPA further proposed to retain its current definition of baseline concentration but asked for comment on a particular problem specific to the Gulf Coast areas (see 44 FR 57107, October 4,

1979 and discussion in Increment Consumption). EPA's September 5 proposal specifically asked for comment on two aspects of its proposal: (1) whether baseline area should be defined as clean portions of the AQCR in which a source applies for a permit, and (2) whether a permit application should trigger the baseline date only in the clean portions of the AQCR in which the source would locate or also in clean areas of any AQCR which would be impacted by the source.

After issuance of the court's full opinion in December, EPA proposed and asked for comment on three changes to its September 5 proposal (45 FR 6802, January 30, 1980). First, EPA stated it was considering defining baseline area as any area designated attainment or unclassifiable under section 107(d) in which a source subject to PSD requirements would locate or impact, rather than all clean portions of an AQCR in which a source would locate or impact. Second, EPA's solicited comment on whether states should be allowed to redefine the boundaries of areas designated as attainment or unclassifiable. EPA suggested, however, that states should be limited to redesignations no smaller than the source's area of impact. Third, EPA indicated it was considering adoption of a pollutant-specific baseline date and area. Under that approach, a source would trigger the baseline only for the pollutants it emitted. Thus, if the source would emit neither SO<sub>2</sub> nor PM, it would not trigger any baseline. EPA also requested comment on whether a source which would be major for SO<sub>2</sub> and minor for PM would trigger a baseline date only for SO<sub>2</sub>, or for both pollutants.

EPA's final action and response to comments on each of the issues is discussed below. For simplification, the discussion focuses on the four basic issues of baseline concentration, baseline area, baseline date, and pollutant-specific baseline. Issues related to increment consumption are discussed in the next section.

#### A. Baseline Concentration

As proposed, EPA is continuing its current definition of baseline concentration as the ambient concentration levels at the time of the first permit application in an area subject to PSD requirements. Baseline concentration generally includes actual source emissions from existing sources but excludes emissions from major sources commencing construction after January 6, 1975. Actual source emissions are generally estimated from source records and any other information reflecting actual source operation over

the two-year time period preceding the baseline date. The baseline concentration also includes projected emissions from major sources commencing construction (including modification) before January 6, 1975, but not in operation by August 7, 1977.

Unlike the June 1978 policy, baseline concentration will no longer routinely include those emissions increases after the baseline date from sources contributing to the baseline concentration, which are due to increased hours of operation or capacity utilization. Existing policy permitted this grandfathering, provided such increases were allowed under the SIP and reasonably anticipated to occur as of the baseline date. Today's policy which normally excludes such increases is consistent with using actual source emissions to calculate baseline concentrations. An actual emissions policy, however, does allow air quality impacts due to production rate increases to sometimes be considered as part of the baseline concentration. If a source can demonstrate that its operation after the baseline date is more representative of normal source operation than its operation preceding the baseline date, the reviewing authority to use the more representative period to calculate the source's actual emissions contribution to the baseline concentration. EPA thus believes that sufficient flexibility exists within the definition of actual emissions to allow any reasonably anticipated increases or decreases genuinely reflecting normal source operation to be included in the baseline concentration.

EPA is also promulgating a change in its current policy on SIP relaxations. Under that policy, emissions allowed under SIP relaxations pending on August 7, 1977 are included in the baseline concentration if the allowed source emissions were higher than actual source emissions. EPA adopted that policy in June 1978 in recognition of the fact that some states with SIP revisions pending on August 7, 1977 had allowed sources to increase emissions prior to final EPA approval of the relaxations, while other states with pending relaxations had required sources to comply with the lower emissions limitations in the existing SIP until final approval occurred. See 43 FR 28401 col. 3. To avoid penalizing sources in states that did not allow increases prior to approval, EPA provided that baseline concentrations include the allowable emissions under revised SIPs, if the relaxation was pending on August 7, 1977 and the allowed emissions exceeded the source's actual emissions.

...ed in the Baseline  
...ion section, the Alabama  
...ision supported EPA's  
...ements that baseline  
...centrations reflect actual air quality  
...an area. Increment consumption or  
...xpansion is directly related to baseline  
...centration. Any emissions not  
...cluded in the baseline are counted  
...gainst the Increment. The  
...plementary relationship between  
...he concepts supports using the same  
...approach for calculating emissions  
...ontributions to each. Since the  
...Alabama Power decision and the statute  
...oth provide that actual air quality be  
...sed to determine baseline  
...oncentrations, but provide no guidance  
...n increment consumption calculations,  
...PA has concluded that the most  
...asonable approach, consistent with  
...the statute, is to use actual source  
...missions, to the extent possible, to  
...alculate increment consumption or  
...xpansion.

EPA's decision is also based on  
concerns raised by the Gulf Coast  
problem, discussed below. In that area,  
and possibly others, source emissions  
flowed under permits and SIP  
revisions in many cases are higher  
than actual source emissions. Sources  
could therefore increase their emissions  
without being subject to PSD review or  
the SIP revision process. However, if  
increment calculations were based on  
allowable emissions, EPA believes  
increment violations would be  
inappropriately predicted and proposed  
source construction would be delayed or  
halted. In practice, EPA expects that  
if, in any, sources will increase their  
emissions to allowable levels.

EPA believes it is unwise to restrict  
source growth based only on emissions  
source is permitted to emit but which,  
in many instances, have not been and  
are not likely to ever be emitted.  
Increment calculations based on the  
best prediction of actual emissions links  
PSD permitting more closely to actual  
air quality deterioration than  
calculations based on allowable "paper"  
emissions. In addition, use of actual  
emissions for increment consumption is  
consistent with using an actual  
emissions baseline for defining a major  
modification and for calculating  
emissions offset baselines.

2. Calculation of Increment  
Consumption Using Actual Emissions.  
To determine how much increment  
remains available to a proposed major  
source or modification, the source owner  
or operator must analyze several types  
of emissions changes as of its  
application date. These changes  
generally include: (1) emissions changes  
that have occurred at baseline sources

and emissions from new minor and area  
sources since the baseline date; (2)  
emissions that have occurred or will  
occur at sources which have submitted  
complete PSD applications as of thirty  
days prior to the date that the proposed  
source files its application; and (3)  
emissions changes reflected in SIP  
relaxations submitted after August 7,  
1977, and pending as of thirty days prior  
to the date the source files its  
application, or emissions changes  
reflected in SIP relaxations which have  
been approved since August 7, 1977, but  
which have not yet occurred. (See,  
discussion below on calculation of  
increment consumption for SIP  
relaxations.) The thirty-day cutoffs are  
specified to stabilize the review process  
by preventing new applications and SIP  
relaxation proposals from invalidating  
otherwise adequate increment  
consumption analyses without warning.

Increment calculations will generally  
be based on actual emissions as  
reflected by normal source operation for  
a period of two years. EPA has selected  
two years based on its recent  
experience in reviewing state NSR  
programs for nonattainment areas. The  
state submittals use periods of between  
one and three years to evaluate source  
emissions. In EPA's judgment, two years  
represents a reasonable period for  
assessing actual source operation. Since  
the framework for nonattainment NSR  
programs will generally form the basis  
for a state's PSD plan, EPA believes it is  
appropriate to use the same time period  
for evaluating actual source emissions in  
the PSD program. Two years is also  
being used to calculate the emissions  
offset baseline for modifications in  
nonattainment areas.

The two-year period of concern  
should generally be the two years  
preceding the date as of which  
increment consumption is being  
calculated, provided that the two-year  
period is representative of normal  
source operation. The reviewing  
authority has discretion to use another  
two-year period, if the authority  
determines that some other period of  
time is more typical of normal source  
operation than the two years  
immediately preceding the date of  
concern. In general, actual emissions  
estimates will be derived from source  
records. Actual emissions may also be  
determined by source tests or other  
methods approved by the reviewing  
authority. Best engineering judgments  
may be used in the absence of  
acceptable test data.

EPA believes that, in calculating  
actual emissions, emissions allowed  
under federally enforceable source-

specific requirements should be  
presumed to represent actual emission  
levels. Source-specific requirements  
include permits that specify operating  
conditions for an individual source, such  
as PSD permits, state NSR permits  
issued in accordance with § 51.18(j) and  
other § 51.18 programs, including  
Appendix S (the Offset Ruling), and SIP  
emissions limitations established for  
individual sources. The presumption  
that federally enforceable source-  
specific requirements correctly reflect  
actual operating conditions should be  
rejected by EPA or a state, if reliable  
evidence is available which shows that  
actual emissions differ from the level  
established in the SIP or the permit.

EPA believes two factors support the  
presumption that source-specific  
requirements represent actual source  
emissions. First, since the requirements  
are tailored to the design and operation  
of the source which are agreed on by the  
source and the reviewing authority, EPA  
believes it is generally appropriate to  
presume the source will operate and  
emit at the allowed levels. Second, the  
presumption maintains the integrity of  
the PSD and NSR systems and the SIP  
process. When EPA or a state devotes  
the resources necessary to develop  
source-specific emissions limitations,  
EPA believes it is reasonable to presume  
those limitations closely reflect actual  
source operation. EPA, states, and  
sources should then be able to rely on  
those emissions limitations when  
modeling increment consumption. In  
addition, the reviewing authority must at  
least initially rely on the allowed levels  
contained in source-specific permits for  
new or modified units, since these units  
are not yet operational at a normal level  
of operation. EPA, a state, or source  
remains free to rebut the presumption by  
demonstrating that the source-specific  
requirement is not representative of  
actual emissions. If this occurs,  
however, EPA would encourage states  
to revise the permits or the SIP to reflect  
actual source emissions. Such revisions  
will reduce uncertainty and complexity  
in the increment tracking system, since  
it will allow reviewing authorities and  
sources to rely on permits and SIP  
emissions limitations to model  
increment consumption.

Review of increment usage due to SIP  
relaxations will also be based initially  
on emissions allowed under the SIP as  
revised (provided this allowed level is  
higher than the source emissions  
contributing to the baseline  
concentration). Calculations will  
generally be made on the difference  
between the source emissions included  
in the baseline concentration and the

TP 5

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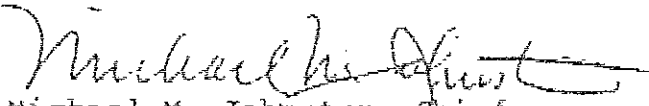
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The State of Oregon's approach to "baseline concentration" is equivalent to the CAA and EPA's PSD regulations and no changes appear to be needed in light of this clarification that PGE's emissions are not included in the baseline.

If you have any questions please feel free to contact Raymond Nye of my staff at (206) 442-7176.

Sincerely,

  
Michael M. Johnston, Chief  
New Source Permits Section

cc: Roland Johnson, PGE  
John Kowalczyk, DEQ  
Lloyd Kostow, DEQ

7/10

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X

1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101



REPLY TO  
ATTN OF: M/S 521

JUL 14 1981

Mr. E. J. Weathersbee  
Department of Environmental Quality  
522 SW 5th Avenue  
Box 1760  
Portland, Oregon 97207

Dear Mr. Weathersbee:

We have considered your July 2, 1981 letter asking whether the Portland General Electric (PGE) Boardman plant falls into the baseline or consumes increment under EPA's Prevention of Significant Deterioration (PSD) regulations. Our May 1975 letter to the Company stated that since the Company had commenced construction before June 1, 1975 the source would not need a permit pursuant to the requirements of 40 CFR 52.21(d) in effect at that time. However under the December 5, 1974 regulations (39 FR 42510), the PGE plant was not considered part of the baseline since it did not receive its "SIP pre-construction approval until after January 1, 1975 (see 40 CFR 52.21(d)(1)).

Since the May letter, Congress has changed the PSD program considerably. A major change that clarifies this situation is the addition of a statutory definition of "baseline concentration" in Section 169(4) of the Clean Air Act (CAA). The revised CAA states:

"any major emitting facility on which construction commenced after January 6, 1975, shall not be included in the baseline and shall be counted against the increment..." (emphasis added).

The CAA defines baseline in terms of ambient concentrations existing at the time of the first application for a PSD permit in the area. However, major stationary sources commencing construction after January 6, 1975, consume increment and cannot be considered as contributing to the baseline concentration. The contract referred to in the May 1975 letter went into effect in March of 1975. It is EPA's opinion that the statute provides no discretion to exempt PGE's emissions from increment consumption (see 45 FR 52721, August 7, 1980). PGE's emissions can not be grandfathered on the basis that the source was not subject to the 1974 PSD requirements.

DRAFT PLANT SITE EMISSION LIMIT RULES340-20-300 Policy

The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of air quality permit holders as contained in OAR 340-20-301 through 340-20-320. However, by the adoption of these rules, the Commission does not intend to (a) limit the use of existing production capacity of any air quality permittee; (b) cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or (c) create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. PSELS can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

340-20-301 Requirement for Plant Site Emission Limits

Plant site emission limits (PSEL) shall be incorporated in all Air Contaminant Discharge Permits except minimal source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements

shall be subject to PSELS for all Federal and State regulated pollutants. PSELS will be incorporated in permits when permits are renewed, modified, or newly issued.

The emissions limits established by PSELS shall provide the basis for:

1. Assuring reasonable further progress toward attaining compliance with ambient air standards.
2. Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained.
3. Administering offset, banking and bubble programs.
4. Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

#### 340-20-305 Definitions

1. "Actual Emissions" means the mass rate of emissions of a pollutant from an emissions source.
  - a. In general, actual emissions as of the baseline period shall equal the average rate at which the source

actually emitted the pollutant during a baseline period and which is representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

- b. The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.
- c. For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.

- 2. "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.

3. "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.
4. "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.
5. "Plant Site Emission Limit (PSEL)" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

340-20-310 Criteria for Establishing Plant Site Emission Limits

1. For existing sources, PSELS shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules.

If an applicant requests that the Plant Site Emission Limit be established at a rate higher than the baseline emission rate, the applicant shall:

- a. Demonstrate that the requested increase is less than the significant emission rate increase defined in OAR 340-20-225(22) or,
- b. Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 245. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the Plant Site Emission Limit to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to the Department's permit requirements.

2. PSEs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.

3. Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.
4. Documentation of PSEL calculations shall be available to the permittee.
5. For new sources, PSELS shall be based on application of applicable control equipment requirements and projected operating condition
6. PSELS shall not allow emissions in excess of those allowed by any applicable Federal or State regulation or by any specific permit condition unless specific provisions of 340-20-315 are met.
7. PSELS may be changed pursuant to Department rules when:
  - a. Errors are found or better data is available for calculating PSELS,
  - b. More stringent control is required by a rule adopted by the Environmental Quality Commission,
  - c. An application is made for a permit modification pursuant to the Air Contaminant Discharge Permit



requirements and the New Source Review requirements and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments.

- d. The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040.

340-20-315 Alternative Emission Controls (Bubble)

Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:

1. Such alternatives are not specifically prohibited by a permit condition.
2. Net emissions for each pollutant are not increased above the Plant Site Emission Limit.
3. The net air quality impact is not increased as demonstrated by procedures required by OAR 340-20-260 (Requirements for Net Air Quality Benefit).
4. No other pollutants including malodorous, toxic or hazardous pollutants are substituted.

5. Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) where required by a previously issued permit and New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP where required, are not relaxed.
6. Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.
7. Application is made for a permit modification and such modification is approved by the Department.

340-20-320 Temporary PSD Increment Allocation

PSELS may include a temporary or time-limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:

- a. No ambient air quality standard is exceeded.
- b. No applicable PSD increment is exceeded.

c. No nuisance condition is created.

d. The applicant's proposed and approved objective continues to be realized.

Such temporary allocation of a PSD increment must be set forth in a specific permit condition issued pursuant to the Department's Notice and Permit Issuance or Modification Procedures.

Such temporary allocations must be specifically time limited and may be recalled under specified notice conditions.

Draft New Source Review  
Regulation

Air Quality Division  
Department of Environmental Quality

August 28, 1981

Introduction-

The purpose of this proposed regulation is to update the New Source Review provisions of the State Implementation Plan. In addition, the new source requirements of the Prevention of Significant Deterioration provisions have been incorporated into this regulation.

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340-20-220      Applicability

1. No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 280 of these Rules.
  
2. Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR 340-20-001), Notice of Construction and Approval of Plans (OAR 340-20-020 to 032), Air Contaminant Discharge Permits (OAR 340-20-140 to 185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 545).

340-20-225      Definitions

1. "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source.

- a. In general, actual emissions as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during the baseline period and which is representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.
  - b. The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.
  - c. For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.
2. "Baseline Concentration" means that ambient concentration level for a particular pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978.

The following emission increases or decreases will be included in the baseline concentration:

- a. Actual emission increases or decreases occurring before January 1, 1978, and
  - b. Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.
3. "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.
4. "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques



for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

5. "Commence" means that the owner or operator has obtained all necessary preconstruction approvals required by the Clean Air Act and either has:
  - a. Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time, or
  - b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

6. "Construction" means any physical change (including fabrication, erection, installation, demolition, or modification of an emissions unit) or change in the method of operation of a source which would result in a change in actual emissions.
  
7. "Dispersion Technique" means any air contaminant control procedure which depends upon varying emissions with atmospheric conditions including but not limited to supplementary or intermittent control systems and excessive use of enhanced plume rise.
  
8. "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.
  
9. "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.
  
10. "Fugitive emissions" means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

11. "Good Engineering Practice Stack Height" means that stack height necessary to insure that emissions from the stack do not result in excessive concentrations of any air contaminant in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be created by the source structure, nearby structures, or nearby terrain obstacles and shall not exceed the following:
  - a. 30 meters, for plumes not influenced by structures or terrain;
  - b.  $H_G = H + 1.5 L$  , for plumes influenced by structures;  
Where  $H_G$  = good engineering practice stack height,  
H = height of structure or nearby structure,  
L = lesser dimension (height or width) of the structure or nearby structure,
  - c. Such height as an owner or operator demonstrates, after notice and opportunity for public hearing, is necessary to avoid plume downwash.
  
12. "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.

13. "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.
  
14. "Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition 22) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase,

the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

15. "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition 22).
16. "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission.
17. "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.
18. "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.
19. "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control

equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

20. "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility.
  
21. "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:
  - a. Emissions from ships and trains coming to or from a facility,
  
  - b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

22. "Significant emission rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act.

Table 1: Significant Emission Rates for Pollutants Regulated under the Clean Air Act

<u>Pollutant</u>	<u>Significant Emission Rate</u>
Carbon Monoxide	100 tons/year
Nitrogen Oxides	40 tons/year
Particulate Matter*	25 tons/year
Sulfur Dioxide	40 tons/year
Volatile Organic Compounds*	40 tons/year
Lead	0.6 ton/year
Mercury	0.1 ton/year
Beryllium	0.0004 ton/year
Asbestos	0.007 ton/year
Vinyl Chloride	1 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total reduced sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

- \* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate.

Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than  $1 \text{ ug/m}^3$  (24 hour average) shall be deemed to be emitting at a significant emission rate.

Table 2: Significant Emission rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area.

Air Contaminant	Emission Rate					
	Annual		Day		Hour	
	Kilograms	(tons)	Kilograms	(lbs)	Kilograms	(lbs)
Particulate Matter (TSP)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatile Organic Compound (VOC)	18,100	(20.0)	91	(200)	--	--

23. "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

Pollutant	Annual	Pollutant Averaging Time			
		24-hour	8-hour	3-hour	1-hour
SO <sub>2</sub>	$1.0 \text{ ug/m}^3$	$5 \text{ ug/m}^3$		$25 \text{ ug/m}^3$	
TSP	$0.2 \text{ ug/m}^3$	$1.0 \text{ ug/m}^3$			
NO <sub>2</sub>	$1.0 \text{ ug/m}^3$				
CO			$0.5 \text{ mg/m}^3$		$2 \text{ mg/m}^3$

For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.



24. "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

340-20-230      Procedural Requirements

1. Information Required

The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these Rules. Such information shall include, but not be limited to:

- a. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
- b. An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;
- c. A detailed schedule for construction of the source or modification;

- d. A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;
- e. To the extent required by these rules, an analysis of the air quality impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
- f. To the extent required by these rules, an analysis of the air quality impacts, and the nature and extent of all commercial, residential, industrial, and other growth which has occurred since January 1, 1978, in the area the source or modification would affect.

2. Other Obligations

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to these Rules or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the

effective date of these regulations without applying for and receiving an Air Contaminant Discharge Permit, shall be subject to appropriate enforcement action.

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State, or Federal law.

### 3. Public Participation

- a. Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application

or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information.

b. Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.

A. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

B. Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

C. Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination,

the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.

- D. Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.
  
- E. Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.

- F. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.
  
- G. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.
  
- H. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

340-20-235      Review of New Sources and Modifications for Compliance With  
   Regulations

The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

340-20-240      Requirements for Sources in Nonattainment Areas

New major sources and major modifications which are located in designated nonattainment areas shall meet the requirements listed below.

1.    Lowest Achievable Emission Rate

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each nonattainment pollutant. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For

phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

2. Source Compliance

The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

3. Growth Increment or Offsets

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with any established emissions growth increment for the particular area in which the source is located or must provide emission reductions ("offsets") as specified by these rules. A combination of growth increment allocation and emission reductions may be used to demonstrate compliance with this section. Those emission increases for which offsets can be found through the best efforts of the applicant shall not be eligible for a growth increment allocation.



4. Net Air Quality Benefit

For cases in which emission reductions or offsets are required, the applicant must demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR 340-20-260 (Requirements for Net Air Quality Benefit) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards.

5. Alternative Analysis

An alternative analysis must be conducted for new major sources or major modifications of sources emitting volatile organic compounds or carbon monoxide locating in nonattainment areas.

This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

6. Special Exemption for the Salem Ozone Nonattainment Area

Proposed major sources and major modifications of sources of volatile organic compounds which are located in the Salem Ozone

nonattainment area shall comply with the requirements of Sections 1 and 2 of OAR 340-20-240 but are exempt from all other sections of this rule.

7. Growth Increments

a. Medford-Ashland Ozone Nonattainment Area

The ozone control strategy for the Medford-Ashland nonattainment area establishes a growth increment for new major sources or major modifications which will emit volatile organic compounds. The cumulative volatile organic compound growth increment may be allocated as follows:

<u>year</u>	<u>cummulative volatile organic compound growth increment</u>
1980 to 1982	185 tons of VOC
1983	388
1984	591
1985	794
1986	997
1987	1200

No single owner or operator shall receive an allocation of more than 50% of any remaining growth increment in any one year. The growth increment shall be allocated on a first come-first served basis depending on the date of submittal of a complete permit application.

340-20-245 Requirements for Sources in Attainment or Unclassified  
Areas (Prevention of Significant Deterioration)

New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

1. Best Available Control Technology

The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition 22). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

2. Air Quality Analysis

The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225 definition 22), in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

- a. Any State or National ambient air quality standard, or
- b. Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110),  
or
- c. An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition 23).

Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.

If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in OAR 340-20-260 is provided, the Department may consider the requirements of OAR 340-20-245 (2) to have been met.

3. Exemption for Sources Not Significantly Impacting Designated Nonattainment Areas.

A proposed major source is exempt from OAR 340-20-220 to 275 if:

- a. The proposed source does not have a significant air quality impact on a designated nonattainment area, and
- b. The potential emissions of the source are less than 100 tons/year for sources in the categories listed in Table 3 or less than 250 tons/year for sources not in the categories listed in Table 3.

Major modifications are not exempted under this section unless the source, including the modifications meets, the requirements of a. and b. above. Owners or operators of proposed sources which are exempted by this provision should refer to OAR 340-20-020 to 032 and OAR 340-20-140 to 185 for possible applicable requirements.

Table 3: Source Categories

1. Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input
2. Coal cleaning plants (with thermal dryers)
3. Kraft pulp mills
4. Portland cement plants
5. Primary Zinc Smelters
6. Iron and Steel Mill Plants
7. Primary aluminum ore reduction plants

8. Primary copper smelters
9. Municipal Incinerators capable of charging more than 250 tons of refuse per day
10. Hydrofluoric acid plants
11. Sulfuric acid plants
12. Nitric acid plants
13. Petroleum Refineries
14. Lime plants
15. Phosphate rock processing plants
16. Coke oven batteries
17. Sulfur recovery plants
18. Carbon black plants (furnace process)
19. Primary lead smelters
20. Fuel conversion plants
21. Sintering plants
22. Secondary metal production plants
23. Chemical process plants
24. Fossil fuel fired boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input
25. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
26. Taconite ore processing plants
27. Glass fiber processing plants
28. Charcoal production plants

4. Air Quality Models

All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Commission and the Environmental Protection Agency. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May, 1978) should be used to determine the comparability of air quality models.

5. Air Quality Monitoring

- a. The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area of the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or

modification. As necessary to establish ambient air quality levels, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable increment.

Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.

The Department may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the



pollutant in the area that the source or modification would impact are less than these amounts.

Carbon monoxide -  $575 \text{ ug/m}^3$ , 8 hour average

Nitrogen dioxide -  $14 \text{ ug/m}^3$ , annual average

Total suspended particulate -  $10 \text{ ug/m}^3$ , 24 hour average

Sulfur dioxide -  $13 \text{ ug/m}^3$ , 24 hour average

Ozone - Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data.

Lead -  $0.1 \text{ ug/m}^3$ , 24 hour average

Mercury -  $0.25 \text{ ug/m}^3$ , 24 hour average

Beryllium -  $0.0005 \text{ ug/m}^3$ , 24 hour average

Fluorides -  $0.25 \text{ ug/m}^3$ , 24 hour average

Vinyl chloride -  $15 \text{ ug/m}^3$ , 24 hour average

Total reduced sulfur -  $10 \text{ ug/m}^3$ , 1 hour average

Hydrogen sulfide -  $0.04 \text{ ug/m}^3$ , 1 hour average

Reduced sulfur compounds -  $10 \text{ ug/m}^3$ , 1 hour average

- b. The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish

the effect which emissions of a pollutant (other than nonmethane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

6. Additional Impact Analysis

- a. The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.
- b. The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.

7. Sources Impacting Class I Areas

Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide notice to the Environmental Protection Agency and to the appropriate

Federal Land Manager of the receipt of such permit application and of any preliminary and final actions taken with regard to such application. The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230 Section 3 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

340-20-250 Exemptions

1. Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-20-240 Sections 3 and 4 provided that:
  - a. No growth increment is available for allocation to such source or modification, and

- b. The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

(Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.)

2. Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.
3. Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality

impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

3. 4. Also refer to OAR 340-20-245(3) for exemptions pertaining to sources smaller than the Federal Size-cutoff Criteria.

340-20-255 Baseline for Determining Credit for Offsets

The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

340-20-260 Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit must include the following.

1. A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models". Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.
2. For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition 23) on the nonattainment area, the emission offsets must be sufficient to

reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modifications which emit volatile organic compounds and are located in or within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

3. The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.
  
4. The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended as provided for in OAR 340-20-265 (Emission Reduction Credit Banking). In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new

facility provided that net emissions are not increased during that time period.

340-20-265 Emission Reduction Credit Banking

The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or by an applicable regulation may bank such emission reductions [except any such emission reduction attributable to facilities for which tax credit has been received on or after January 1, 1981, may be banked or used for contemporaneous offsets but may not be sold without reimbursement of the tax credits.] Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

1. To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320.
2. Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which



time such reductions will revert to the Department for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.

3. Emission reductions which are required pursuant to an adopted rule shall not be banked.
4. Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets as provided in OAR 340-20-260(4) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The Department may allocate these emission reductions as a growth increment. The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in OAR 340-14-005 through 050.
5. The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions

are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.

6. Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows: a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(22), b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.
  
7. Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:
  - a. A detailed description of the processes controlled,
  
  - b. Emission calculations showing the types and amounts of actual emissions reduced,
  
  - c. The date or dates of such reductions,
  
  - d. Identification of the probable uses to which the banked reductions are to be applied,

- e. Procedure by which such emission reductions can be rendered permanent and enforceable.
8. Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.
  9. The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transferred, the Department must be notified in writing. Any use of emission reduction credits must be compatible with local comprehensive plans, Statewide planning goals, and State laws and rules.

340-20-270 Fugitive and Secondary Emissions

Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

340-20-275 Stack Heights

The degree of emission limitation required for any air contaminant regulated under these rules shall not be affected in any manner by so much of the stack height as exceeds good engineering practice or by any other dispersion technique. This section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before that date.

## U. S. ENVIRONMENTAL PROTECTION AGENCY

## REGION X

1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101REPLY TO  
ATTN OF: M/S 625

JUN 8 1981

William H. Young  
Director  
Department of Environmental Quality  
P.O. Box 1760  
Portland, OR 97207

Dear Bill:

We greatly appreciate the opportunity to have worked with your staff in the development of your new source review, bubble and banking programs. We feel that the DEQ has prepared an exceptional and innovative approach to managing air quality. With the correction of only three problems which are discussed in Enclosure 1, the May 15, 1981 draft regulations can be approved by EPA as revisions to the Oregon SIP. There are also several areas of your program which we feel are approvable but for which we will need to develop a demonstration of equivalency with the help of your staff. These are discussed in Enclosure 2. Finally, many aspects of the DEQ program have been designed to satisfy EPA requirements which have been or soon will be proposed for revision. Although final approval of the DEQ program may have to await final EPA action on these revisions, we intend to expeditiously approve your program, acting concurrently with the national changes and if necessary (and possible) proposing the national policy change as part of the Oregon approval action.

It is our understanding that the DEQ wishes EPA to approve the New Source Review Regulation (including Emission Reduction Credit Banking), the Plant Site Emission Limit Rules (including Alternative Emission Control) and the Air Contaminant Discharge Permit Rules so that nearly all State actions taken under those programs are recognized as federally enforceable upon issuance, thereby eliminating the current requirement for case-by-case SIP revisions. The only situations under these programs which would continue to require separate SIP submittals would be true SIP relaxations (including variances) and Alternative Emission Controls (bubbles) for sources with Plant Site Emission Limitations greater than 100 tons per year for TSP and SO<sub>2</sub>. All other situations (netting or voluntary controls for new source review, offsets for nonattainment permits, banking emission reductions and most bubbles) will no longer need EPA approval as SIP revisions.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

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JUN 9 1981

OFFICE OF THE DIRECTOR

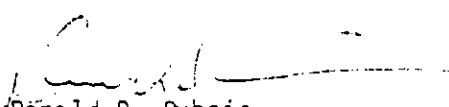
Our approval action will therefore be premised on the following:

1. Since EPA will no longer be individually approving each of these State actions which revise the SIP, we will need to receive information copies of each action in order to have available to EPA and the public the current SIP requirements for each source. We understand that the DEQ will promptly provide us with all Air Contaminant Discharge Permits which are issued or revised pursuant to the final EPA approved regulations.
2. Since EPA will no longer be providing a public comment period through the Federal Register on these actions, the state must provide the opportunity for comment. Although the Air Contaminant Discharge Permit rules do not contain such a requirement, we understand that the DEQ will continue to follow its Notice Policy (OAR 340-20-150) and provide an opportunity for comment on each permit.
3. The DEQ program must require as a condition of the PSD permit, compliance with all applicable SIP, NSPS and NESHAPs requirements. However, the DEQ regulation (OAR 340-20-235) only requires compliance with DEQ regulations and NSPS and NESHAPs programs for which the state has requested and received delegation. We understand that the DEQ will retain up-to-date delegation of all NSPS and NESHAPs and that if proposing to relax the federally approved SIP (i.e. new DEQ requirements would be less stringent than the current SIP) would continue to require compliance with the current SIP until such time that the relaxation is approved by EPA.

Again, I wish to compliment you and your staff for combining several complicated Clean Air Act programs into a unified and workable program. The resolution of those problem areas identified in Enclosure 1 will allow us to approve the regulations. Some additional comments on changes which we feel may strengthen the regulations, but are not necessary for our approval, are contained in Enclosure 3.

If you have any questions or desire any assistance in resolving our few remaining concerns, please do not hesitate to call me.

Sincerely,



Donald P. Dubois  
Regional Administrator

## ENCLOSURE 1

The following concerns must be adequately resolved in order for the regulations to be approved:

1. An important requirement for emission trades within and between sources (bubbles and offsets), is that the traded emissions have the same or reduced impact on ambient air quality. The DEQ rules require such in 340-20-315(3) and 340-20-260 but fail to include provisions as to how it is to be demonstrated. The DEQ rules must require appropriate dispersion modeling for TSP and SO<sub>2</sub> trades with a sophistication which is dependent upon the type and location of the trades involved.
2. Existing sources in nonattainment areas must employ, at a minimum, Reasonably Available Control Technology (RACT) for the nonattainment pollutants. To be approved, the state bubble rules (OAR 340-20-320) must require that the baseline emissions for bubbling in nonattainment areas be equivalent to RACT on a plant-wide basis.
3. New and modified major stationary sources may construct only if they either employ Best Available Control Technology (BACT) or meet the Lowest Achievable Emission Rate (LAER) whichever is applicable. However, sources may avoid these requirements by accepting voluntary permit limitations on their hours of operation or production rates or both provided that they will be required to retrofit BACT or LAER should they ever desire to relax the original limitations on hours of operation or production rates. The DEQ definition of "major modification" in OAR 340-20-225(14) requires such retrofit control. However, the DEQ has in OAR 340-20-250(3) inappropriately exempted these sources from BACT. The language in 340-20-250(3) must be changed so that it does not exempt from BACT requirements those sources which are proposing increases in hours of operation or production rates above levels which were used to avoid BACT requirements in the first place.

## ENCLOSURE 2

Certain aspects of the DEQ program appear to be approvable. However, because the approaches differ substantially from the CAA and EPA programs, the equivalency of the DEQ program must be demonstrated or if so desired, the regulations could be revised.

1. The DEQ has chosen to adopt a substantially different approach to "baseline date," "baseline area" and "baseline concentration" for the PSD program. While EPA is amenable to different, but equivalent, approaches it is not clear that certain of the CAA requirements are adequately covered by the DEQ program. Specifically:

- a. The CAA defines baseline area as each area designated as attainment or unclassifiable under Section 107(d)(1)(D) and (E) and baseline date as the time of the first PSD application after August 7, 1977. The DEQ defines the "baseline area" as the entire state and the "baseline date" as January 1, 1978. Having a fixed date for the entire state rather than a different date for different areas can result in different effects on available growth increments. Whereas area and minor source growth after January 1, 1978 will consume increment under the DEQ program, it would be considered part of the baseline until a permit application is received under the CAA program. Conversely, any improvements in air quality after January 1, 1978 will make more growth increment available under the DEQ program while such improvements would lower the baseline under the EPA program. The DEQ must show that their program is equivalent or more stringent on an overall state basis.
- b. The CAA in Section 169(4) and EPA regulations in 40 CFR 51.24(b)(13) provide specific provisions for major stationary sources and major modifications which commenced construction before and after January 6, 1975, respectively. The allowable emissions from sources constructed before January 6, 1975 are to be included in the baseline if they were not in operation as of the baseline date. The actual emissions of sources constructed after January 6, 1975 are to be counted against the available increment. It appears that in OAR 340-20-225(2)(a) the DEQ may be inappropriately including in the baseline concentration, actual emissions from major sources or modifications which commenced construction after January 6, 1975 and which were in operation by January 1, 1978. Also, in 340-20-225(2)(b), the time period for "actual emission increases" is not specified: does it refer to only the units for which construction commenced before January 6, 1975 or all future units added to the



plant? Does it refer to the actual emissions as of initial start-up or does it include future increases in hours of operation or production rates? The DEQ must show that their regulation adequately covers such sources and modifications with respect to their impact on baseline concentrations and available increments.

2. EPA regulations in 40 CFR 51.18(j)(1)(vii) and 51.24(b)(3) define the term "net emissions increase," including how such netting is done and what emission decreases and increases are to be considered. The DEQ definition of "major modification" (OAR 240-20-225(14)) includes the same concept but does not include any specific provisions regarding the baseline for determining credit for emission decreases. The DEQ must show that procedures similar to those in OAR 340-20-255 "Baseline for Determining Credit for Offsets" and 340-20-260(4) will be used in evaluating "net significant emission rate increases" for major modifications.
3. EPA has defined a "major stationary source" as all pollutant emitting activities which belong to the same "Major Group" (i.e. same two-digit SIC code), are located on one or more contiguous properties, and are under the control of the same person. The DEQ has chosen not to include the SIC "Major Group" limitation. The effect of this is to include more emission points within the source, thereby possibly subjecting more new and modified sources to review. By providing a broader base for offsets, it may also exempt some modifications from review which would have been covered by EPA regulations. The DEQ must show that their overall program will be equivalent or more stringent with regard to the existing and potential source configurations in Oregon.
4. EPA regulations in 40 CFR 51.24(i)(4)(iii) and Appendix S, Section IV.8., provide certain exemptions for portable facilities which are major stationary sources subject to PSD and nonattainment area permit requirements. The exemptions in OAR 340-20-250(2) for the DEQ new source review regulations are broader than allowed by EPA requirements. The DEQ must show that the remaining new source review requirements, combined with applicable requirements of their Air Contaminant Discharge Permit Rules, are equivalent to EPA's requirements.
5. EPA regulations in 40 CFR 51.18(j)(1)(vii)(f) and 51.24(b)(3)(vii) allow a reasonable shakedown period, not to exceed 180 days, when both an original unit and replacement unit can operate simultaneously. The DEQ rule in OAR 340-20-260(4) provides no time limit on the shakedown period. The DEQ must show that their restriction on no net emissions increase during the shakedown period is equivalent or more stringent than the EPA requirement.

new or modified sources. The DEQ regulations should include such a provision.

9. The banking rule requires that sources notify the DEQ when emission reduction credits are transferred but does not require prior DEQ approval of each transfer (OAR 340-20-265(10)). The regulation should be clarified to indicate that the use of emission reduction credits involving netting, bubbles or offset will require specific DEQ approval.
10. The banking rule does not include any discussion with regard to the use of banked emission reduction credits. It should be clear that transactions for bubbles or offsets will be evaluated in terms of their ambient impact, not just on a ton-for-ton basis. In effect, an emission reduction credit is not only a quantity of tons, but includes the ambient impact characteristics of those emissions as well.
11. The DEQ should keep a formal registry of banking transactions. EPA feels that this is the only way to keep a good handle on the use of banked credits as well as providing information to sources in search of offsets.
12. The Oregon ambient air quality standard for lead (OAR 340-31-055) is not as stringent as the NAAQS and should be revised.
13. The "Restrictions on Area Classification" (OAR 340-31-120(3)(a)) are not consistent with the CAA with regard to Class I or II designation of certain federal lands. All national monuments, primitive areas, preserves, recreational areas, wild and scenic rivers, wildlife refuges and lakeshores or seashores which exceed 10,000 acres in size may only be redesignated Class I or II regardless of whether they were created before or after August 7, 1977. Although EPA can approve the DEQ provision at this time since we are unaware of any areas which could be adversely affected, the provision should be revised before it would inappropriately allow Class III designation for lands which the CAA restricts to Class I or II.
14. The Air Contaminant Discharge Permit Rules (OAR 340-20-140 to 185) do not include any criteria which must be met to receive a permit (e.g. compliance with applicable emission limitations, not cause or contribute to NAAQS violations, etc.) nor does it include any administrative procedures for issuing permits. The DEQ should submit the "duly adopted procedures" referenced in OAR 340-20-170 for inclusion in the SIP.
15. EPA has not yet promulgated regulations to implement Section 123 of the CAA. As such, the terms "good engineering practice stack height" and "dispersion technique" have not been defined for the purposes of SIP requirements. EPA, therefore, will not be acting (neither approval or disapproval) on the DEQ's definitions of those terms in OAR 340-20-225.

# SOUTHERN OREGON TIMBER INDUSTRIES ASSOCIATION

*Young  
Weathersbee  
Underwood  
Down*

2680 NORTH PACIFIC HIGHWAY • MEDFORD, OREGON 97501 • PHONE (503) 773-5329

July 13, 1981

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
P. O. Box 1760  
Portland, OR 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

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JUL 16 1981

OFFICE OF THE DIRECTOR

Dear Mr. Richards:

John Smith, SOTIA Secretary-manager, attended your EQC work session June 30 and July 1. We have reviewed with him the discussion that took place and wish to make some comments concerning certain elements.

We agree with Tom Donaca's position that PSEL rules, as drafted, are unnecessary. Jack Weathersbee's comments concerning the department's success with negotiated permits lends support to this argument. He noted the department has successfully negotiated a number of permits, and that PSEL regulations were not necessary and would serve to avoid process delays in only a few instances. His comments suggest that the department is pushing for the regulations which will have very limited use. We agree with your observation that PSEL's are not federally mandated.

The new source review rules can stand alone without the PSEL regulations. They currently are written as independent regulations and would require only minor modification if the PSEL regulations were dropped. There is no dependent linkage.

A question was raised concerning difficulties in administration of bubble, offset and banking programs without a PSEL rule. We agree that a well written PSEL rule could facilitate the administration of these programs. Unfortunately, the current draft regulations do not provide for a functional bubble, offset or banking program, and in fact would serve to confound the administration of those programs.

Our recommendation is that the PSEL approach be dropped and the concentration limits or mass emission limits be used in conjunction with a negotiated plant capacity assumption to establish a permitted limit. This is the current practice and is adequately working. This negotiated plant capacity may or may not be actual 1977-78 levels. The key is that it would be negotiated between the department and permit holder. As Weathersbee pointed out, this has already been done for many plants, and would not necessitate rewriting strategy.

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We are also concerned about the accuracy of the data which would be used in establishing the actual emissions for PSELS. Weathersbee disagreed with Donaca on this point. Weathersbee indicated the department could compute actual levels, plus or minus 10%. Donaca suggested that a confidence level of 15 to 20% is more realistic. It was also pointed out that the "actual" figures would not be actual figures at all, but the product of emission factors multiplied by product output. These two points raise a major question on the validity of these figures.

Donaca raised the point that as the rules are currently written, anyone who feels they are being adversely impacted by use of the 1977-78 period for actual emission determination would have scant grounds to seek relief. His contention was that the Commission has little flexibility under the current draft. We agree. Weathersbee went on at some length about the use of permit levels in lieu of 1977-78 actuals, plus or minus 10% to establish the PSEL. While we feel this is the way to go, we do not read the draft rule to permit it. Weathersbee is on the right track, but he has no grounds to offer this option and it is a hollow premise. This is perhaps why Lynn Newbry, Medco, continues to fight the PSEL rule.

We have developed a scenario which concerns us and which may serve to illustrate our point. Take the rule as drafted, using 1977-78 actual emissions, with the permitted 10% tolerance. Assume we have a plant which produces a product for which the concentration limit is expressed in gr./scf. The allowable concentration limit is 0.05 gr/scf. The production assumption is not germane because it remains constant. During 1977-78 the company had implemented operational improvements which permitted the plant to operate at 0.04 gr/scf actual. The permit allows the 0.05 gr/scf. Under the PSEL approach the actual emissions would be established by multiplying the 0.04 gr./scf by the average production. The problem is that the 0.04 loading is 20% less than the permitted. The 10 percent tolerance would only raise the level to 0.045 gr. Thus, the company has lost an increment from its permit by using the actual limits instead of the permitted limits. If the company had hoped to bank that or use the increment to increase production they are out of luck. It is scenarios such as this that bother us.

We are still dissatisfied with the department's banking proposal. First, we are adamantly opposed to the moratorium proposal. This would work to the disadvantage of industry in the Medford area. It would serve to trigger more stringent measures on industry, penalizing those which have made improvements, because wood stoves have not been controlled.

The proposed departmental control of any increment resulting from

Mr. Joe Richards, Chairman

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a permanent shutdown or curtailment is also unacceptable. We contend the permit must remain with the facility until permit termination and be banked thereafter. This is essential to maintain the property as a saleable commodity. A plant requiring a permit which is not transferable with the property is worth little more than scrap value. The permit is a business asset and necessity. This fact cannot be ignored. Consider the value of a plant in Medford with a permit, and then value it without that permit. The difference between scrap metal and an operating entity is significant.

We also disagree with Weathersbee's premise for controlling permits from shutdowns and curtailments. He contended departmental control would speed up the process of getting jobs back into the community. That is a noble aspiration, but what business does the DEQ have getting involved in local economic development activities. We could see instances where the department might withhold a permit from the earliest applicant in favor of award to another firm which promised to be more labor intensive. We contend that is not an appropriate role for the department.

Another problem with DEQ control of a permit from a shutdown in a non-attainment situation is that the permit would be effectively lost. If attainment were not achieved the department would be hesitant, if not legally restrained, to reissue the permit. Thus, a shutdown or curtailment would mean the permit would be used to achieve progress toward attainment, at the cost of local economic well being. This could occur despite the fact that industry was progressing satisfactorily on SIP implementation. In Medford's situation the wood stove increase has caused a net loss of ground despite clean up by industry.

Finally, the idea of decreasing values of banked emissions over time is totally unacceptable. This would be a major disincentive to banking.

The delineation between fine and coarser particles has no basis in existing law. At this point in time we are still dealing with a TSP standard. We agree that there is a health basis. But, when that is officially recognized we anticipate a change in the primary and secondary standards changed to reflect the significance of the fine particle. The total standard should be reduced. Until this occurs any delineation is inappropriate.

We further oppose the idea of a ratio system for offsetting emissions of one size particle against another. Weathersbee proposed such a system. It would be worthy of consideration after federal standards are revised.

Mr. Joe Richards, Chairman

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In issue 9 the law of separate PSELS raises concerns about ending up with separate bubbles, rather than a plant bubble. We can foresee situations where this might occur. This would defeat the concept of bubbling, in which offsets in one functional area are traded internally for increases in another area of the plant. Without this flexibility, bubbling cannot function.

The ozone level discussion was very interesting. We have gone on record previously favoring the 0.12 ozone level for both primary and secondary levels. We feel that the commission should take action to confirm the 0.12 level, and eliminate once and for all this disparity.

We still question the 30 km definition of a buffer zone radius, as discussed in issue 15. If you can't model VOC emissions, how can you mitigate them. A plant within the 30 km boundary will have to get offsets, or use up part of the VOC growth increment. But the question is how much. The department admits they can't model the situation, so establishment of the amount would be an unfounded, arbitrary action. This will specifically impact all of the plywood plants in Grants Pass, relative to the Medford AQMA. We do not accept Weathersbee's argument that Medford will be in compliance as a solution. It is a tenuous promise at best.

Many of our original concerns are still largely unanswered to our satisfaction. The department seems to be hung up on pride of authorship on some of the items. We recommend that either the PSEL rule be remanded to them with more pointed direction for revision or the commission drop the concept. Your consideration in this matter will be appreciated.

Very truly yours,



William H. Carlson, Chairman  
SOTIA Air Quality Committee

WHC:lb

*EQC  
Young  
Weather*

THE CITY OF  
**PORTLAND**



**OREGON**

9 July 1981

MILDRED A. SCHWAB  
COMMISSIONER OF  
PUBLIC AFFAIRS

1220 S. W. FIFTH AVE  
PORTLAND, OR. 97204  
248 - 4180

Dear Commissioner Richards:

The City of Portland appreciated the opportunity to discuss the Plant Site Emission Limit and the New Source Review Rule with DEQ staff and the Commission. We are particularly pleased that you are dealing with the question of fuel switching separately from other Plan Site Emission Limit questions since it can have serious impacts on existing firms. Also, your willingness to consider clarifying the sections on plant shutdown and the moratorium conditions in the New Source Review Rule will improve the quality of that rule.

Overall we feel that the State has developed a workable system that will allow growth and protect the state's air quality. We encourage you to adopt these rules at your July 17 meeting.

Sincerely,

Mildred Schwab,  
Commissioner of Public Affairs

MS:CK:db

cc: Environmental Quality Commission  
Bill Young  
Lloyd Kostow

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**

JUL 15 1981

OFFICE OF THE DIRECTOR



# Port of Portland

Box 3529 Portland, Oregon 97208  
503/231-5000  
TWX: 910-464-6151

July 14, 1981

Commissioner Fred Burgess  
Deans Office of Engineering  
Oregon State University  
Corvallis, OR 97331

## DEPARTMENT OF ENVIRONMENTAL QUALITY NEW SOURCE REVIEW RULE

Dear Fred:

The purpose of this letter is to express the Port of Portland's support of the New Source Review Rule. For the past two years, the Port has met with and provided comments to the Department of Environmental Quality (DEQ) staff as the rule was prepared. During this period, the Port has consistently expressed concern over the major source cutoff points for new sources for total suspended particulates (TSP) and volatile organic compounds (VOC) which are significantly more stringent than those of the Environmental Protection Agency. We still have that concern. Again, we recommend that the cutoff points for TSP and VOC be set at 50 tons per year for each new source as compared to 25 tons for TSP and 40 tons for VOC as proposed in your new source rule.

While we do have these reservations with the proposed rule, we are also concerned that additional delay may result in administration of the program by EPA rather than DEQ. Because it is important that local control of the program be maintained, we recommend that you adopt the New Source Rule at your July 17 meeting.

We look forward to working with the DEQ staff as the rule is administered.

Sincerely,

Lloyd Anderson  
Executive Director

cc: Bill Young  
Lloyd Kostow

03G108



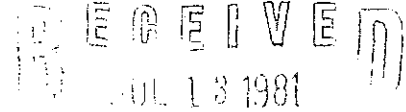


# ASSOCIATED OREGON INDUSTRIES

MAILING ADDRESS: P.O. BOX 12519 / SALEM, OREGON 97309 / 503 588-0050  
LOCATION: 1149 COURT ST. N.E. PORTLAND AREA 503 227-5634

*Ivan Congleton, president*

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY



AIR QUALITY CONTROL

July 9, 1981

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
P.O. Box 10747  
Eugene, Oregon 97401

Re: Proposed Rules for Plant Site Emission Limits and New  
Source Review

Dear Mr. Richards:

As you are aware, both from the public testimony at earlier public hearings of the Commission as well as discussion at the workshop, the PSEL rule creates grave concern among our members who hold air quality permits. However, the New Source Review Rule also has some elements that are cause for concern, but due to the preponderance of the discussion on PSEL, these concerns may have been overlooked. We will address suggestions for modification of both rules in the following paragraphs.

The major concerns with the PSEL rule result from the following:

- 1- Potential for loss of presently operated productive capacity; and
- 2- Loss of use of installed, but unused capacity which presently issued permits provide adequate allowance for utilization.

We believe that the issue might well be addressed by recognition that the PSEL rule is essentially a management tool for the DEQ to be able to establish a methodology for determining, with greater accuracy, where and to what degree industrial air emissions are showing increases or decreases. If this is a correct assumption, then why not adopt an additional provision in the PSEL rule that states the intention of the Commission with regard to the two above points, and provide some additional flexibility to the rules to be able to compensate for those problems. Also, the PSEL rule should not then be incorporated in the State Implementation Program (SIP), but as it is not a federally mandated requirement it need not be in the SIP. Such a rule amendment might be as follows:

340-20-300 (Rename the proposed 340-20-300 to 301.)

*The Voice of Oregon's Business and Industry*

The Commission recognizes the need to establish a more definitive method for measurement of increases and decreases in air emissions of air quality permit holders as contained in OAR 340-20-301 through 340-20-320. However, by the adoption of these rules the Commission does not intend to (a) limit the use of existing production capacity of any air quality permittee; (b) cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity, or (3) create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production if, the conditions of the permit in effect on the date of adoption of these rules would have allowed the use of the productive capacity. Notwithstanding any other provision of OAR 340-20-301 to 340-20-320 the department is authorized to modify the conditions of these rules to accommodate the provisions of this section on a case-by-case basis, and any permittee unable to resolve any issue involved in this rule may appeal to the Commission for resolution.

Adoption of language as suggested above should provide a means of resolving those instances where strict application of the PSEL rule in the initial establishment of a PSEL in any permit would be an undue hardship on the permittee. We see no reason why the PSEL that could be granted would be violative of proposed OAR 340-20-300 which states the rationale for such a rule. It must be recognized, through, that the PSEL rule and the New Source Review Rule would be separated, rather than integrated as at present.

To implement our proposal we suggest that you consider the following amendments to the PSEL rule:

ok { OAR 340-20-310(1) The second sentence should either be deleted or made applicable only to a PSEL after it has been initially granted. Also, the second paragraph should reflect that application of this paragraph and the rest of the material in (1) is operative only to a PSEL after it has been initially granted.

We request the following modifications to the New Source Review Rule (NSR):

OAR 340-20-225(14) (page 7) The definition of "Major Modification" should have the EPA definition substituted for it. A copy of the EPA Rule, 40CFR 52.21 b (2) (i) is attached.

The proposed definition in the NSR existence of a PSEL rule which limits all sources, on initial determination of a PSEL, to actual 1977/78 baseline levels. The EPA definition is more detailed and specifically exempts alternate fuels, maintenance repair and replacement; increases in hours of operation unless restricted by a permit, and changes in ownership. The DEQ proposed definition without these exemptions would force all net significant emission increases over the 1977/78 baseline to obtain a Presentation of Significant Deterioration (PSD) permit.

Mr. Joe Richards  
7-10-81 (3)

OAR 340-20-225(23) (page 11) The definition of "Significant Air Quality Impact" should have the annual TSP set at 1.0 ug/m<sup>3</sup>, rather than the 0.2 ug/m<sup>3</sup> as proposed, which is the EPA rule. An annual setting at this level will force a significantly greater number of sources to monitor the requirements for PSD.

OAR 340-20-255 (page 32) should have the reference to the PSEL rule OAR 340-20-300 to 320 by striking the phrase: "Established pursuant to OAR 340-20-300 to 320". The PSEL definition in the proposed New Source Review Rules refers only to mass emissions specified in a permit which would be consistent with our proposal on the PSEL rule.

We still believe that permanent reductions in operations or shut-downs of operations should be bankable on the same basis as reductions obtained from permanent continuous controls. Our strong belief stems from the fact that Oregon, as a leader in air quality control, has already applied in most instances the highest and best practicable treatment and control to sources. Thus, to find the offsets necessary for new development will be most difficult from source controls alone, but to meet the requirements of OAR 340-20-265(4) may be impossible. We are concerned that to avoid giving up the potential offset to the state outmoded or uneconomic plants may be continued in operation. Therefore we request that OAR 340-20-265 (page 35) be rewritten as follows:

"The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit, by permanently reducing operation of a source or eliminating an existing source, or by an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

"(1) To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources, or by permanent reduction or elimination of an existing source. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit (established pursuant to OAR 340-20-300 to 320)."

To carry out this thought you would then have to delete all of OAR 340-20-265(4) (page 36) and renumber the following subsections; and in OAR 340-20-265 (8)(a) after "controlled" insert "reduced or eliminated".

It is still our belief that offsets will be difficult to obtain and will also be very expensive. If our assumption is accurate we again request that in OAR 340-20-265(7) (page 37) that the amount that can

Mr. Joe Richards  
7-10-81 (4)


be banked be decreased from ten tons to 5 tons. There will be some additional paper work for the DEQ, and if it turns out to be significant we can discuss some type of a fee system to provide its support.

One last comment, OAR 340-20-280 is to be deleted, so in OAR 340-20-265(3) (page 36) you should delete "or those that are reserved for control strategies pursuant to OAR 340-20-280".

We understand the difficulty confronting you in the adoption of this rule and we appreciate the time you have given us to present our views. If there are any questions about this memorandum, I can be reached in Salem at 588-0050, and I will attend the Commission meeting on July 17th.

Sincerely,

Thomas C. Donaca  
General Counsel



TCD:sjm  
Encl

cc: Mary Bishop  
Fred Burgess  
Ron Somers  
William Young  
Jack Weathersbee

§ 52.21 Prevention of significant deterioration of air quality.

(a) *Plan disapproval* The provisions of this section are applicable to any State implementation plan which has been disapproved with respect to prevention of significant deterioration of air quality in any portion of any State where the existing air quality is better than the national ambient air quality standards. Specific disapprovals are listed where applicable, in subparts B through DDD of this part. The provisions of this section have been incorporated by reference into the applicable implementation plans for various States, as provided in subparts B through DDD of this part. Where this section is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. No disapproval with respect to a State's failure to prevent significant deterioration of air quality shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.

[52.21(b) revised by 45 FR 52729 August 7, 1980]

(b) *Definitions*. For the purposes of this section:

(1)(i) "Major stationary source" means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Act: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants,

carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (b)(1)(i) of this section, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)(1) as a major stationary source, if the changes would constitute a major stationary source by itself.

(ii) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(2)(i) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(ii) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

(iii) A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plant pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(2) The source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.24;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(g) Any change in ownership at a stationary source.

(3)(i) "Net emissions increase" means the amount by which the sum of the following exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(a) The date five years before construction on the particular change commences; and

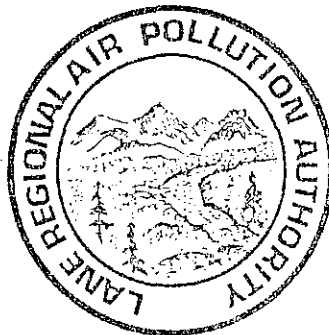
(b) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the Administrator has not relied on it in issuing a permit for the source under this section, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

LANE REGIONAL

AIR POLLUTION AUTHORITY



(503) 684-1618  
1244 Walnut Street, Eugene, Oregon 97403

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
Donald B. Arnett, Director

RECEIVED  
JUL 14 1981

July 7, 1981

AIR QUALITY State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
JUL 13 1981

OFFICE OF THE DIRECTOR

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
P.O. Box 7760  
Portland, Oregon 97207

Subj: New Source Review Rules

Dear Mr. Richards;

I appreciated the opportunity to participate as a representative of local government in the EQC workshop on July 30th and July 1st. I would hope that similar forums on the complex issues such as New Source Review might be utilized from time to time in the future.

During the workshop, you requested that we submit recommended language which would incorporate certain desired features in the NSR rules.

Emission Growth from Non-Major Sources. It is recognized after the workshop discussion that in Lane County NSR rules could be applied to new and modified sources inside the AQMA which have lower particulate emission rates than those deemed significant. This feature would be incorporated into LRAPA Rules.

However, we believe we need the flexibility to allow ERC's smaller than the 10 TPY specified in the current proposed State NSR rule (340-20-265.7, Page 38). It is recommended that this part have as an additional provision,

"In the Eugene/Springfield AQMA emission reductions may be less than ten tons per year, as specified by the Regional Authority, with concurrence of the Commission."

Requirement for Net Air Quality Benefit. We have objected to the strict adherence to a pollutant-specific requirement for net air quality benefit (340-20-260.3, Page 35) (less than 3 microns), which treats respirable particulate as a separate pollutant from TSP. The basis for our objection is primarily that it does not fully address the legally established TSP non-attainment status of the AQMA, and it places severe limits on availability of offsets, ERC's, bubbling of particulate emissions. We have offered an alternative way to satisfy the requirements for net air quality benefit which recognizes the greater importance of respirable particulate as a health related pollutant.

Mr. Joe Richards, Chairman  
Environmental Quality Commission  
July 7, 1981

Page 2

Add to 340-20-260.3, Page 35, after the second sentence,

"...in the same size range. In non-attainment areas for offset only the Respirable Particulate reductions requirement may be waived, provided that:

- a) Respirable Particulates are used as offsets to the greatest extent available;
- b) There is adequate demonstration by the new or modified source operator that sufficient emission offsets for Respirable Particulate are not available from the operator's own or other like sources; and
- c) There be a ratio of offset of 1.5 to 1 or greater of particulate emissions from source categories other than that of the operator. These may include fugitive sources as well as other point sources.

This waiver may be utilized until such time as appropriate standards for Respirable Particulates are adopted by the Commission, unless such waiver provisions are renewed at the time of adoption."

If members of the Commission, or Department staff need additional information, please call.

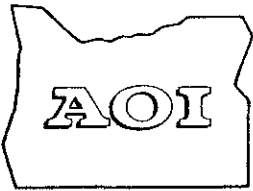
Sincerely,



Donald R. Arkell  
Director

DRA/mjd

HMP



**ASSOCIATED OREGON INDUSTRIES**

P.O. Box 1006, Tualatin, Oregon 97062 - Phone (503)620-4407

*Ivan Congleton, executive vice president*

August 27, 1981

TO: Environmental Quality Commission  
FROM: Associated Oregon Industries, Inc.  
RE: PLANT SITE EMISSION LIMITS

Dear Commission Members,

We understand your frustration with regard to the proposed PSEL rule, because it is both a technical and complex subject that is not susceptible to immediate comprehension.

We appreciate the time you have spent on the subject, and there has been some resolution of issues outstanding at the January meeting.

We are still fearful, however, that the regulation is still unnecessarily complicated which will:

- a. Place an unanticipated burden on your already reduced staff.
- b. Require permit-holders to provide more source data, at a considerable additional expense, to assure compliance with PSELS.
- c. Appear to be over regulation of industrial emissions as virtually every study done in the last three years by the DEQ indicates that people related activities (i.e. road dust, emissions from woodstoves) are a far greater component of air pollutants than industrial emissions.

We still see no reason to include the PSEL regulation in the SIP, except that as written the New Source Review Regulation relies on the PSEL regulation for precise definition of "Plant Site Emission Limit". This could be corrected by minimal revisions in the New Source Review Regulations. Further the PSEL regulation could have been limited to only those permit-holders intending to bank emissions and those intending to use banked emissions as offsets.

Finally, if it is your intention to adopt the proposed PSEL rule, you should request of your staff, that within 120-days after the adoption of the proposed federal Clean Air Act Amendment, that they request authority of you to hold a public hearing to review what effect such statutory changes have had regarding both the proposed PSEL and New Source Review Regulations.

Sincerely,

Thomas C. Donaca, General Counsel



AM

DIRECTOR'S COMMENTS

AGENDA ITEM K, AUGUST 28, 1981, EQC MEETING

PROPOSED ADOPTION OF OPEN BURNING RULES, OAR 340-23-022 through 340-23-080

ITEM K PROPOSES A REVISED SET OF GENERAL OPEN BURNING RULES FOR THE STATE. RULES HAVE BEEN UNDER DEVELOPMENT FOR TWO YEARS. CONFERENCES HAVE BEEN HELD WITH NUMBER OF PUBLIC AGENCIES AND EXTENSIVE HEARINGS WERE HELD THROUGHOUT THE STATE. PUBLIC TESTIMONY GAINED THROUGH THIS PROCESS HAS RESULTED IN A NUMBER OF CHANGES IN AREAS OF THE PROPOSED RULE.

SIGNIFICANT REGULATORY ELEMENTS OF THE PROPOSED RULES ARE:

1. ESTABLISH SPRING AND FALL BACKYARD BURNING SEASONS IN THE WILLAMETTE VALLEY INCLUDING PORTLAND.
2. ESTABLISHMENT OF A "SCHEDULE" FOR CLASSIFYING BURNING DAYS STATEWIDE FOR OPEN BURNING.
3. EXEMPTING AGRICULTURAL BURNING EAST OF THE CASCADE MOUNTAINS.
4. ALLOWING LRAPA TO SET BACKYARD BURNING SEASONS AND HOURS SPECIFIC FOR LAN COUNTY.

THE PROPOSED RULES ARE COMPATIBLE WITH NEW LEGISLATION REQUIRING ALLOWANCES FOR BACKYARD BURNING THROUGHOUT THE STATE.

SEVERAL LETTERS WHICH WERE RECEIVED BY THE DEPARTMENT SINCE COMPLETING THE STATE REPORT HAVE BEEN ADDED TO YOUR NOTEBOOKS FOR YOUR PERUSAL AND CONSIDERATION. ONE OF THE LETTERS FROM MR. WHITEMAN, THE MAYOR OF COTTAGE GROVE, REQUESTS THAT HE BE PERMITTED TO MAKE A FEW COMMENTS REGARDING THE REGULATIONS APPLYING TO HIS AREA.

MR. BRANNOCK OF THE AIR QUALITY STAFF IS PRESENT TO ANSWER QUESTIONS YOU MAY HAVE.

HMP

DIRECTOR'S COMMENTS

AGENDA ITEM K, AUGUST 28, 1981, EQC MEETING

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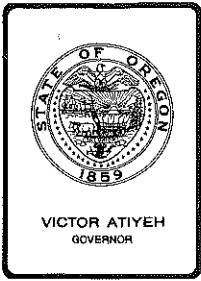
SIGNIFICANT REGULATORY ELEMENTS OF THE PROPOSED RULES ARE:

1. ESTABLISH SPRING AND FALL BACKYARD BURNING SEASONS IN THE WILLAMETTE VALLEY, INCLUDING PORTLAND.
2. ESTABLISHMENT OF A "SCHEDULE" FOR CLASSIFYING BURNING DAYS STATEWIDE FOR ALL OPEN BURNING.
3. EXEMPTING AGRICULTURAL BURNING EAST OF THE CASCADE MOUNTAINS.
4. ALLOWING LRAPA TO SET BACKYARD BURNING SEASONS AND HOURS SPECIFIC FOR LANE COUNTY.

THE PROPOSED RULES ARE COMPATIBLE WITH NEW LEGISLATION REQUIRING ALLOWANCES FOR BACKYARD BURNING THROUGHOUT THE STATE.

SEVERAL LETTERS WHICH WERE RECEIVED BY THE DEPARTMENT SINCE COMPLETING THE STAFF REPORT HAVE BEEN ADDED TO YOUR NOTEBOOKS FOR YOUR PERUSAL AND CONSIDERATION. ONE OF THE LETTERS FROM MR. WHITEMAN, THE MAYOR OF COTTAGE GROVE, REQUESTS THAT HE BE PERMITTED TO MAKE A FEW COMMENTS REGARDING THE REGULATIONS APPLYING TO HIS AREA.

MR. BRANNOCK OF THE AIR QUALITY STAFF IS PRESENT TO ANSWER QUESTIONS YOU MAY HAVE.



## *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 K, August 28, 1981, EQC Meeting

Proposed Adoption of Open Burning Rules, OAR 340-23-022 through  
340-23-080

Additional comments have been received since the staff report was completed, including one request to address the Commission on the subject of the Open Burning Rules. The attached letters are forwarded for your perusal and consideration. The points made by the respondents are similar to other testimony and have been considered in this and other staff reports.

*Bill*

William H. Young

LDBrannock:ahc  
(503) 229-5836  
08-26-81

TOOZE KERR MARSHALL & SHENKER

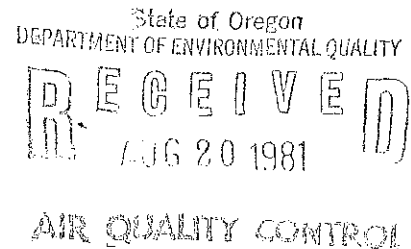
ROBERT M. KERR  
LAMAR TOOZE  
L. GUY MARSHALL  
ARDEN E. SHENKER  
CHAS. R. HOLLOWAY, III  
PAUL R. DUDEN  
STEPHEN R. FRANK  
WM. G. SHERIDAN, JR.  
MICHAEL J. GENTRY  
FARRAND M. LIVINGSTON  
NEALE E. CREAMER  
ELIZABETH A. TRAINOR

ATTORNEYS AT LAW  
801 STANDARD PLAZA  
1100 S. W. SIXTH AVENUE  
PORTLAND, OREGON 97204  
TELEPHONE (503) 223-5181

LAMAR TOOZE, SR.  
1895-1971

August 19, 1981

Department of Environmental  
Quality  
P. O. Box 1760  
Portland, OR 97207



Gentlemen:

Re: Backyard Burning  
Reference your August 19 Memorandum

At your August 28 meeting on the topic of backyard burning in the Portland metropolitan area, I hope that you will attempt to construct a plan that has the best prospect for permanent success. My own attitude is that backyard burning is, and will be, the better of two rather poor alternatives; and that disposal of the "fuel" is a necessity, not an option. Burning it at the source does not, in ultimate effect, pollute more air than burning it a few miles away; trucking costs are avoided; a fire hazard is sooner abated if the stuff is not accumulated.

To me, the obvious solution is to enlist the aid of the local radio stations to give clearance for burning, which would issue during periods of Westerly airflows within a short time after substantial rainfall. Moreover, the affected area should be divided into sectors, only one or some of which could burn on a given day. The 5 districts of Portland offer a handy grid: N, NE, NW, SW, SE. (Even-odd addresses could be used, but would be hard to police.)

Burners should be required to have proper fire-control means, mainly a garden hose.

I think the public would respond faithfully to any sensible arrangement. They have certainly absorbed the environmental ethic in other ways. While camping at a

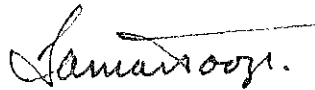
DEQ

August 19, 1981

Page 2

remote and crowded campground in the Wallowas last week, I noticed that since the Forest Service has quit providing garbage cans and clean-up, the campsites were all totally clean and tidy. If that holds true generally, I think you will be pleasantly surprised at the level of voluntary cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Lamar Tooze". The signature is written in dark ink and is positioned above the typed name.

Lamar Tooze

LT:jh

August 19, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
AUG 21 1981

AIR QUALITY CONTROL

J e a n M c G r e g o r  
21900 S. E. Alder Dr., #225  
Gresham, OR 97030

Department of Environmental Quality  
522 S.W. 5th Avenue  
Portland, OR 97207

Dear Agency:

Re: Backyard burning.

From reports the air quality in the Portland and Metropolitan area is far below Federal Air Quality standards now. I believe every effort should be made to discontinue backyard burning.

Since those of us whos health is being harmed by back yard burning would have to undergo years of medical testing and eventual death, to prove the harm that is being done to us, it is up to the Environmental Quality Department to assure us of reasonably clean air to breathe.

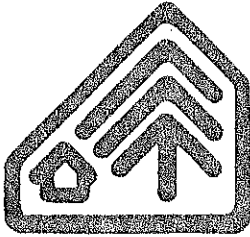
Since it is unlawful to smoke cigarettes in Federal Buildings then it should also be unlawful for my neighbors to pollute the air I breathe at home. My taxes should not give my neighbor the right to kill me.

I do believe Court Action should be tried on a Class Action basis, to prevent backyard burning in highly populated areas. California did this to clean up the auto pollution standards, and I think it is time Oregon took a stand on this problem that is so harmful to our children and those with respiratory problems.

I have every confidence that the Department of Environmental Quality will solve this problem soon and not allow the problem to become a political football.

Very truly yours,

  
Jean McGregor



CITY OF  
COTTAGE  
GROVE

400 E. Main Street, Cottage Grove, Oregon 97424

*EQC  
why Young  
Weathersbee*

August 17, 1981

OFFICE OF THE MAYOR

Mr. Joe Richards  
Chairman, E.Q.C.  
P. O. Box 1760  
Portland, Oregon 97207

Dear Mr. Chairman,

I ask your permission to speak to the Staff recommendation for back yard burning regulations at your meeting Friday, August 21. Although I am Vice Chairman of the Lane Regional Air Pollution Authority I am authorized to speak only as Mayor of the City of Cottage Grove and for the Lane County Fire Defense Board.

I will trust your judgement as to the appropriateness of this request.

Sincerely,

William Whiteman  
Mayor

WW:bm

P. S. Although requested some time ago, I have not yet received a copy of the Staff report or recommendations to the board.

*Finally received today 8/19/81  
RW*

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
AUG 21 1981

OFFICE OF THE DIRECTOR

10/LOB

JE QCD  
Weatherbee  
6937 SW 31 Ave.  
Portland, Or. 97219  
Aug. 23, 1981

Dept. of Environmental Quality  
522 S.W. 5th Ave.  
Portland, Ore - 97207

Dear James Gillaspie,

Thank you for the mailing of  
Aug. 19 regarding your Aug. 28<sup>th</sup>  
meeting. I will be unable to  
attend but would like to reiterate  
my support for continued back  
yard burning on a daily  
approved basis.

I also believe a yearly  
program - on a daily basis -  
would eliminate the volume  
that is burned at the  
beginning of the spring and  
fall seasons -

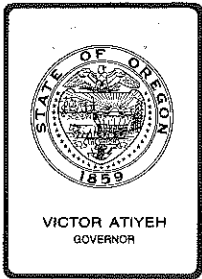
Sincerely,

Barbara Krieg  
(Mrs. M. E.)

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
AUG 25 1981  
OFFICE OF THE DIRECTOR

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
AUG 24 1981  
AIR QUALITY CONTROL





## *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. K, August 28, 1981, EQC Meeting

#### Proposed Adoption of Open Burning Rules, OAR 340-23-022 through 340-23-080:

- a. Make extensive structural and language changes to make rules easier to understand and use.
- b. Establish a schedule pursuant to ORS 468.450 for regulation of open burning on a statewide basis.
- c. Delete provisions establishing a permanent prohibition on domestic burning within the Willamette Valley.

### BACKGROUND

The process of review and revision of the open burning rules began more than two (2) years ago in June, 1979, when the EQC reset to January, 1981, the often postponed backyard burning ban for the Portland area and requested that the open burning rules be revised to improve clarity and utility. The process of rewriting the rules became closely meshed with the process of implementing the burning ban in 1981 since it was recognized that the provision for alternatives to open burning and a redefinition of the area affected by the burning ban would be a necessary part of the revision.

Meetings were held with Fire Districts, citizen committees, the Lane Regional Air Pollution Agency and Department staff to discuss the various proposed revisions.

By October of 1980, the basic process of proposing the necessary revisions was complete but the process of establishing operational alternatives to "backyard" burning in areas to be prohibited from such practices was moving only very slowly. It was proving to be difficult for some local governments to accept responsibility and provide alternatives to open burning.

The prohibition of "backyard" burning was allowed to go into effect in the Portland area on January 1, 1981, as scheduled but was modified to exclude outlying rural areas. In addition, the Department produced an information paper on alternatives and prepared for public hearings in March to receive testimony on proposed rule changes.

Some local governments in the area where "backyard" burning had been prohibited were unable to implement alternatives for their constituents in time for the beginning of what would have been the normal burning season, March 1, 1981. This situation came to the attention of the Commission at the regular EQC meeting in March. At the March meeting the Commission determined that the ban on backyard burning was causing an unnecessarily severe problem for local governments and passed a temporary rule to allow a spring burning period in the Portland Area through June 15, 1981.

In February, The Metropolitan Service District (METRO) applied for and received an EPA grant to demonstrate the feasibility of collection, processing and utilization (marketing) of yard debris in the Portland area. The first phase under the grant contract was initiated in May. During this effort, METRO collected about 2,000 cubic yards of material in a "neighborhood clean up" campaign. Additionally, about 7,000 cubic yards of segregated yard debris have been collected at the St. John's and Rossman's Landfills for storage and processing. About 2,000 cubic yards of the processed material has been committed to Weyerhaeuser for a hogged fuel test.

Further work under the Grant Contract is under review.

Finally, the issue of "backyard" burning surfaced in the 1981 Legislative Session. Senate Bill 327 has been approved by the legislature and will become law if signed by the governor. The new legislation prevents the Commission from imposing a ban on "backyard" burning before June 30, 1982. After that date the Commission may prohibit residential open burning in areas of the state if the Commission finds:

- "(a) Such prohibition is necessary in the area affected to meet air quality standards; and
- (b) Alternate disposal methods are reasonably available to a substantial majority of the population in the affected area."

Attachment A is a copy of the new legislation.

#### HEARINGS

Eight hearings were conducted during the last two (2) weeks in March to receive testimony from the public. Hearings were conducted in Gresham, Portland, Hillsboro, Coos Bay, Medford, Eugene, Bend and Pendleton to give as broad an opportunity as possible for public response. Reports from

each hearing are included in Attachment B. Direct written responses to the Commission are also included in Attachment B.

The required notice of hearing was published as indicated in Attachment C which also contains the Statement of Need.

The proposed rules for Hearing contained provisions for prohibiting open burning of yard debris in an area around Portland. The hearings were held after the Commission had allowed a spring backyard burning season. Most of the testimony from the Portland area (Gresham, Portland and Hillsboro) strongly opposed the concept of a "backyard" burning ban in favor of some kind of control program on "good days". Of the thirty-nine (39) people who appeared at the Portland area hearings, all but four (4) were opposed to the ban as proposed in the rules.

The bulk of the testimony from Bend, Pendleton and Medford was based upon the erroneous perception that the Department was seeking a means of preventing agricultural open burning. The testimony and lobbying against establishing any EQC control over agricultural open burning in Eastern Oregon was very intense. The Department recognizes the minimal level of air quality problems associated with agricultural burning in most of Eastern Oregon. In areas of potential problems, Madras, Union County and Umatilla County, the farm community has established programs of "self regulation" which are adequate for the present. Given these factors, the Department does not feel it is necessary at this time to establish a rule regulating agricultural burning in Eastern Oregon.

#### DEPARTMENT COMMENTS ON POINTS RAISED AT HEARINGS

##### Boundaries

The proposed limits for the area around Portland to be excluded from "backyard" burning received discussion on both sides of the issue. Suggestions ranged from adding more area to eliminating it altogether. There were no suggestions which looked at the boundaries from a utility or a jurisdictional standpoint. It is the Department's view that if a boundary is to be used, it should not create more problems than necessary. The boundary which was proposed had been carefully worked out with the jurisdictions which would be required to make use of it.

At this time, however, the issue of boundaries is probably irrelevant. Many people testified against imposing a ban. As mentioned earlier, in March the Commission found that alternatives were not available as had been planned and a spring burning period was allowed this year, temporarily setting the ban aside.

Need to Dispose of Yard Material vs. Desire for Clean Air

There was much testimony relating to the need and problems of disposal which must be balanced against the effects of burning on the air shed and public health. First the need and problems associated with disposal are fairly easy to recognize. Among the issues raised in the hearings are:

- a. Higher direct cost of alternatives to open burning.
- b. Need to get rid of material because it is in the way and unsightly.
- c. Space in Landfills is at a premium and filling up.
- d. Disease and rodent vectors associated with stored debris piles.
- e. Desire to encourage property owners to maintain property.
- f. Need for sanitary disposal of diseased plant material.
- g. Need for clean up from usual storms.

Issues raised against open burning are:

- a. Smoke fouls the air making it unbreathable.
- b. Serious allergies and other health problems either result from the smoke or are aggravated by it.
- c. Burning adds to the particulate load of the ambient air, increasing the violation of standards and limiting industrial growth.
- d. Smoke decreases visibility and looks bad.
- e. Bad odors.

None of these arguments is new. All of them have some elements of truth. Resolution of the conflicts between these various arguments and problems is the purpose of open burning regulation. Until such time as alternatives to open burning are universally available to the public, it appears to be the best public policy to allow burning on a seasonal basis during the spring and fall. Such burning should be limited to periods of good ventilation. This policy seeks to avoid the more serious of the air quality and health problems while providing means for the public to dispose of unwanted yard debris. It is implementation of this policy which is proposed in the rules. The Department will continue to evaluate alternatives and air quality so changes may be proposed when warranted.

### Burning Seasons:

A large variety of views were expressed on burning seasons. Some thought they should be eliminated while others thought they should be extended. The Department recognizes that the burning seasons, as established by previous rules and continued in the proposed rules, do not maximize opportunity for disposal of yard debris in the Willamette Valley. The weather and material to be burned are often wet. The Fall period, especially, commonly contains many days which are totally unsuitable because of poor air quality. If burning conditions were the only consideration, late Spring, early Summer and Autumn would be the preferred periods.

The choice of the seasonal periods is based on several other factors, however:

1. Restricting the total amount of burning is an important feature of the burning program. If burning were allowed all year long or during much more extended seasons, this purpose would be defeated. The restricted seasons are a compromise between no burning at all and burning everything. It is apparent that a large amount of material which could be burned is presently going to other disposal such as landfills. Restrictions of the burning rules are thought to be a large part of the reason for this.
2. Burning during the Summer or dry part of the year has strong opposition from fire protection agencies because of the fire hazards involved. It is likely that these agencies would prohibit much of the burning during the dry season because of the fire hazard.
3. The Spring and Fall seasons were chosen to coincide with the times of the year when most of the yard cleanup material is generated or collected. The seasons are long enough to usually provide at least some opportunity to burn during dry weather if burn piles are properly constructed and protected from wet weather.

### Agricultural Burning

The agricultural community makes a serious claim that the Commission does not have jurisdiction over agricultural open burning outside of the Willamette Valley. An Attorney General's Opinion, (Attachment D), clearly supports statutory authority to exercise control over agricultural open burning on a day-by-day basis.

Other points made, particularly in Eastern Oregon, were that Department control would be an expensive invasion of agricultural operations, would jeopardize their ability to farm and is unnecessary because there are no problems to be concerned with. There was expressed a real fear of

encroaching bureaucracy which would set up a burdensome "field burning program" in Eastern Oregon.

Included in the 1981 Legislative session was a minority report version of SB 327 which failed on the House floor. This version would have removed Commission authority over agricultural burning in Eastern Oregon.

The Department has no intention nor interest in setting up an intensive smoke management program in Eastern Oregon. However, the Department initially did seek some measure of control during periods of atmospheric stagnation, or poor air quality. There were six (6) days of air stagnation conditions in Eastern Oregon in 1972 and fifteen (15) days in 1977 which were noted by the National Weather Service. Air stagnation in Eastern Oregon has not been consistently monitored and has even been ignored by the Weather Service during the last several years. Eastern Oregon agricultural interests argued that since such conditions are rare in Eastern Oregon, provision for regulatory control is unnecessary.

The Department recognizes the effectiveness of the local smoke management organizations in Union and Umatilla Counties which have been in operation for six (6) or more years and the new organization in Jefferson County. Additional regulation by the State is probably not necessary at this time and the public would be better served by encouraging and working with local smoke management organizations. It is with this in mind that the proposed rules in Appendix E exempt Eastern Oregon agricultural operations from regulation.

#### CONCERNS EXPRESSED BY SPECIFIC GROUPS

Several groups raised issues which are uniquely applicable to a specific area or jurisdiction.

State Forestry Department Issues: In a letter dated March 30, 1981, (included in the Hearing Reports, Attachment B), the State Forester made a number of recommendations, several of which were incorporated in the proposed rules. His suggestions regarding "slash" as used in 340-23-037(7), (21) and (27), were incorporated. A reference to ORS 477.520 in OAR 340-23-043 was also included at his suggestion.

The State Forester also recommended using fire district boundaries or townships to define special control areas instead of the irregular boundaries derived from following a measured distance from a city limit. The Department recognizes the benefits of this approach and has encouraged specific recommendations. Lane County is the only area for which recommendations for special control area boundaries were submitted.

The State Forester recommends changing the burning seasons to take advantage of air quality and meteorological conditions instead of the split season as now exists. This issue was discussed earlier and the Department feels that this approach would require a significant change in policy

direction. So long as the policy is to limit the amount of burning done, it is probably best to maintain the burning season concept as it now stands.

The Lane Regional Air Pollution Authority The Lane Regional Air Pollution Authority requested consideration of several points:

- a. Listing of fire districts to define special control areas;
- b. Maintaining the "Dawn-to-Dusk" daily burning hours for domestic burning instead of making evening burning stop two hours before sunset;
- c. Eliminating the split season for domestic burning to make a continuous nine (9) month season during the winter.

LRAPA submitted a list of fire districts to be used to define special control areas in Lane County. This list was incorporated into OAR 340-23-057. The proposed rules do not establish domestic burning hours and burning seasons for Lane County. LRAPA is expected to set their own burning hours and seasons. The proposed rules direct the reader to consult LRAPA rules.

Jackson County Board of Commissioners The Jackson County Commissioners expressed concern that the ventilation index (VI) as originally proposed in OAR 340-23-043 for the Rogue Basin (VI=200) was less restrictive than the VI proposed for the Willamette Valley (VI=250). The VI is one factor recommended for use to determine marginal or prohibited days. The rule as now proposed has the VI criterion equal to 200 for both the Rogue Basin and the Willamette Valley.

An analysis of the available VI data from both the Willamette Valley and the Bear Creek Valley suggests that the most reasonable change is to make both the Bear Creek and Willamette Valley VI criteria the same and to set this value VI = 200.

#### DISCUSSION OF PROPOSED RULES

The primary objective in this revision has been to produce a set of rules which are clear in their meaning and easy to use. To accomplish this, care has been taken to assure that each rule contains only one major element or subject area. Some new rules have been added and some provisions formerly contained in single rule have been separated into different rules.

The specific additions and changes in each rule are briefly discussed. The proposed rules are contained in Attachment E.

OAR 340-23-022 How to Use These Open Burning Rules, page 1 to 3 of the proposed rules.

This is a new rule which is informative in nature. It is intended to inform a person who is unfamiliar with the rules how to find the specific rule governing a particular class or type of burning in a particular location. Reference is made to the seven classes of waste recognized in the rule. The rule provides a brief description of each rule and a step by step guide for finding rules regulating a specific practice.

OAR 340-23-025 Policy, page 4 of the proposed rules.

The Policy Statement remains unchanged.

OAR 340-23-030 Definitions, page 4 through 13 of the proposed rules.

The definitions have been considerably expanded and reworded for clarity and consistency.

- (a) Each class of open burning has parallel definitions for the "open burning" and "class of waste". Each class of waste is defined as "material" of specific origin with examples. This avoids limiting the class to the examples given in each case.

"Commercial Waste" is defined to be material which is not classed some other way so there will be no waste material which cannot somehow be classed.

- (b) Definitions for "auxiliary combustion equipment" and "combustion promoting materials" page 5 of the proposed rules, have been added to make the meaning of the terms clear in 340-23-040(3), on page 19 of the proposed rules.
- (c) The definition of "forced air pit incineration" has been restructured for clarity, page 7 of the proposed rules.
- (d) A definition of "land clearing" has been added because of its common usage and application to open burning situations, page 8 of the proposed rules.
- (e) The definition of "local jurisdiction", page 8 of the proposed rules, is made necessary by its frequent usage in OAR 340-23-050 through 340-23-060.
- (f) The definition of "open burning" has been restructured to correct the grammatical construction and improve clarity, page 8 of the proposed rules.
- (g) The definitions of "Open Burning Control Area", pages 9, 10 and 11 of the proposed rules, and "Special Control Area", page 12 of the proposed rules, play a lesser role in the proposed rules, than



before. Most boundary lines for regulated areas are now listed with the regulated practices for each county making it unnecessary to have an understanding of "open burning control areas" apart from the rule where the term is used. A separate rule, OAR 340-23-080, specifically describes the open burning control areas.

- (h) The term "Regional Authority" has been deleted as unnecessary, page 11 of the proposed rules.
- (i) A definition of "Slash", page 12 of the proposed rules, has been added to clarify this type of open burning. This definition satisfies the Department of Forestry.
- (j) "Ventilation index", page 12 of the proposed rules is a new concept being introduced into the rules to aid in determining the "schedule of burning" mandated by ORS 468.450.
- (k) A list of all possible types of waste has been added to the definition of "waste", page 13 of the proposed rules.
- (l) "Yard debris", newly defined on page 13 of the proposed rules, has become an important sub-class of domestic waste. The term is used many times in the rule.

OAR 340-23-035 Exceptions, Statewide, pages 13 and 14 of the proposed rules.

- (a) Small changes have been made in the Exception Rule to clarify language or to quote statute.
- (b) The operation of all barbeque equipment has been exempted from the proposed rules. Previously long term commercial barbeque operation was not exempted. Barbeques are not seen to be a problem in the context of open burning and there has never been an occasion to apply limitations to such an operation.
- (c) One significant change involves agricultural burning. An Attorney General's opinion, Appendix D, clearly establishes EQC authority over agricultural open burning. At this time, however, there appears to be no great need and limited ability to exercise that authority in Eastern Oregon. Those areas of Eastern Oregon where potential problems exist have locally organized smoke management organizations which operate to substantially diminish the potential for smoke problems. Therefore, agricultural open burning east of the Cascade Mountains remains exempt from EQC regulation in the proposed rules, at the discretion of the Commission.

Agricultural burning west of the Cascades is included for regulation under the proposed rules to avoid actual or threatened violation of

standards under conditions of serious and persistent air stagnation, inversions, or air pollution episodes. Since field burning and other agricultural burning in the Willamette Valley is regulated under another set of rules, ("Agricultural Operations", OAR Chapter 340, Division 26) it is necessary to exempt Willamette Valley agriculture from the proposed Division 23 rules.

OAR 340-23-040 General Requirements Statewide, pages 15 through 20 of the proposed rules.

The existing rule contains a combination of general requirements and prohibitions. The entire old text has been deleted and those elements which were general requirements for proper burning and compliance with these rules have been reworded in the proposed rule. The proposed rule establishes the identity of a responsible person and then defines the duties of each responsible person.

OAR 340-23-042 General Prohibitions Statewide, pages 20 and 21 of the proposed rules.

The general prohibitions formerly in OAR 340-23-040 have been reworded and are all included in this new rule.

OAR 340-23-043 Open Burning Schedule, pages 21 through 24 of the proposed rules.

This new rule establishes the basis for allowing or prohibiting burning in any area of the state. It is intended to meet the "schedule" requirement of ORS 468.450. There are two basic cases for prohibition conditions.

- (1) Mandatory prohibition based on adverse air quality or episode conditions,
- (2) Discretionary prohibition based on poor Meteorological conditions such as stagnation or poor ventilation.

OAR 340-23-045 County Listing of Specific Open Burning Rules, pages 24 through 29 of the proposed rules.

This rule previously listed the areas of the state where specific burning practices were prohibited or limited. The entire text of the old rule has been deleted. The proposed rule is an index to the following eight rules where all the specific restrictions on each of the regulated types of burning are listed for each county.

OAR 340-23-050 through 340-23-060 Open Burning Rules for Specific Counties, pages 29 through 45 of the proposed rules.

Each county of the state is specifically covered by regulating language in one of the eight rules in OAR 340-23-050 through 340-23-060. Each class of open burning regulated by these rules is specifically treated in each rule.

- (a) No changes have been made in the regulation of industrial open burning.
- (b) Agricultural open burning is a new class of open burning to be considered for regulation in some areas of the state. Counties east of the Cascade Mountains are left unregulated. Willamette Valley counties are regulated by the field burning rules. In the counties west of the Cascade Mountains agricultural open burning is given special consideration where a local smoke management organization is in operation but is generally regulated by OAR 340-23-040, 340-23-042 and 340-23-043 under air stagnation or episode conditions.
- (c) No changes have been proposed in the regulation of commercial open burning.
- (d) It is proposed to allow burning of construction and demolition waste on the coast except for the areas in and within three miles of Astoria and in the Coos Bay area. No changes are proposed elsewhere in the state for the regulation of construction or demolition burning.
- (e) Several changes are proposed in state regulation of domestic burning within the Willamette Valley counties. Under existing rules such burning would have been prohibited.

If adopted, the proposed rules will:

- (1) Allow domestic burning to continue into the future until such time as the Commission further modifies the rules.
- (2) Provide for a spring and fall season for burning of yard debris in populated areas of the Willamette Valley.
- (3) Establish burning hours for each day authorized for domestic burning to be 7:30 a.m. to two hours before sunset except in Lane County which is subject to LRAPA rules.
- (4) Allow LRAPA to establish its own burning season and daily burning hours.

OAR 340-23-070 Letter Permits, pages 46 through 49 of the proposed rules.

The section on Letter Permits formerly OAR 340-23-045(7), has been made more explicit and placed in a separate rule. The minimum contents of an application and terms for a letter permit are listed.

OAR 340-23-072 Forced Air Pit Incinerators, pages 51 through 54 of the proposed rules.

This rule contains provisions formerly in OAR 340-23-040(12). A provision has been added to require a permit for operation of forced air pit incinerators. This permit is similar to Letter Permits, but without the time restrictions of letter permits.

OAR 340-23-075 Records and Reports, page 51 of the proposed rule.

This rule is identical to provisions formerly in OAR 340-23-050.

OAR 340-23-080 Open Burning Control Areas, pages 51 through 54 of the proposed rules.

This rule contains the description of areas formerly contained in the definitions, OAR 340-23030(12) and (16) of existing rules. The rule serves primarily to inform the public of the nature and origin of open burning control areas. The listing of the legal boundaries for the Coos Bay, Rogue Basin and Umpqua Basin Open Burning Control Areas is required for the legal understanding of rules governing burning in those areas. The boundaries for all other open burning control areas are explicit in the specific rules governing those areas.

#### ALTERNATIVES

Substantive alternatives to the proposed rules are limited by the restrictions of new legislation discussed earlier, SB 327, Appendix A. The legislation requires the Commission to establish seasons for burning of yard debris, and a daily decision to allow or disallow burning. After June 30, 1982 the Commission may prohibit burning of yard debris when it makes certain findings. It appears that the proposed rules, as they relate to domestic open burning, represent the only suitable option.

The restructuring leaves an overall feeling of complexity when reading the whole set of rules. However, the rules were intended to be used to determine what is legal or illegal to burn in a specific county. The Department considers this approach the most useful if there are to be differences between the rules for specific areas of the State. The available alternatives are:

1. Adopt the rules as proposed in Attachment E.
2. Direct the Department to make another draft of the rules using a different approach to be specified.

If the Commission chooses alternative number 2, specific comment should be made to indicate the approach to be used in rewriting the rules.

SUMMATION

1. The Department has proposed a revised structuring and wording for administering open burning in the state. This effort clarifies the effects of the rules and simplifies application of the rule to specific locations and specific types of burning.
2. Hearings were held in eight locations throughout the state to receive public testimony.
3. A ban on backyard burning, which has been a part of the rules in the past, has been abandoned for the present because:
  - a) New legislation precludes a ban without certain findings by the Commission.
  - b) Some local governments were having difficulty in providing alternatives for their constituents.
  - c) Strong public demand.
4. Changes have been made to reflect public testimony, clarify the language of the rules and streamline their use.

DIRECTOR'S RECOMMENDATION

Based upon the Summation it is recommended that the Commission adopt the proposed open burning rules, OAR 340-23-022 through 340-23-080, in Attachment E.

*Bill*

William H. Young

L. D. Brannock:i  
229-5836  
AI1216  
Attachments:

- A. Senate Bill 327 passed by 1981 Legislation assembly.
- B. Hearing Officer Reports, Proposed Open Burning Rules, OAR 340-23-022 through 340-23-080, including letters directed to the Commission on support of testimony.
- C. Notice of Hearing and Statement of Need.
- D. Letter from Attorney General to W.H. Young giving opinion regarding agricultural open burning under ORS 468.450.
- E. Proposed Rules for Open Burning, OAR 340-23-022 through 340-23-080.

ATTACHMENT A

Senate Bill 327

Passed by the 1981 Legislative Assembly

**A-Engrossed**  
**Senate Bill 327**

Ordered by the Senate April 23  
(Including Amendments by Senate April 23)

Sponsored by Senators GROENER, HARTUNG, SIMMONS, Representatives FORD, LINDQUIST, SMITH, WHALLON

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Defines "domestic open burning." ]*

*[Allows Environmental Quality Commission to regulate domestic open burning. Prohibits commission from banning "backyard" burning without regard to atmospheric conditions.]*

**Requires Environmental Quality Commission to establish by rule periods during which open burning of vegetative yard debris is allowed or disallowed based on daily air quality and meteorological conditions.**

**Allows commission, after June 30, 1982, to prohibit residential open burning upon specified findings.**

**Allows local governments to take more restrictive action than commission.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

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Relating to domestic open burning; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** Section 2 of this Act is added to and made a part of ORS chapter 468.

**SECTION 2.** (1) The Environmental Quality Commission shall establish by rule periods during which open burning of vegetative debris from residential yard cleanup shall be allowed or disallowed based on daily air quality and meteorological conditions as determined by the department.

(2) After June 30, 1982, the commission may prohibit residential open burning in areas of the state if the commission finds:

(a) Such prohibition is necessary in the area affected to meet air quality standards; and

(b) Alternate disposal methods are reasonably available to a substantial majority of the population in the affected area.

(3) (a) Nothing in this section prevents a local government from taking any of the following actions if that governmental entity otherwise has the power to do so:

(A) Prohibiting residential open burning;

(B) Allowing residential open burning on fewer days than the number of days on which residential open burning is authorized by the commission; or

(C) Taking other action that is more restrictive of residential open burning than a rule adopted by the commission under this section.

(b) Nothing in this section affects any local government ordinance, rule, regulation or provision that:

(A) Is more restrictive of residential open burning than a rule adopted by the commission under this section; and

**NOTE:** Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted; complete new sections begin with **SECTION**.

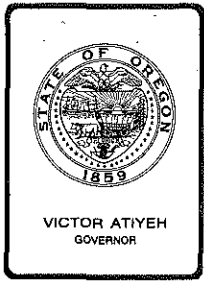
1 (B) Is in effect on the effective date of this 1981 Act.

2 (c) As used in this subsection, "local government" means a city, county, other local governmental  
3 subdivision or a regional air quality control authority established under ORS 468.505.

4 **SECTION 3.** This Act being necessary for the immediate preservation of the public peace, health and  
5 safety, an emergency is declared to exist, and this Act takes effect on its passage.

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## *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: L. D. Brannock, Hearings Officer

Subject: Public Testimony Received for the Record on Proposed Amendments to Open Burning Rules, OAR 340-23-025 through 340-23-050

The attached letters were received in response to the proposed open burning rules.

To reduce printing volume, written testimony submitted for the hearing record is not included but is available for public inspection at the Department offices: Air Quality Division, 522 S. W. Fifth Avenue, Portland, Oregon.

LDBrannock:ahe  
229-5836  
08-13-81

feels that probable increased costs brought about by DEQ control are unjustified in an area where school levies don't pass, levies for libraries, road maintenance, and police go unfunded and the Federal Weather Stations are being curtailed.

Tom Thompson, a farmer and consulting agronomist, questions the need of additional DEQ rules where state law requires fire permits. He sees no justification for applying open burning controls to agriculture and submitted a sample copy of the fire marshall's fire permit.

Marinas Jocab DeLint, a farmer from Union County, questions the authority of the EQC to control open burning state wide. He feels the Union County voluntary program has worked well and that DEQ has neither the staff nor the knowledge of Union County to regulate under an equivalent program. he further thinks that complaints are rare and insignificant.

Bill Howell, an Imbler, Oregon farmer, objects to rules and regulations being imposed in anticipation of a problem. He states that the expense of an expanded program is unjustified and state funds are short and feels that the rules are the beginning of an expanded control program by the state.

William Curt Howell, a farmer from Union County, thinks that the voluntary program operating in Union County has worked well and that the farmers cannot afford the increased expense of more agricultural programs. He questions the source of specific complaints. Mr. Howell fears that the rules open the door for increased monitoring and control somewhere down the road, say 10 years or more.

Doug Winn, a resident from La Grande, does not feel there is any need for DEQ in Union County and the people do not want DEQ. He asks that the Department let the farmers govern themselves.

Glen Gibbons, manager of the Blue Mountain Growers of Milton-Freewater, points out the farmers need to burn orchard prunings in the Milton-Freewater area and states that there is a program in operation which cooperates with the Walla Walla Weather Service. He feels that the fiscal impact statement is callous in nature because it does not mention added expenses expected of the farmer. He sees a need for a government that does not go beyond its authority and wants government to get off the people's back.

Tom Wallace, a local farmer, wonders if the DEQ proposal is for the purpose of regulating or just to assist people in knowing when to burn.

Jack Smith, the meteorologist in charge of the Pendleton Weather Station, asks that the DEQ accept the status-quo and let the citizens continue with the operation of self-regulation. He requests that we pass no rule based strictly on anticipated problems.

1980 in the Pendleton area and no complaints were received by the fire district or the sheriff's department.

Frank Tubbs, is a farmer from Adams, Oregon. Mr. Tubbs states that fire permits are now required by county courts and people in the area wish to continue local control of agricultural burning. He states that people in his area do not want a deeper layer of government regulation.

Don Starr, a farmer from Summerville, Oregon, is president of the South Forty Club. Mr. Starr thinks that any problems or complaints due to agricultural smoke are minor compared to the benefits of the agricultural income to the area and the increased costs accompanying DEQ regulation. Such regulation, Mr. Starr thinks, is overkill of the problem. He states that the inherent adversities of smoke and dust for short periods in Eastern Oregon are accepted by the general public. Mr. Starr further states on his own behalf, that the Union County farmers cooperatively have operated a smoke management program for the last five years and that they don't need increased DEQ responsibility in a time of low or declining state income. He recommends that the state should encourage the operation of local programs.

Byron Hawkins, a farmer from La Grande, in Union County, states that additional burning regulations are unnecessary because: (1) the local voluntary smoke management program has worked well, (2) the area is characterized by good smoke dispersal patterns, and (3) the area is well within the total suspended particulate standards of the state.

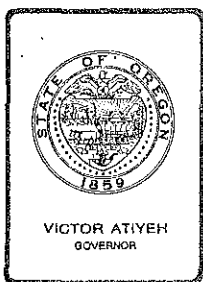
L.R. Starr, a farmer from Summerville, Oregon, in Union County, has been in the local fire department for 30 years. He states that in that time it has been necessary to restrict open burning only twice, due to a heavy accumulation of forest fire smoke. He thinks that this is not a sufficient problem to warrant regulation.

Bruce B. Andrews, a farmer from Cove, Oregon, states that the existing local smoke management program works well because the farmers care about their industry and self-control is a matter of pride. He feels the DEQ can do nothing to enhance air quality in Union County so that more regulation is unnecessary.

Creston Shaw, a farmer from Union County, states that a few complaints do not support the need for open burning regulation in Union County. He feels that Union County is working to take care of their own problems.

Bob Wilson, a farmer from La Grande, is president of the Union County Grass Seed Growers Association. Mr. Wilson emphasized the need for post harvest burning in grass fields to increase seed yields. He says that 69 Union County farmers operate a voluntary smoke management program to alleviate essential problems in the area. Mr. Wilson presented additional written information relating to the operation of the smoke management program in Union County.

Robert Buchanon, a wheat farmer from Milton-Freewater, is opposed to increased DEQ control in Union and Umatilla Counties. He states there are no known complaints at the Milton-Freewater fire department. Mr. Buchanon



## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing held March 25, 1981 in Pendleton, Oregon on Proposed Amendments to the Open Burning Rules, OAR 340-23-025 through 340-23-050.

### Procedure

Pursuant to public notice, on March 25, 1981, at 7:00 p.m., a public hearing was convened at the Pendleton City Hall in the Council Chambers at 34 S.E. Dorian Street, for the purpose of receiving public testimony on the proposed open burning rules.

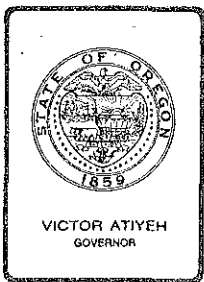
### Synopsis

The hearing was attended by approximately 35 individuals. Eighteen of these people offered oral testimony at the hearing. All of the testimony offered concerned itself with the burning regulations as they apply to agricultural burning. Most of the testimony dealt with field burning. Those testifying were uniformly opposed to the establishment of DEQ rules that would control agricultural burning in Eastern Oregon. The reasons given for this opposition were: (1) it was unnecessary, (2) it duplicates effort presently being made on a local basis, and (3) there was no need to increase government involvement in the lives of the people of Eastern Oregon.

### Summary of Testimony

Grant Henderson, a farmer from Summerville, Oregon, spoke representing the Farm Bureau. Mr. Henderson states that Union County growers prefer their own smoke management program, which they currently operate, to a program operated by the DEQ from Portland. He thinks it is unnecessary to increase government payroll and control in Eastern Oregon.

Mr. Mack Temple, a wheat farmer from Echo, Oregon, is chairman of the Production Land Use Committee of the Oregon Wheat League. Mr. Temple states that field burning is necessary to the production of some crops and he thinks Eastern Oregon should be exempted from regulation. He further stated that the DEQ received only 12 complaints from burning operations in



## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing held March 23, 1981, in Coos Bay, Oregon, to receive testimony on proposed open burning rules OAR 340-23-25 through 340-23-050.

### Procedure

Pursuant to public notice, a public hearing was convened at 7:00 p.m., March 23, 1981, in the Neighborhood Facility Building, in Coos Bay, Oregon.

### Summary of Testimony

There were 3 persons attending this public hearing. A question and answer period was incorporated where one person had questions relating to the slash burning in the coast area of Coos Bay.

George X. Rempelos is the fire marshall for the North Bay Rural Fire Protection District. Mr. Rempelos does not see the need for open burning control areas in Coos Bay or Astoria. He also pointed out an error in the descriptive boundary describing the Coos Bay open burning control area.

### Attachments:

LDR:a  
AAD168 (1)  
229-5836  
July 6, 1981

Mary Flagg, Forest Grove read a poem into the record on backyard burning, advocating a year-long burn season.

R. McDonald, Hillsboro is particularly concerned with eliminating diseased plant material. The only safe way to dispose of this material is to burn it, as chipping the material and putting it back in the earth will only spread disease and other pests. She favors burning on good days the year around with local control. Differences in local climate areas need to be considered.

Robert Platt supports year around burning and needs to burn diseased material.

Kevin Van Dyke, Forest Grove is the Director of the Rural Fire District but speaks as a private citizen. He advocates a year-long burn season, with greater local control over burn days. He states that wind conditions vary greatly from county to county, as does the danger of uncontrolled summer fires.

Harold Eastman supports year around burning on a controlled basis.

Respectfully submitted,

Rhea W. Kessler  
Hearings Officer

RWK:g  
HGD220 (1)

Chester Robinson, Tigard advocates burning throughout the year when atmospheric conditions permit. He spoke of the various health hazards posed by a burning ban, including the pollution from motor powered chippers, the reduction of atmospheric oxygen due to less cultivated greenery, and increased rodent population living in roadside brush.

Lee Crowell, Hillsboro stressed the expense of burning alternatives, such as hauling or chipping, which are prohibitive to citizens living on fixed incomes. He says we should burn year around on good days.

Bob Davis, Fire Chief, Forest Grove Fire Department, states that he wants to go on record supporting backyard burning. He feels that rural burning should be year around.

Addie Fischer, Forest Grove and her husband live on a fixed income and grow most of their own food. She states that they can't afford alternatives to burning and have no room on their one-acre plot to accommodate accumulated debris. She wants reasonable regulated burning.

Ethan Peabody, Forest Grove spokes in favor of a year-long burn season, stating that too many of the permitted burn days fall during damp weather when burning creates large amounts of smoke.

George Babish, Construction Safety Consultant, Hillsboro questions the monetary and environmental costs of burning alternatives. He also mentions the difficulties of burning during wet weather. A copy of his comments is attached.

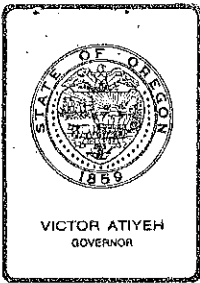
Larry Chambreau, City Council, Hillsboro emphasizes the lack of reasonable alternatives to backyard burning and the negligible impact of such burning on general air quality. He also advocates burning throughout the year which would allow material to dry adequately before burning and thus minimize the amount of smoke produced. He says local nuisance problems can be handled by local government.

Margaret Sievers advocates an extended burn season, which would encourage homeowners to beautify their properties and discourage rodents and other pests. She cannot afford a chipper or other alternatives.

Esther Heil, Hillsboro states that her family recycles and composts as many materials as they can but still need to burn certain debris such as laurel and walnut leaves. She favors burning the year around.

W.G. McCallum, Hillsboro states that he represents himself and six other families, all of whom advocate year long burning. Senior citizens cannot afford costly alternatives.

Lloyd Baron, Hillsboro speaks of the problems caused by a burning ban, including insect infestation, plant diseases, rodents, weeds and increased fossil fuel pollution. He also criticizes the current burning schedule, stating that burning should only be allowed on dry days the year around.



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

### MEMORANDUM

TO: Environmental Quality Commission      DATE: June 3, 1981

FROM: Rhea Kessler, Hearings Officer

SUBJECT: Report on Public Hearing, held March 19, 1981,  
on Proposed Open Burning Rules

### Summary

Pursuant to Public Notice a public hearing was held on March 19, 1981, at 7:30 p.m. in Hillsboro, Oregon. The purpose of this meeting was to receive testimony regarding proposed rules for open burning.

### Summary of Testimony

Sixteen individuals gave oral testimony. Approximately 40-50 people were present. Many speakers stated that they wish to burn all year long, when weather conditions are favorable. All supported backyard burning. A general question and answer period followed the formal testimony. Staff answered questions concerning cut-off times, climatological differences and decision-making for burn authorization. Two members of the Oregon Environmental Council were in attendance. They answered general questions about their organization.

Joe Salta, Aloha wants permission to burn throughout the year. He owns an acre of land with fruit trees and has much debris to dispose of.

Dwight Johnson supports burning because he considers landfills to be a short term solution. He wants assurance that burning will be permitted in years to come.



Open Burning  
June 15, 1981  
Page 3

Hannelore Mitchell lives on an urban-sized lot which supports seven mature deciduous trees, four less mature deciduous trees, and a variety of other trees and shrubs. Her house is in a geologic depression. She was disappointed that the ban was rescinded by the Commission. She believes it reflects an inept job by the agency which has failed to provide alternative disposal means.

She would like to see a form of districting for backyard burning purposes. She suggests that fire districts be subdivided and authorized to allow burning when weather conditions are conducive to removing smoke from the lower atmosphere. She suggests the use of odd/even house number system on odd/even days as a method of permit allocation. She would like the agency to develop an educational program of fliers distributed from house to house to encourage wise burning and courtesy. She suggests that cartoon shorts would provide an appropriate educational medium. She would particularly admonish against the burning of wet debris.

Sandra Gee wants to eliminate burning completely. She experiences serious health symptoms because the cost of disposal has been improperly balanced against the deleterious effects on human health.

Owen P. Cramer, retired research meteorologist, has provided a variety of specific suggestions. A copy of his testimony is attached. He believes burning should be regulated by an air quality index using a particulate standard rather than a meteorological index as proposed. Mr. Cramer thinks the Willamette Valley is too large to be governed by a single index. Burning zones should be established with burning allowed down-wind of sensitive areas. He thinks it is a mistake to prohibit burning in the Portland area because it will increase fire hazards. Instead, he proposes that burning be managed year-round on auspicious days. Mr. Cramer supports the proposed to limit burning hours to 2 hours before sunset.

LKZ:t  
HS307 (1)

not be issued for a period extending beyond 30 days and should allow only 7 days of actual burning. Hours for burning should conclude at least 2 hours before sunset. The Council also supports the proposed changes allowing the burning of construction and demolition waste in certain coastal areas; exempting backyard bar-b-ques from regulation; and adding petroleum treated wood to the list of prohibited materials.

Dennis L. Heidtmann, an Aloha resident, generally supports the proposed rules but has some reservations about the burning ban boundaries. He believes that housing density should be used as a criteria in addition to distance from Portland. He advises the Commission that wood contains polycyclics. He asks that the Commission assist in preventing people from dumping smoke in his lungs just as they are forbidden to dump garbage on his lawn. John F. Reynolds does not believe that wood smoke causes cancer. He states that the ban on backyard burning is an imposition on citizens. The main problem is that good alternative disposal facilities are not presently available.

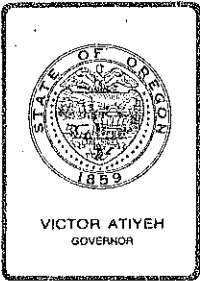
Richard Gitschlag, a Northwest Portland resident, asked the Commission to allow year-round burning on good days. Year-round burning will prevent an accumulation of large debris piles. Mr. Gitschlag believes that incineration would be preferable to open burning. He would like to see production of an information package evaluating environmental costs including alternate disposal methods, gas use, road dust and auto exhaust. He believes that rural areas should be able to burn without restriction. He does not believe that a restriction on backyard burning should be imposed until there are reasonable restrictions on the emissions of auto exhaust fumes.

Veronica Foster owns a parcel of land over an acre in size which accomodates four old houses landscaped with small fruit trees. She must prune and dispose of the trimmings by burning to avoid disease. She finds that spraying will not do the job. Landfills provide a breeding ground for disease and are not a viable repository for trimmings. She was forced to expend \$500 on clearing evergreen debris last year. This year she has hauled three pickup loads of debris at a \$120 labor cost and a \$26 fee for dumping and gasoline expense. She was also able to burn the equivalent of three pickup loads of debris.

J. L. Sedgwick opposes duplication of services. He believes that fire departments should be used as exclusive agents for regulating backyard burning.

Kathleen Satterlee believes that year-round open burning should be permitted to avoid pollution.

J. L. Pottenger reports that his neighbors burn backyard debris. This long-time Portland resident remembers five ice-storms, each one produced a great deal of debris. He would like to burn under reasonable conditions decided by DEQ. He does not believe that taxpayers should pay for debris disposal.



## *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: Linda K. Zucker, Hearings Officer

Subject: Public Testimony on Proposed Amendments to Open Burning Rules, OAR 340-23-025 through 340-23-050 and OAR 340-30-070. Multnomah County.

### Procedure

Pursuant to public notice, a hearing was convened at the Multnomah County Courthouse at 7:00 p.m. on March 18, 1981.

### Summary of Testimony

Floyd Hand believes that recent televised statements by DEQ employes regarding the carcinogenic effect of wood smoke were inaccurate and intended to frighten people. PNH has not been proved to cause cancer in humans. In any case, it arises in any burning of organic material, occur naturally, and is present in processed food. Many years ago, wood burning was very common, yet the incidence of cancer was lower than present day levels.

Beulah Hand, former state representative from Clackamas County, owns an acre of land planted in fruit trees, vines and shrubs. She finds she must burn apple scab infected trimmings and rose bush trimmings to avoid transfer of disease. She says that debris piles provide a haven for rodents. She believes that hauling debris along Milwaukie Boulevard in open trucks is not practical and increases road dust. Finding that good meteorological information is available, she believes that people should be able to burn year-round. We should rely on forest service meteorological information.

Bill Cook, speaking for the Oregon Environmental Council, supports a ban on backyard burning and the rule revisions proposed by staff with certain exceptions.

He would like to see the ban boundary extended to include Hillsboro and Aloha. He believes that open burning should be banned throughout the Willamette Valley. He believes that letter permits for yard debris should

Steve Carlson represented the Jefferson County Essential Oil Growers. They opposed DEQ control of agricultural burning in the area and suggest that fireplaces should be controlled first.

Loy M. Petersen is a Madras area farmer. He supports the method of self-regulation of burning as opposed to control and emphasizes the need for growers to burn grass seed and irrigated wheat for disease control.

Ron Olson , a Madras area farmer, believes that the self-control burning program instituted in the area makes it unnecessary to institute the DEQ rules at this time. He thinks the proposed rule is too general and should be more specific to a specific problem.

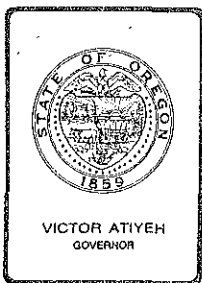
Michael Weber is the manager of Central Oregon Seeds in Madras. Mr. Weber thinks that proposed regulations should be tailored to each area specifically and tied to an identified need.

Scott Samsel is a Jefferson County farmer and a member of the local farm bureau. He is opposed to the proposed regulations and prefers the self-regulating smoke management control which has been organized.

Gary Harris , a farmer in the Madras area, polled the audience in attendance. There were zero in favor of the Department's proposed rules and 23 opposed.

Attachments:

LDR:a  
AAD166 (1)  
229-5836  
July 6, 1981



## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing held March 16, 1981 in Bend, Oregon for the purpose of receiving comments on proposed open burning rules OAR 340-23-025 through OAR 340-23-050.

### Procedure

Pursuant to public notice, a hearing was convened at 7:00 p.m. on March 16, 1981 in the Bend City Hall Commission Chambers for the purpose of receiving testimony on the proposed open burning rules.

### Synopsis

The Bend hearing was attended by approximately 25 individuals, all of whom were from the Jefferson County, Madras, Prineville area. Eight people offered oral testimony at the hearing opposing the proposed DEQ regulation of agricultural burning.

### Summary of Testimony

Buck Grope represented the Jefferson County seed growers and presented oral and written testimony. The written testimony is attached. The Jefferson County seed growers oppose the proposed rules as being premature. Area farmers have initiated a plan for self-regulation and smoke management. They think that the area generally has excellent burning conditions which minimize the potential for smoke problems before imposing regulations and believe that the wording of the rule is ambiguous. They claim there is no data to show any problem exists or what its scope may be. Field burning involves only a small portion of available land area and thus the potential effect is limited on any given day.

John A. McConaghy represented the Jefferson County Chamber of Commerce. The Chamber supports agriculture in the area and is opposed to regulations on agricultural seed growers without hard data to show the need for such regulation.

EQC Hearing

3/12/81

Page 2

opposed to the seasonal recommendation in the proposed rule, (2) he was in opposition to the proposal to prohibit domestic burning 2 hours before sunset, (3) special burning areas should be defined by fire district boundaries as opposed to a distance around city limits, and (4) he was in support of fees for letter permits. Mr. Arkell submitted written testimony which is attached.

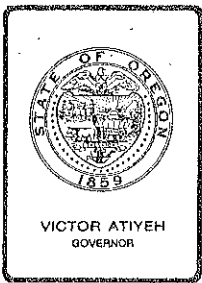
Attachments:

LDB:a

AAD167 (1)

229-5836

July 6, 1981



## *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: L.D. Brannock, Hearings Officer

Subject: Report on the Public Hearing held March 12, 1981  
in Eugene on proposed open burning rules,  
OAR 340-23-025 through 340-23-050.

### Procedure

Pursuant to public notice, a hearing was convened at 7:00 p.m. on March 12, 1981, in the Lane County Court House for the purpose of receiving public testimony regarding the proposed open burning rules.

### Synopsis

The public hearing was attended by about 6 people. There were 3 who testified regarding the proposed open burning rules.

### Summary of Testimony

Frank A. Sparrow, a Eugene resident, thinks that burning regulations violate constitutional guarantees. He thinks that if burning is to be stopped, it should include slash burning and field burning as well as other types of burning. Mr. Sparrow offered written testimony which is attached.

Dick Nice represented the Lane County Fire Defense Board. Mr. Nice offered five recommendations for altering the proposed rules. (1) the midwinter closure of backyard burning should be eliminated, (2) he was opposed to the cutoff of burning 2 hours before sunset but preferred the burning cutoff at sunset as listed in the current rule, (3) he thought that the fee schedule for letter permits should be eliminated, (4) he opposed the one year permit fee for yard debris, and (5) he wished to have specific fire districts listed for specific control in Lane County instead of setting limits three miles beyond city limit boundaries. Mr. Nice offered written testimony which is attached.

Don Arkell is the Director of the Lane Regional Air Pollution Authority and spoke on behalf of LRAPA and its Board of Directors. Mr. Arkell had 4 main points: (1) he supported allowing burning all during the winter months as

the farmers of the area will cause economic disaster to the growers. He is afraid that production of seed crops cannot continue if farms are to be destroyed by this type of regulation. He expressed grave concern about future increasing DEQ control over the farm community. Written testimony from Mr. Heisel is attached.

Ronald C. Bjork spoke, representing Jackson County Farm Bureau. Mr. Bjork said that farmers do not need any more regulations. They are now zoned EFU or exclusive farm use and they don't need another agency telling the farmers they cannot make a living on their farm. Mr. Bjork thinks the state needs to decide whether it is trying to preserve farming or it is just trying to preserve the land.

Mike Blum, a Medford area resident, was concerned about the possibility of having to obtain fire permits from more than one source and also whether incinerators for backyard burning would be authorized without a permit. Mr. Blum was advised that permits would be required from the fire department only and that incinerators also would require permits.

Owen Kreger is the fire chief at Talent, Oregon. Talent has a volunteer fire department and Mr. Kreger was concerned about the necessity of issuing permits all winter long. He states that his department has no budget nor facilities for notifying public of burn days nor is it prepared to respond to deal with illegal fires, that is fires that are set without a permit. He views the proposed regulations as placing requirements on them which they are not organized to accomplish.

Gene P. McCurley, a Medford area resident, states that farmers do not have the option to do anything with their land other than farming. He is concerned that burning regulations would place undue burden on the farmers.

Donald W. Berry, a Medford area agriculturalist, is concerned about the possible effects of controlled agricultural burning. He expressed the need of farmers to burn for control of disease such as pear blight.

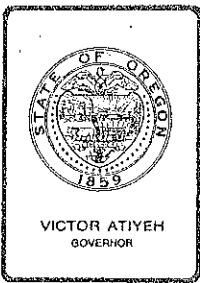
Otto Caster, the Mayor of Phoenix, is concerned about what he perceives to be a need for permits all year long. Phoenix has a volunteer fire department and it is not equipped to issue permits all year.

James Brookins, a Medford area farmer, is concerned about too many agencies having control over fire permits. He objects to obtaining a fire permit to burn ditches, for instance, and then have someone from DEQ tell him to put the fire out.

Mike Willett is a Jackson County Extension Agent. He expressed concern about the possible number of days to be prohibited in July and August based on a ventilation index of 200. Mr. Willett points out that people in agriculture are restricted from using pesticides and that open burning reduces the need for chemical pesticides.

Attachments:





## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing on Proposed Amendments to  
Open Burning Rules, OAR 340-23-025 through 340-23-050  
held March 10, 1981 in Medford, Oregon.

### Procedure

Pursuant to public notice, a public hearing was convened at 7:00 p.m., March 10, 1981, in the Jackson County Court House Auditorium in Medford, Oregon, for the purpose of receiving public testimony on the proposed amendments to the open burning rules.

### Synopsis

The hearing was attended by approximately 15 persons, 9 of whom presented oral testimony. None of the participants were in favor of the proposed amendments. Most objections related to: (1) an anticipated increased burden upon farmers, or (2) the anticipated problems associated with requirement to obtain permits from more than one source.

### Summary of Testimony

Manville Heisel, a Medford attorney representing several area farmers, did not believe the concept of the ventilation index was well enough established to be utilized as a regulatory tool. He expressed doubts that the Legislature intended to give the DEQ general authority over agricultural burning throughout the state through ORS 468.290 and 468.450. Mr. Heisel made the point that agricultural burning in the Medford area has been relatively static for a number of years and that while complaints may be increasing, burning certainly is not and therefore, any problems from burning could not be on the increase but only the complaints. Mr. Heisel further objected to the Fiscal Impact Statement in that it did not include a fiscal impact to farmers but only to government. He claims that growers have made many attempts to find alternate crops so that they will not have to burn their fields but thus far they have been unsuccessful. The crops which they are now raising must be burned in order to assure good production. Mr. Heisel claims that denial of burning opportunities for

He proposes use of a staggered burning system (perhaps according to telephone numbers) to reduce pollution from backyard burning.

Dale Brown, Gresham City Councilman, opposes a ban on backyard burning, as does the Council. He reminds the Commission that the area he represents differs from Portland in that lot size is larger. Grapevines, rosebushes and other trimmings cannot be readily transported. Noxious or diseased weeds and branches should not be hauled.

The proposed letter permit process is administratively burdensome and expensive. Before a backyard burning ban is imposed, alternative disposal means should be realistically available. Chopping the debris is not economically feasible at a minimum chopper cost of \$500. Moreover, backyard burning is, in his opinion, a minor contributor to air pollution.

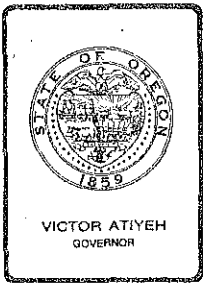
Burt Carnegie, a Gresham resident, has dumped his debris in the street rather than haul it to Portland. There is no landfill facility in Gresham, but even if one existed, use of a site for backyard debris would be wasteful. A ban is inappropriate until reasonable alternative disposal means are available.

E.G. Larson, a Gresham resident, objects to the ban as an example of government bureaucracy attempting to dictate a foolish policy. He doubts the value of a backyard burning ban and feels there has been no demonstrated necessity for one.

He suggests that a system of zones be adopted with each zone authorized to burn at a specific time of year in rotation. This would minimize pollution.

Walter A. Stensland, Jr. lives at 197th and Burnside. His 140 by 200 square foot lot supports several apple trees, raspberries, rhododendron and other shrubs. It creates a truckload of yard debris which must be taken to Portland for dumping at a \$5.00 fee. He believes that landfills should be saved for solid waste which cannot be burned. Also, Gresham backyard burning should not be highly regulated as wind conditions there cause quick smoke dispersal.

LKZ:ts  
HT128  
229-5383  
June 1, 1981



## *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: Linda K. Zucker, Hearings Officer

Subject: Public Testimony on Proposed Amendments to Open Burning Rules, OAR 340-23-025 thru 340-23-050 and OAR 340-30-070.

### Procedure

Pursuant to Public Notice, a hearing was convened in Gresham, Oregon, at 7:00 p.m. on March 9, 1981.

### Summary of Testimony

Ralph N. Clinton owns a small farm, half of which has been annexed into the Gresham City limits. Much of the property is covered with brush and ice storm debris. Mr. Clinton proposes that the backyard burning season be extended to ten months to increase the number of desirable burning days, provided that weather conditions are propitious. He objects to the use of a \$5.00 fee for landfill dumping as it induces illegal dumping in rural areas.

Donald R. Dennis is burdened by an accumulation of rosebush and tree debris. He believes it is ridiculous to spend \$5.00 to dump yard trimmings. He would like to burn year-round on appropriate days, as smoke would be reduced in dry weather.

C.R. Baker proposes that year-round agricultural burning be permitted in Boring. Small rural acreages require continual maintenance. Burning is the most pensible disposal method for the area.

Donald C. Birch, a retired geologist, lives beside Johnson Creek. He states people throw trash in the creek because they are unable to burn it. His two-acre garden and two-acre plot of second-growth timber produce many truckloads of yard debris which he would like to burn. He believes that the proposed limited schedule allows burning at times when the debris is too wet, so that excessive smoke is produced.

ATTACHMENT B

Hearing Officer's Reports on Proposed Open Burning Rules (OAR 340-23-022 through 340-23-080)

- a. Gresham, OR - March 9, 1981
- b. Medford, OR - March 10, 1981
- c. Eugene, OR - March 12, 1981
- d. Bend, OR - March 16, 1981
- e. Portland, OR - March 18, 1981
- f. Hillsboro, OR - March 19, 1981
- g. Coos Bay, OR - March 23, 1981
- h. Pendleton, OR - March 25, 1981
- i. Additional hearing testimony received to be placed in the record

NOTE:

To reduce printing volume, written testimony submitted for the hearing record is not included but is available for public inspection at the Department offices: Air Quality Division, 522 S. W. Fifth Avenue, Portland, Oregon.

ATTACHMENT B

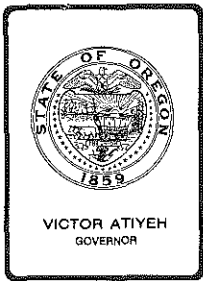
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NOTE:

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Written testimony included in Environmental Quality Commission packets.



## *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: Linda K. Zucker, Hearings Officer

Subject: Public Testimony on Proposed Amendments to Open Burning Rules, OAR 340-23-025 thru 340-23-050 and OAR 340-30-070.

### Procedure

Pursuant to Public Notice, a hearing was convened in Gresham, Oregon, at 7:00 p.m. on March 9, 1981.

### Summary of Testimony

Ralph N. Clinton owns a small farm, half of which has been annexed into the Gresham City limits. Much of the property is covered with brush and ice storm debris. Mr. Clinton proposes that the backyard burning season be extended to ten months to increase the number of desirable burning days, provided that weather conditions are propitious. He objects to the use of a \$5.00 fee for landfill dumping as it induces illegal dumping in rural areas.

Donald R. Dennis is burdened by an accumulation of rosebush and tree debris. He believes it is ridiculous to spend \$5.00 to dump yard trimmings. He would like to burn year-round on appropriate days, as smoke would be reduced in dry weather.

C.R. Baker proposes that year-round agricultural burning be permitted in Boring. Small rural acreages require continual maintenance. Burning is the most pensible disposal method for the area.

Donald C. Birch, a retired geologist, lives beside Johnson Creek. He states people throw trash in the creek because they are unable to burn it. His two-acre garden and two-acre plot of second-growth timber produce many truckloads of yard debris which he would like to burn. He believes that the proposed limited schedule allows burning at times when the debris is too wet, so that excessive smoke is produced.

He proposes use of a staggered burning system (perhaps according to telephone numbers) to reduce pollution from backyard burning.

Dale Brown, Gresham City Councilman, opposes a ban on backyard burning, as does the Council. He reminds the Commission that the area he represents differs from Portland in that lot size is larger. Grapevines, rosebushes and other trimmings cannot be readily transported. Noxious or diseased weeds and branches should not be hauled.

The proposed letter permit process is administratively burdensome and expensive. Before a backyard burning ban is imposed, alternative disposal means should be realistically available. Chopping the debris is not economically feasible at a minimum chopper cost of \$500. Moreover, backyard burning is, in his opinion, a minor contributor to air pollution.

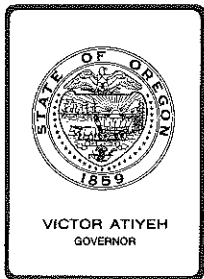
Burt Carnegie, a Gresham resident, has dumped his debris in the street rather than haul it to Portland. There is no landfill facility in Gresham, but even if one existed, use of a site for backyard debris would be wasteful. A ban is inappropriate until reasonable alternative disposal means are available.

E.G. Larson, a Gresham resident, objects to the ban as an example of government bureaucracy attempting to dictate a foolish policy. He doubts the value of a backyard burning ban and feels there has been no demonstrated necessity for one.

He suggests that a system of zones be adopted with each zone authorized to burn at a specific time of year in rotation. This would minimize pollution.

Walter A. Stensland, Jr. lives at 197th and Burnside. His 140 by 200 square foot lot supports several apple trees, raspberries, rhododendron and other shrubs. It creates a truckload of yard debris which must be taken to Portland for dumping at a \$5.00 fee. He believes that landfills should be saved for solid waste which cannot be burned. Also, Gresham backyard burning should not be highly regulated as wind conditions there cause quick smoke dispersal.

LKZ:ts  
HT128  
229-5383  
June 1, 1981



## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing on Proposed Amendments to Open Burning Rules, OAR 340-23-025 through 340-23-050 held March 10, 1981 in Medford, Oregon.

### Procedure

Pursuant to public notice, a public hearing was convened at 7:00 p.m., March 10, 1981, in the Jackson County Court House Auditorium in Medford, Oregon, for the purpose of receiving public testimony on the proposed amendments to the open burning rules.

### Synopsis

The hearing was attended by approximately 15 persons, 9 of whom presented oral testimony. None of the participants were in favor of the proposed amendments. Most objections related to: (1) an anticipated increased burden upon farmers, or (2) the anticipated problems associated with requirement to obtain permits from more than one source.

### Summary of Testimony

Manville Heisel, a Medford attorney representing several area farmers, did not believe the concept of the ventilation index was well enough established to be utilized as a regulatory tool. He expressed doubts that the Legislature intended to give the DEQ general authority over agricultural burning throughout the state through ORS 468.290 and 468.450. Mr. Heisel made the point that agricultural burning in the Medford area has been relatively static for a number of years and that while complaints may be increasing, burning certainly is not and therefore, any problems from burning could not be on the increase but only the complaints. Mr. Heisel further objected to the Fiscal Impact Statement in that it did not include a fiscal impact to farmers but only to government. He claims that growers have made many attempts to find alternate crops so that they will not have to burn their fields but thus far they have been unsuccessful. The crops which they are now raising must be burned in order to assure good production. Mr. Heisel claims that denial of burning opportunities for



the farmers of the area will cause economic disaster to the growers. He is afraid that production of seed crops cannot continue if farms are to be destroyed by this type of regulation. He expressed grave concern about future increasing DEQ control over the farm community. Written testimony from Mr. Heisel is attached.

Ronald C. Bjork spoke, representing Jackson County Farm Bureau. Mr. Bjork said that farmers do not need any more regulations. They are now zoned EFU or exclusive farm use and they don't need another agency telling the farmers they cannot make a living on their farm. Mr. Bjork thinks the state needs to decide whether it is trying to preserve farming or it is just trying to preserve the land.

Mike Blum, a Medford area resident, was concerned about the possibility of having to obtain fire permits from more than one source and also whether incinerators for backyard burning would be authorized without a permit. Mr. Blum was advised that permits would be required from the fire department only and that incinerators also would require permits.

Owen Kreger is the fire chief at Talent, Oregon. Talent has a volunteer fire department and Mr. Kreger was concerned about the necessity of issuing permits all winter long. He states that his department has no budget nor facilities for notifying public of burn days nor is it prepared to respond to deal with illegal fires, that is fires that are set without a permit. He views the proposed regulations as placing requirements on them which they are not organized to accomplish.

Gene P. McCurley, a Medford area resident, states that farmers do not have the option to do anything with their land other than farming. He is concerned that burning regulations would place undue burden on the farmers.

Donald W. Berry, a Medford area agriculturalist, is concerned about the possible effects of controlled agricultural burning. He expressed the need of farmers to burn for control of disease such as pear blight.

Otto Caster, the Mayor of Phoenix, is concerned about what he perceives to be a need for permits all year long. Phoenix has a volunteer fire department and it is not equipped to issue permits all year.

James Brookins, a Medford area farmer, is concerned about too many agencies having control over fire permits. He objects to obtaining a fire permit to burn ditches, for instance, and then have someone from DEQ tell him to put the fire out.

Mike Willett is a Jackson County Extension Agent. He expressed concern about the possible number of days to be prohibited in July and August based on a ventilation index of 200. Mr. Willett points out that people in agriculture are restricted from using pesticides and that open burning reduces the need for chemical pesticides.

Attachments:

LDB:a

AAD165 (1)

229-5836

July 6, 1981

COMMENT AT PUBLIC HEARING ON DEPARTMENT  
OF ENVIRONMENTAL QUALITY PROPOSED RULE  
CHANGES; CHAPTER 340, DIVISION 23

(OPEN BURNING)

The following persons engaged in agriculture in the Rogue Valley which includes field burning as a part of the agricultural operation join in this objection to the proposed rule changes in respect to open burning and the comments presented herewith:

Robert W. Dunn  
Ronald von der Hellen  
Donald Bohnert  
Otto Bohnert

A. Legal authority of the Department of Environmental Quality to adopt rules prohibiting agricultural burning in Jackson County.

On September 30, 1980, James Brown, Attorney General, Department of Justice, State Office Building, Salem, Oregon, 97310, was requested by Director, W.H. Young, Department of Environmental Quality, to give a formal opinion on two questions which relate to whether the Department of Environmental Quality or the Environmental Quality Commission has statutory authority under ORS 468.450 to prohibit all or any part of agricultural open burning outside the Willamette Valley on a day to day basis under a schedule based on adverse meteorological conditions.

It is our understanding that an opinion has been

given or is forthcoming answering the question in the affirmative. It is respectfully submitted that there remains serious doubt as to whether the legislature intended to give the department or the Environmental Quality Commission such authority under ORS 468.450.

COMMENT: ORS 468.290 provides:

"Except as provided in this section and in ORS 468.450, 476.380 and 478.960, the air pollution laws contained in this chapter do not apply to:

"(1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480 and this section;

"(2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.485 and this section;

"(3) ..."

COMMENT: ORS 468.450 relates to and provides for specific instructions to the environmental quality commissions in respect to "marginal conditions" that occur on "marginal days".

"Marginal conditions" are defined as atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty, but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

ORS 468.450(2) directs the commission to prepare "a schedule describing the types

and extent of burning to be permitted on each type of marginal day..." (Emphasis added)

Said section further provides that the schedule shall give first priority to the burning of perennial grass seed crops used for grass seed production, second priority to annual grass seed crops used for grass seed production, third priority to grain crop burning and fourth priority to all other burning and shall prescribe duration of periods of times during the day when burning is authorized.

ORS 476.380 is a provision for fire permits outside rural fire protection districts and implementation of scheduling under ORS 468.450. ORS 478.960 provides for fire permits within rural fire protection districts and the implementation of scheduling under ORS 468.450.

ORS 468.455 clearly sets forth the policy established by the legislature:

"468.455 In the interest of public health and welfare, it is declared to be the public policy of this state to control, reduce and prevent air pollution caused by the practice of open field burning. Recognizing that open field burning is a nontraditional area source of air pollution that is not confined to a single point of emission and recognizing that limitation or bar of the practice at this time, without having found reasonable and economically feasible alternatives to the practice could seriously impair the public welfare, the legislative assembly declares it to be the public policy of this state to reduce air pollution from open field burning by smoke banishment and to continue to seek and encourage by research and development reasonable and economically feasible alternatives to the practice of annual open field burning, all consistent with ORS 468.280."

Or as 468.455 to 468.405 relate to field burning within the Willamette Valley.

Taking into consideration the policy of the State of Oregon and the statutory authority granted pursuant to the afore-mentioned statutes and the limitations imposed by ORS 468.290 of the applicability of pollution laws to agricultural field burning, it is respectfully submitted that there does not appear to be statutory authority for the imposition by the Environmental Quality Commission of rules prohibiting open field burning for agricultural purposes on a day to day, week to week, month to month or other basis.

Further, the State of Oregon has not provided any "reasonable and economically feasible alternatives to the practice" of field burning.

B. In proposing the rule changes, the Environmental Quality Commission has exceeded its authority to establish "schedules".

COMMENT: Under Agenda Item "E", Page Five for the October 17, 1980 EQC Meeting, it was recited that:

"In requesting these hearings the department has included provisions in the proposed rules which will allow designation of 'prohibited days' on a daily basis based on a 'schedule of air quality and meteorological conditions' in order to receive public testimony. If authority is confirmed and this section is adopted intent would be to use this authority only a few times a year during extremely adverse meteorological conditions."

COMMENT -4

Again, in the statement of need for rule making

(4) it was stated:

"An agricultural exemption has been removed from the proposed rules and provision has been added to control agricultural open burning outside the Willamette Valley under schedule of adverse meteorological conditions based upon meteorological and air quality factors. This proposal will allow minimal control of agricultural open burning in areas of the state where agricultural open burning is becoming an increasing problem."

ORS 468.450(2) gives the EQC the responsibility of establishing "a schedule describing the types and extent of burning to be permitted on each type of marginal day . . . ." The schedule referred to is required to give priorities to certain types of burning. Such a direction is substantially different from the proposed "schedule of adverse meteorological condition based upon meteorological and air quality factors" referred to in the preliminary statements.

C. No fiscal impact statement for farmers affected by the agricultural burning ban was made.

COMMENT: Under the statement of need for rule making, the Department has set forth a fiscal impact statement which totally fails to mention the fiscal impact upon farmers who are unable to conduct their field burning operation as a part of their agricultural practices.

In the Rogue Valley there are approximately 300 to

COMMENT -5

400 acres of grass seed crops and approximately 1,000 acres of grain crops. The total acreage involving field burning as a part of the agricultural operation is approximately 8/10ths of 1% of all lands zoned EFU in Jackson County.

It is acknowledged by the above-named members of the agricultural community in Jackson County that perennial blue grasses suffer a loss of yield of seed for every day after September 1st that burning is delayed.

Fields in Jackson County subject to field burning are normally too wet prior to 11:00 a.m. for field burning without the use of field flammers. Field flammers cost from \$20 to \$50 per acre for their operation as an alternative to field burning without such equipment.

Field flammers are needed for a period in September following the 1st watering to bring back the crop as the only solution to disease control.

D. Farmers in Jackson County have attempted to avoid field burning.

COMMENT: Voluntary programs have been adopted by the afore-mentioned agriculturists in Jackson County to avoid field burning. Each of the above-named persons estimate they have lost from \$50,000 to \$100,000 each over a period of the last ten to 15 years in attempting to grow different crops that would not necessitate field burning. They have found that seed crops and grain crops are the highest and best use

for the land being farmed by the above-named persons in Jackson County.

E. Jackson County agricultural field burning should be exempt from the limitations of ORS Chapter 468.

COMMENT: The effect of field burning in Jackson County has a minimal impact on air quality. The seed grass farmers usually operate their combines in mid July, bail and haul the crops and begin burning, at the earliest, on July 25th. Burning normally continues to August 31st. except for spring fields where some burning is done in June and July.

As mentioned above, field flammers are used in September to complete sanitation (disease control) which when such diseases appear after the first watering to bring back the crops.

The above-named agriculturists have followed the practice of bailing and removing straw from their fields prior to burning. Burning results in consuming only from two to four inches of stubble. In the Willamette Valley all of the straw is burned as there is no market for the straw.

Not all field burning occurs at one time. Richard W. Dunn estimates that he burns approximately 30 acres a day. Ronald von der Hellen estimates that he burns from 40 to 50 acres in a day. Don Bohnert and Otto Bohnert estimate they burn less than 40 acres per day.

Burning reduces the amount of chemicals required for weed and insect control. There are no acceptable chemi-



cals or alternatives however to burning in controlling diseases.

Grass seed crops regenerate the air in the valley.

F. Prohibiting agricultural field burning in Jackson County is an unwarranted intrusion.

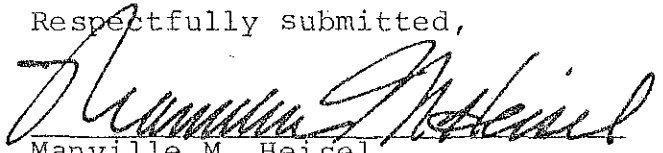
COMMENT: Irrigation districts require weed removal before water is furnished. Ditches must be cleaned and burning is the most feasible way to clean such ditches. Weed removal is an exception to the pollution control mechanisms of ORS Chapter 468.

Only six or seven farm operations in Jackson County require field burning. The impact can be economically disastrous on the farmers. The Department of Land Conservation and Development strives to protect farm lands with little or no interest in the farmers themselves. The intrusion of regulations that can have disastrous economic effects on farming in Jackson County is not only contrary to the goals of the Department of Land Conservation and Development, but is a further unwarranted intrusion by the state in farming operations in the county.

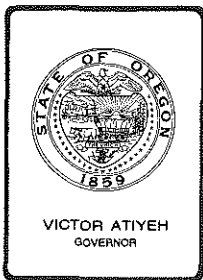
Until alternative methods of disease control are devised and approved, field burning should be removed from pollution control regulation and left to regulation to prevent fire hazards. To attempt to preserve farm land, but to impose unwarranted regulation to make economic farming infeasible-

ble cannot be the policy of the State of Oregon.

Respectfully submitted,



Manville M. Heisel



## *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: L.D. Brannock, Hearings Officer

Subject: Report on the Public Hearing held March 12, 1981  
in Eugene on proposed open burning rules,  
OAR 340-23-025 through 340-23-050.

### Procedure

Pursuant to public notice, a hearing was convened at 7:00 p.m. on March 12, 1981, in the Lane County Court House for the purpose of receiving public testimony regarding the proposed open burning rules.

### Synopsis

The public hearing was attended by about 6 people. There were 3 who testified regarding the proposed open burning rules.

### Summary of Testimony

Frank A. Sparrow, a Eugene resident, thinks that burning regulations violate constitutional guarantees. He thinks that if burning is to be stopped, it should include slash burning and field burning as well as other types of burning. Mr. Sparrow offered written testimony which is attached.

Dick Nice represented the Lane County Fire Defense Board. Mr. Nice offered five recommendations for altering the proposed rules. (1) the midwinter closure of backyard burning should be eliminated, (2) he was opposed to the cutoff of burning 2 hours before sunset but preferred the burning cutoff at sunset as listed in the current rule, (3) he thought that the fee schedule for letter permits should be eliminated, (4) he opposed the one year permit fee for yard debris, and (5) he wished to have specific fire districts listed for specific control in Lane County instead of setting limits three miles beyond city limit boundaries. Mr. Nice offered written testimony which is attached.

Don Arkell is the Director of the Lane Regional Air Pollution Authority and spoke on behalf of LRAPA and its Board of Directors. Mr. Arkell had 4 main points: (1) he supported allowing burning all during the winter months as

EQC Hearing

3/12/81

Page 2

opposed to the seasonal recommendation in the proposed rule, (2) he was in opposition to the proposal to prohibit domestic burning 2 hours before sunset, (3) special burning areas should be defined by fire district boundaries as opposed to a distance around city limits, and (4) he was in support of fees for letter permits. Mr. Arkell submitted written testimony which is attached.

**Attachments:**

LDB:a

AAD167 (1)

229-5836

July 6, 1981

Dick Nice Testimony  
with Tealun

On February 18, 1981 the Lane County Fire Defense Board met to appoint four representatives to an ad hoc committee of the Lane Regional Air Pollution Authority Board of Directors. Those appointed to serve are: Ray Gregory, State Forestry Department, Western Lane Division, Terry Jack, McKenzie RFPD, Dick Nice, Goshen RFPD, and Steve Allen, Cottage Grove Fire Department.

As a result of its' first meeting on February 23, 1981, the committee submits the following recommendations for consideration as testimony at the DEQ Public Hearing on Open Burning Regulations, March 12, 1981.

1. Eliminate the mid-winter closure on open backyard burning and extend the season through June 30th. (Proposed season to run October 1st to June 30th). Even though there may be a reduced frequency of "good ventilations periods" occurring in the late fall and early spring months, the air quality would be maintained with continued use of the burn day/no-burn day concept. Also it seems to be in the best interest of the public served, by reducing confusion on burning seasons, and to the fire permit issuing agencies by reducing the number of permits.
2. Oppose the revised daily burning hours as proposed by the State. DEQ proposes that open burning be conducted between the hours of 7:30 A.M. until two hours before sunset. This would require fires to be extinguished two hours before sunset, which creates an impossible enforcement situation. Since the impact of backyard burning on air quality in general appears to be questionable, this change in the rule doesn't seem to be warranted.
3. Oppose the establishment of a fee schedule for letter permits as proposed. Letter permits, by existing rule, are issued on a singularly occurring or infrequent basis and again since the effect of open backyard burning on the air quality is questionable, it doesn't seem like the collection of fees will have a significant impact on the air quality either.
4. On page 45 of the proposed rules dated January 15, 1981 following the sentence, Special Control Areas in Lane County are those areas defined in O.A.R. 340-23-080(5) and include: change (a) to read

Within the Rural Fire Districts and other areas described as

1. Bailey-Spencer RFPD
2. Coburg RFPD
3. Creswell RFPD
4. Crow Valley RFPD
5. Dexter RFPD except that portion east of the Willamette Meridian
6. Elmira-Noti RFPD except that portion west of the line between Range 6 West and Range 7 West
7. Eugene RFPD No. 1

8. Goshen RFPD
9. Junction City RFPD
10. Lane RFD No. 1
11. Lowell RFPD
12. Marcola RFPD
13. Monroe RFPD that portion within Lane County
14. Pleasant Hill RFPD
15. South Lane RFPD
16. McKenzie RFPD except that portion east of the Willamette Meridian
17. Veneta RFPD
18. Willakenzie RFPD
19. Zumwalt RFPD
20. Oakridge RFPD
21. Springfield Fire Department and those areas protected by the Springfield Fire Department.
22. Cottage Grove Fire Department
23. Those unprotected areas which are surrounded by or are bordered on all sides by any of the above listed fire protection districts or by Eastern Lane Forest Protection District.
24. That portion of Western Lane Forest Protection District north of Section 11 TWP. 19 South, RGE 4 West and bordering the city of Eugene and/or Crow Valley, Eugene #1, Goshen and Creswell RFPDs.

Respectfully submitted,

Ad Hoc Committee

Members: Steve Allen  
Dick Nice

Ray Gregory  
Terry Jack

LANE REGIONAL

AIR POLLUTION AUTHORITY



(503) 686-7618  
1244 Walnut Street, Eugene, Oregon 97403

Donald R. Arkell, Director

TO: Doug Brannock  
FROM: Don Arkell *pa*  
DATE: March 12, 1981  
SUBJECT: Proposed Rules for Open Burning

Attached is LRAPA's statement to be presented at the public hearing on the Proposed Rules for Open Burning to be held at Harris Hall, Eugene, Oregon on March 12, 1981.

DRA/ec

TO: DEPARTMENT OF ENVIRONMENTAL QUALITY  
FROM: LANE REGIONAL AIR POLLUTION AUTHORITY  
DATE: MARCH 12, 1981  
SUBJECT: POSITION OF THE BOARD OF DIRECTORS OF LANE REGIONAL AIR POLLUTION  
AUTHORITY ON THE PROPOSED RULES ON OPEN BURNING.

MY NAME IS DON ARKELL. I AM DIRECTOR OF THE LANE REGIONAL AIR POLLUTION AUTHORITY. THE LRAPA BOARD OF DIRECTORS, AT ITS REGULAR MEETING ON MARCH 10, RECEIVED AND ACCEPTED RECOMMENDATIONS FROM AN AD-HOC COMMITTEE FORMED TO EXAMINE THE PROPOSED OPEN BURNING RULES. THE BOARD, IN TURN, HAS TAKEN THE FOLLOWING POSITIONS, BASED ON THOSE RECOMMENDATIONS:

1. THE BOARD SUPPORTS THE RECOMMENDATION THAT BURNING SHOULD BE ALLOWED THROUGHOUT THE WINTER MONTHS, ONLY ON ALLOWED BURNING DAYS. AFTER EVALUATING THE AIR QUALITY IMPACT OF THIS RECOMMENDATION, LRAPA BELIEVES THAT IF DOMESTIC BURNING OF APPROVED MATERIALS IS CONDUCTED ONLY ON ALLOWED BURNING DAYS DURING THE WINTERTIME, LITTLE ADVERSE EFFECT ON AIR QUALITY IS ANTICIPATED. IT IS OUR HOPE THAT THIS KIND OF EXTENDED CONTINUOUS SEASON WILL RESULT IN FEWER VIOLATIONS OF THE RULES BECAUSE OF THE ADDITIONAL OPPORTUNITIES TO CONDUCT LAWFUL BURNING OPERATIONS.
2. THE BOARD SUPPORTS THE AD-HOC COMMITTEE'S OPPOSITION TO THE PROPOSAL THAT FIRES BE EXTINGUISHED TWO HOURS BEFORE SUNSET, AND WOULD PREFER TO REMAIN WITH THE CURRENT SUNSET PROVISION. LRAPA THINKS THIS PROPOSAL MAY ENCOURAGE VIOLATIONS DURING THE WINTER SEASON.



3. THE BOARD SUPPORTS THE RECOMMENDATION THAT THE RESTRICTED BURNING AREAS BE THE SAME AS THE BOUNDARIES OF FIRE DISTRICTS, AS LISTED IN THE TESTIMONY FROM THE AD-HOC COMMITTEE.
4. THE DEQ PROPOSAL TO ESTABLISH A FEE SCHEDULE FOR LETTER PERMITS IS SUPPORTED BY THE LRAPA BOARD, RECOGNIZING THAT LETTER PERMITS FOR BACKYARD BURNING WOULD BE NECESSARY ONLY DURING THE CLOSED SEASON AND THAT SUCH FEES OFFSET THE COST OF INSPECTION OF PROPOSED BURNING SITES TO ASSURE THAT PERMITTED BURNING DOES NOT CAUSE AIR POLLUTION.

IT IS THE INTENT OF THE BOARD, IN ACCEPTING THESE RECOMMENDATIONS, TO AMEND THE LRAPA RULES ON OPEN BURNING SO THAT THEY ARE CONSISTENT WITH THE STATE RULES. THE BOARD ALSO, IN TAKING THESE POSITIONS, HAS EXPRESSED ITS DESIRE TO REVIEW THE LRAPA OPEN BURNING RULES FROM TIME TO TIME, AMENDING THEM AS NECESSARY TO ASSURE CONTINUED PROTECTION OF AIR QUALITY IN LANE COUNTY.

I APPRECIATE THE OPPORTUNITY TO SUBMIT THESE COMMENTS.

DRA/ec

03/12/81

On February 18, 1981 the Lane County Fire Defense Board met to appoint four representatives to an ad hoc committee of the Lane Regional Air Pollution Authority Board of Directors. Those appointed to serve are: Ray Gregory, State Forestry Department, Western Lane Division, Terry Jack, McKenzie RFPD, Dick Nice, Goshen RFPD, and Steve Allen, Cottage Grove Fire Department.

As a result of its' first meeting on February 23, 1981, the committee submits the following recommendations for consideration as testimony at the DEQ Public Hearing on Open Burning Regulations, March 12, 1981.

1. Eliminate the mid-winter closure on open backyard burning and extend the season through June 30th. (Proposed season to run October 1st to June 30th). Even though there may be a reduced frequency of "good ventilations periods" occurring in the late fall and early spring months, the air quality would be maintained with continued use of the burn day/no-burn day concept. Also it seems to be in the best interest of the public served, by reducing confusion on burning seasons, and to the fire permit issuing agencies by reducing the number of permits.
2. Oppose the revised daily burning hours as proposed by the State. DEQ proposes that open burning be conducted between the hours of 7:30 A.M. until two hours before sunset. This would require fires to be extinguished two hours before sunset, which creates an impossible enforcement situation. Since the impact of backyard burning on air quality in general appears to be questionable, this change in the rule doesn't seem to be warranted.
3. Oppose the establishment of a fee schedule for letter permits as proposed. Letter permits, by existing rule, are issued on a singularly occurring or infrequent basis and again since the effect of open backyard burning on the air quality is questionable, it doesn't seem like the collection of fees will have a significant impact on the air quality either.
4. On page 45 of the proposed rules dated January 15, 1981 following the sentence, Special Control Areas in Lane County are those areas defined in O.A.R. 340-23-080(5) and include: change (a) to read

Within the Rural Fire Districts and other areas described as

1. Bailey-Spencer RFPD
2. Coburg RFPD
3. Creswell RFPD
4. Crow Valley RFPD
5. Dexter RFPD except that portion east of the Willamette Meridian
6. Elmira-Noti RFPD except that portion west of the line between Range 6 West and Range 7 West
7. Eugene RFPD No. 1

8. Goshen RFPD
9. Junction City RFPD
10. Lane RFD No. 1
11. Lowell RFPD
12. Marcola RFPD
13. Monroe RFPD that portion within Lane County
14. Pleasant Hill RFPD
15. South Lane RFPD
16. McKenzie RFPD except that portion east of the Willamette Meridian
17. Veneta RFPD
18. Willakenzie RFPD
19. Zumwalt RFPD
20. Oakridge RFPD
21. Springfield Fire Department and those areas protected by the Springfield Fire Department.
22. Cottage Grove Fire Department
23. Those unprotected areas which are surrounded by or are bordered on all sides by any of the above listed fire protection districts or by Eastern Lane Forest Protection District.
24. That portion of Western Lane Forest Protection District north of Section 11 TWP. 19 South, RGE 4 West and bordering the city of Eugene and/or Crow Valley, Eugene #1, Goshen and Creswell RFPDs.

Respectfully submitted,

Ad Hoc Committee

Members: Steve Allen  
Dick Nice

Ray Gregory  
Terry Jack

Frank A. Sparrow  
1568 West 24 Place  
Eugene, Ore. 97405

(1)

This dictatorship, our State, County - City governments, is corrupt in enacting laws contrary to our Federal and state constitution. You

the Dept. of Environmental Quality are enforcing them. Quote

Section 20 of our State Constitution.

Equality of privileges and immunities of Citizens. No Law shall be passed granting to any citizen or class of citizens privileges, or immunities, which upon the same terms, shall not equally belong to all citizens. End Quote

— We are being penalized here in Eugene, not only can we not burn, it costs thousands of dollars to get rid of burnable material.

(2)

We are paying for a clean and clear  
in space above us. Our lines are  
undangered when traveling in some  
reas. Since our air is the mainstay  
our living, we have to tolerate the  
stench that is injurious to our health.  
The causes are the Federal, as well as  
all those involved in the burning  
& slash. The grass seed growers in  
burning their fields. The city of Spring  
field, River Road plus the residents  
of Lane county all are permitted to  
burn their burnable material.  
The Dept. of Environmental Quality  
enforces those laws. All should  
be held responsible in a suit, and  
against them.

Such as \$30,000,000. Plaintiffs being all residents, men, women and children of the City of Eugene.

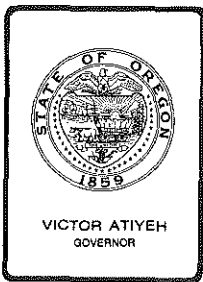
There should be Justice and Equality in the laws regarding the burning issues. I as a private citizen am being troubled with emphysema. I should not tolerate polluted air. Being a self inpropria persona. I demand that all burning in the area be stopped.

Until a universal law is passed and approved giving the same rights to all the citizens.

4

The grass seed Growers have a recourse. It has been proposed that the stubble is excellent for cattle food or the making of Alcohol.

The Forest owners have a recourse just as well. Our prisoners, the surplus that are to be released, could be put to work recycling our slash. Also some of our Welfare recipient could be used. Good wood is going to waste.



## *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:** L.D. Brannock, Hearings Officer

**Subject:** Report on Public Hearing held March 16, 1981 in Bend, Oregon for the purpose of receiving comments on proposed open burning rules OAR 340-23-025 through OAR 340-23-050.

### Procedure

Pursuant to public notice, a hearing was convened at 7:00 p.m. on March 16, 1981 in the Bend City Hall Commission Chambers for the purpose of receiving testimony on the proposed open burning rules.

### Synopsis

The Bend hearing was attended by approximately 25 individuals, all of whom were from the Jefferson County, Madras, Prineville area. Eight people offered oral testimony at the hearing opposing the proposed DEQ regulation of agricultural burning.

### Summary of Testimony

Buck Grope represented the Jefferson County seed growers and presented oral and written testimony. The written testimony is attached. The Jefferson County seed growers oppose the proposed rules as being premature. Area farmers have initiated a plan for self-regulation and smoke management. They think that the area generally has excellent burning conditions which minimize the potential for smoke problems before imposing regulations and believe that the wording of the rule is ambiguous. They claim there is no data to show any problem exists or what its scope may be. Field burning involves only a small portion of available land area and thus the potential effect is limited on any given day.

John A. McConaghy represented the Jefferson County Chamber of Commerce. The Chamber supports agriculture in the area and is opposed to regulations on agricultural seed growers without hard data to show the need for such regulation.



Steve Carlson represented the Jefferson County Essential Oil Growers. They opposed DEQ control of agricultural burning in the area and suggest that fireplaces should be controlled first.

Loy M. Petersen is a Madras area farmer. He supports the method of self-regulation of burning as opposed to control and emphasizes the need for growers to burn grass seed and irrigated wheat for disease control.

Ron Olson , a Madras area farmer, believes that the self-control burning program instituted in the area makes it unnecessary to institute the DEQ rules at this time. He thinks the proposed rule is too general and should be more specific to a specific problem.

Michael Weber is the manager of Central Oregon Seeds in Madras. Mr. Weber thinks that proposed regulations should be tailored to each area specifically and tied to an identified need.

Scott Samsel is a Jefferson County farmer and a member of the local farm bureau. He is opposed to the proposed regulations and prefers the self-regulating smoke management control which has been organized.

Gary Harris , a farmer in the Madras area, polled the audience in attendance. There were zero in favor of the Department's proposed rules and 23 opposed.

Attachments:

LDR:a  
AAD166 (1)  
229-5836  
July 6, 1981

JEFFERSON COUNTY SEED GROWERS  
POSITION ON OPEN BURNING CONTROLS  
FOR CENTRAL OREGON

The Jefferson County Seed Grower's League, an organization representing 250 to 300 farmers in Jefferson, Crook, and Deschutes counties, is very much interested in the Department of Environmental Quality's current proposal to expand control of agricultural open burning to areas outside the Willamette Valley. Seed league members are firmly behind the DEQ's quest for a safe and healthy environment. Desert, forest and mountains merge to make Central Oregon one of the most livable and visitable areas in the nation. Clean water and air, the status quo for resident and visitor alike, are essential to the economic well being of the area. However, it is the contention of the Jefferson County Seed Growers League that expanding the agricultural open burning regulations to include Central Oregon is, at this time, premature.

In the past, smoke from field burning in the Madras area has occasionally affected the more populous areas of Deschutes County. During the summer burning season of 1980, smoke from Jefferson County was present in the Redmond-Bend-Sunriver areas on two different days (based on local DEQ estimates). Although the amount of smoke did not reach levels considered serious in the Willamette Valley, it was discernable to local Deschutes County residents. Complaints and rumors of complaints filtered back to the Board of Directors of the Central Oregon Seed Growers League. After several meetings and much discussion, the local board decided to initiate a smoke management program for area growers designed to minimize the impact of field burning on the general public. The final plan, adopted by unanimous vote ~~and~~ the annual seed league meeting on February 19, 1981, called for burning to be prohibited on weekends, holidays and those days when meteorological conditions are not conducive to smoke dispersal. The daily weather data, interpretation and burning recommendation is to be assimilated by a local Bend meteorologist, Jack Mercer, and passed on to the North Unit Rural Fire Department in Madras. The fire department may issue (or not issue) burning permits for that specific day based on the meteorologist's recommendation. The adopted smoke management plan is included with this report.

It is the Jefferson County Seed Grower's opinion that expansion of the agricultural open burning regulations to include Central Oregon is at this time unnecessary for several reasons.

1. The aforementioned, self-imposed and self-financed program by the growers will offer more control than will the DEQ proposal, particularly in light of the economic dilemma state finances are currently undergoing.
2. There is little or no data in existence at this time which delineates the scope of the problem. When there is smoke in Bend, there has been no quantitative determination whether the smoke originated from Willamette Valley burning, slosh burning,

More.....

Central Oregon field burning, local wood stoves, or some combination of the above.

3. The relatively small size of the area burned (less than 20,000 acres in Central Oregon versus 250,000 acres in the Willamette Valley) limits potential affect on any given day. A good burning day in the valley will result in more acres being burned than will be burned in Central Oregon in an entire season.
4. Atmospheric conditions are much more conducive to clean, rapid burning and smoke dispersal than are found in other parts of the state. Low humidity, high temperatures, predictable afternoon breezes and low air stagnation (inversion) potential create excellent burning conditions most of the time.
5. Some of the wording of the DEQ proposal is so ambiguous that it could easily be interpreted in any number of ways, regardless of what is presently intended. Page 20 of Division 23 of AQ0075 (OAR 340-23-042) prohibits open burning that is "(a) a private nuisance; (b) a public nuisance; (c) a hazard to public safety." No definition of what constitutes a private nuisance, public nuisance or public hazard is even hinted at, leaving one with the feeling of being totally at the mercy of the powers that be.
6. In a letter to seed growers from Representative Tom Throop ✓ about the field burning question, he quoted a Governor Atiyeh saying "If it ain't broke don't fix it."

Necessary regulation to protect a fragile and often misused environment is in the best interest of the citizens of any society. Regulation of a poorly defined or non-existent problem only creates more problems. It is our recommendation that the impact of agricultural open burning in Central Oregon be quantified with meaningful data before any regulations are imposed.

Wes Hagman, President of  
Jefferson County Seed  
Growers Association

## FIELD BURNING POLICY FOR CENTRAL OREGON

WHEREAS, seed growers believe that high air quality standards are necessary for wholesome livability, and

WHEREAS, smoke has become a problem in parts of Oregon, and

WHEREAS, the seed growers of Central Oregon wish to follow a voluntary field burning policy, and

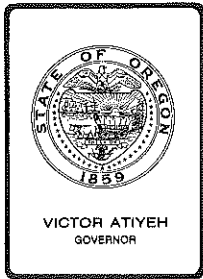
WHEREAS, field burning is a necessary management tool for growing seed crops, and

WHEREAS, seed growers wish to help maintain the desirability of the Central Oregon tourist and recreational industry,

THEREFORE, be it resolved that the Jefferson County Seed Growers Association adopt and follow the following guidelines:

- 1 - Field burning will be permitted Monday through Friday. On Labor Day weekend no burning permitted until Tuesday morning. Burning on Friday should be completed as early in the day as possible.
- 2 - No field burning will be permitted at night.
- 3 - The Seed Growers Association shall engage the services of a weather consultant during the burning season.
- 4 - The North Unit Fire District will advise growers of a no-burn day when weather conditions are bad for field burning.
- 5 - Coordinated field burning along main highways will be conducted in cooperation with the growers, Highway Department, County Sheriff Department and the Extension Service to promote maximum traffic safety.
- 6 - Minimal contribution of ten dollars (\$10.00) per annual permit will be collected by the North Unit Fire District for the Seed Growers Association to implement the program.

Adopted by Jefferson County Seed  
Growers Association. February 19, 1981



## *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:** Linda K. Zucker, Hearings Officer

**Subject:** Public Testimony on Proposed Amendments to Open Burning Rules, OAR 340-23-025 through 340-23-050 and OAR 340-30-070. Multnomah County.

### Procedure

Pursuant to public notice, a hearing was convened at the Multnomah County Courthouse at 7:00 p.m. on March 18, 1981.

### Summary of Testimony

Floyd Hand believes that recent televised statements by DEQ employes regarding the carcinogenic effect of wood smoke were inaccurate and intended to frighten people. PNH has not been proved to cause cancer in humans. In any case, it arises in any burning of organic material, occur naturally, and is present in processed food. Many years ago, wood burning was very common, yet the incidence of cancer was lower than present day levels.

Beulah Hand, former state representative from Clackamas County, owns an acre of land planted in fruit trees, vines and shrubs. She finds she must burn apple scab infected trimmings and rose bush trimmings to avoid transfer of disease. She says that debris piles provide a haven for rodents. She believes that hauling debris along Milwaukie Boulevard in open trucks is not practical and increases road dust. Finding that good meteorological information is available, she believes that people should be able to burn year-round. We should rely on forest service meteorological information.

Bill Cook, speaking for the Oregon Environmental Council, supports a ban on backyard burning and the rule revisions proposed by staff with certain exceptions.

He would like to see the ban boundary extended to include Hillsboro and Aloha. He believes that open burning should be banned throughout the Willamette Valley. He believes that letter permits for yard debris should

not be issued for a period extending beyond 30 days and should allow only 7 days of actual burning. Hours for burning should conclude at least 2 hours before sunset. The Council also supports the proposed changes allowing the burning of construction and demolition waste in certain coastal areas; exempting backyard bar-b-ques from regulation; and adding petroleum treated wood to the list of prohibited materials.

Dennis L. Heidtmann, an Aloha resident, generally supports the proposed rules but has some reservations about the burning ban boundaries. He believes that housing density should be used as a criteria in addition to distance from Portland. He advises the Commission that wood contains polycyclics. He asks that the Commission assist in preventing people from dumping smoke in his lungs just as they are forbidden to dump garbage on his lawn. John F. Reynolds does not believe that wood smoke causes cancer. He states that the ban on backyard burning is an imposition on citizens. The main problem is that good alternative disposal facilities are not presently available.

Richard Gitschlag, a Northwest Portland resident, asked the Commission to allow year-round burning on good days. Year-round burning will prevent an accumulation of large debris piles. Mr. Gitschlag believes that incineration would be preferable to open burning. He would like to see production of an information package evaluating environmental costs including alternate disposal methods, gas use, road dust and auto exhaust. He believes that rural areas should be able to burn without restriction. He does not believe that a restriction on backyard burning should be imposed until there are reasonable restrictions on the emissions of auto exhaust fumes.

Veronica Foster owns a parcel of land over an acre in size which accomodates four old houses landscaped with small fruit trees. She must prune and dispose of the trimmings by burning to avoid disease. She finds that spraying will not do the job. Landfills provide a breeding ground for disease and are not a viable repository for trimmings. She was forced to expend \$500 on clearing evergreen debris last year. This year she has hauled three pickup loads of debris at a \$120 labor cost and a \$26 fee for dumping and gasoline expense. She was also able to burn the equivalent of three pickup loads of debris.

J. L. Sedgwick opposes duplication of services. He believes that fire departments should be used as exclusive agents for regulating backyard burning.

Kathleen Satterlee believes that year-round open burning should be permitted to avoid pollution.

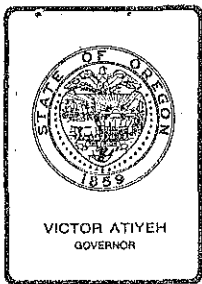
J. L. Pottenger reports that his neighbors burn backyard debris. This long-time Portland resident remembers five ice-storms, each one produced a great deal of debris. He would like to burn under reasonable conditions decided by DEQ. He does not believe that taxpayers should pay for debris disposal.

Hannelore Mitchell lives on an urban-sized lot which supports seven mature deciduous trees, four less mature deciduous trees, and a variety of other trees and shrubs. Her house is in a geologic depression. She was disappointed that the ban was rescinded by the Commission. She believes it reflects an inept job by the agency which has failed to provide alternative disposal means.

She would like to see a form of districting for backyard burning purposes. She suggests that fire districts be subdivided and authorized to allow burning when weather conditions are conducive to removing smoke from the lower atmosphere. She suggests the use of odd/even house number system on odd/even days as a method of permit allocation. She would like the agency to develop an educational program of fliers distributed from house to house to encourage wise burning and courtesy. She suggests that cartoon shorts would provide an appropriate educational medium. She would particularly admonish against the burning of wet debris.

Sandra Gee wants to eliminate burning completely. She experiences serious health symptoms because the cost of disposal has been improperly balanced against the deleterious effects on human health.

Owen P. Cramer, retired research meteorologist, has provided a variety of specific suggestions. A copy of his testimony is attached. He believes burning should be regulated by an air quality index using a particulate standard rather than a meteorological index as proposed. Mr. Cramer thinks the Willamette Valley is too large to be governed by a single index. Burning zones should be established with burning allowed down-wind of sensitive areas. He thinks it is a mistake to prohibit burning in the Portland area because it will increase fire hazards. Instead, he proposes that burning be managed year-round on auspicious days. Mr. Cramer supports the proposed to limit burning hours to 2 hours before sunset.



## Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

### MEMORANDUM

TO: Environmental Quality Commission      DATE: June 3, 1981

FROM: Rhea Kessler, Hearings Officer

SUBJECT: Report on Public Hearing, held March 19, 1981,  
on Proposed Open Burning Rules

### Summary

Pursuant to Public Notice a public hearing was held on March 19, 1981, at 7:30 p.m. in Hillsboro, Oregon. The purpose of this meeting was to receive testimony regarding proposed rules for open burning.

### Summary of Testimony

Sixteen individuals gave oral testimony. Approximately 40-50 people were present. Many speakers stated that they wish to burn all year long, when weather conditions are favorable. All supported backyard burning. A general question and answer period followed the formal testimony. Staff answered questions concerning cut-off times, climatological differences and decision-making for burn authorization. Two members of the Oregon Environmental Council were in attendance. They answered general questions about their organization.

Joe Salta, Aloha wants permission to burn throughout the year. He owns an acre of land with fruit trees and has much debris to dispose of.

Dwight Johnson supports burning because he considers landfills to be a short term solution. He wants assurance that burning will be permitted in years to come.



Chester Robinson, Tigard advocates burning throughout the year when atmospheric conditions permit. He spoke of the various health hazards posed by a burning ban, including the pollution from motor powered chippers, the reduction of atmospheric oxygen due to less cultivated greenery, and increased rodent population living in roadside brush.

Lee Crowell, Hillsboro stressed the expense of burning alternatives, such as hauling or chipping, which are prohibitive to citizens living on fixed incomes. He says we should burn year around on good days.

Bob Davis, Fire Chief, Forest Grove Fire Department, states that he wants to go on record supporting backyard burning. He feels that rural burning should be year around.

Addie Fischer, Forest Grove and her husband live on a fixed income and grow most of their own food. She states that they can't afford alternatives to burning and have no room on their one-acre plot to accommodate accumulated debris. She wants reasonable regulated burning.

Ethan Peabody, Forest Grove spokes in favor of a year-long burn season, stating that too many of the permitted burn days fall during damp weather when burning creates large amounts of smoke.

George Babish, Construction Safety Consultant, Hillsboro questions the monetary and environmental costs of burning alternatives. He also mentions the difficulties of burning during wet weather. A copy of his comments is attached.

Larry Chambreau, City Council, Hillsboro emphasizes the lack of reasonable alternatives to backyard burning and the negligible impact of such burning on general air quality. He also advocates burning throughout the year which would allow material to dry adequately before burning and thus minimize the amount of smoke produced. He says local nuisance problems can be handled by local government.

Margaret Sievers advocates an extended burn season, which would encourage homeowners to beautify their properties and discourage rodents and other pests. She cannot afford a chipper or other alternatives.

Esther Heil, Hillsboro states that her family recycles and composts as many materials as they can but still need to burn certain debris such as laurel and walnut leaves. She favors burning the year around.

W.G. McCallum, Hillsboro states that he represents himself and six other families, all of whom advocate year long burning. Senior citizens cannot afford costly alternatives.

Lloyd Baron, Hillsboro speaks of the problems caused by a burning ban, including insect infestation, plant diseases, rodents, weeds and increased fossil fuel pollution. He also criticizes the current burning schedule, stating that burning should only be allowed on dry days the year around.

Mary Flagg, Forest Grove read a poem into the record on backyard burning, advocating a year-long burn season.

R. McDonald, Hillsboro is particularly concerned with eliminating diseased plant material. The only safe way to dispose of this material is to burn it, as chipping the material and putting it back in the earth will only spread disease and other pests. She favors burning on good days the year around with local control. Differences in local climate areas need to be considered.

Robert Platt supports year around burning and needs to burn diseased material.

Kevin Van Dyke, Forest Grove is the Director of the Rural Fire District but speaks as a private citizen. He advocates a year-long burn season, with greater local control over burn days. He states that wind conditions vary greatly from county to county, as does the danger of uncontrolled summer fires.

Harold Eastman supports year around burning on a controlled basis.

Respectfully submitted,

Rhea W. Kessler  
Hearings Officer

RWK:g  
HGD220 (1)

"PAGE"

GEORGE BABICH, CSP, PE-SAFETY  
CONSTRUCTION SAFETY CONSULTANT  
3333 N.E. Brogden Street  
Hillsboro, OR 97123  
503 - 648-2333

MR. WEATHERSBY

Notes for the DEQ meeting on back-yard burning--Hillsboro 2-17

Question: Would it be possible for DEQ to schedule a meeting in the evening of a week day so that people who cannot take time off from work can attend?

Regarding alternatives to backyard burning, from what I've been able to determine, with the exception of materials that can be mulched and composted, every alternative would require the use of vehicles and powered equipment; they would require travel to and from land-fills; costly labor; and the 'industry hazards' in these alternatives would, in my opinion, be greater than the hazards to the home-owners if they conduct burning in a controlled and disciplined manner.

The cost-benefit factors of a total ban appear to be very much a question. *The cone is worse than the illness*

I am opposed to the use of any and all petro-chemicals for starting and propagating fires.

A public service can be provided through the publication of safety-in-backyard-burning methods and procedures.

The backyard burning periods of recent have been in months that, because of the weather, did not provide drying time for the material to be burned. I think this is something that needs study and due consideration of the problems faced by responsible citizens.

It stands to reason that dried material will burn cleanly and completely with a minimum of smoke and emissions. And people will not need so-called fire starters.

A casual survey of the cost of drop-boxes, chipping services, and hauling of material showed that the initial costs to home owners will be considerable---and when the demand increases, as it will, the costs will increase proportionately.

Backyard burning needs to be defined. Would a ban include the burning of tent caterpillars? Diseased cane berries and plants? Wild blackberries and other noxious plants? The ~~alternatives~~ alternatives are limited.

In my opinion backyard burning can be done safely, efficiently, and with a minimum of exposure to the public if it is done at the right time--- in the right manner---and the materials burned limited to natural growth.

*possibility of  
Arbitrary decisions  
on bans -  
public notice*

For the Record March 19, 1981  
Hillsboro

~~Portland Metropolitan Area - Yard Debris Survey~~

We are in favor of allowing  
back yard burning of yard debris  
throughout the year on those days  
with suitable atmospheric conditions.

Cecilia Lucas

Dan Lucas

4345 S.W. 99th Ave.  
Beaverton, Oregon 97005



19 Mar 1981  
Hillsboro, Oregon

## City Of Hillsboro

205 S.E. Second Ave. □ 548-0821 □ Hillsboro, Oregon 97123

January 30, 1981

Environmental Quality Commission  
Dept. of Environmental Quality  
522 SW Fifth  
Portland, Oregon 97201

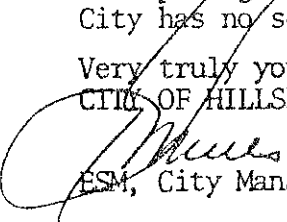
Dear Commissioners:

I wish to take this opportunity on behalf of the citizens of Hillsboro to express support for the recommendation to reduce the area subject to the Department of Environmental Quality's ban on backyard burning. The proposed reduction would eliminate Hillsboro from the ban area, an action which is supportable and justified by the following facts relating to backyard burning and air quality in the Hillsboro area:

1. The amount of particulate matter contributed by backyard burning in the Hillsboro area is a negligible portion of total particulate matter emitted in the Portland area. Wood burning for heat and road dust generated by motor vehicles contribute many times more particulate matter.
2. Few, if any, complaints are received by the Fire Department regarding backyard burning. Any complaints received on backyard burning are most appropriately handled under our nuisance ordinance rather than as an air quality problem.
3. During the last five years, only eleven violations of secondary Federal TSP standards were documented. Of these eleven, only two violations occurred during a burning season, both on days which burning was not allowed. Overall, air quality in the Hillsboro area has remained well within the established standard for Oregon.
4. The only landfill in the Hillsboro area is currently over capacity and is unable to handle an increased volume of backyard debris.
5. No reasonable, economic or funded alternative to backyard burning exists at the present time.

Attached to this letter is a brief statistical analysis of air quality data on total suspended particulate levels in Hillsboro. This data reveals that air quality problems in the Hillsboro area are minimal and that a ban on backyard burning will have an inconsequential effect on alleviating the overall problem. The ban on backyard burning will have a major impact on the City by creating enforcement problems, increasing illegal dumping and further burdening an inadequate landfill. Your passage of this item will be a step towards resolving an issue for which the City has no solution--disposal of yard debris.

Very truly yours,  
CITY OF HILLSBORO

  
ESM, City Manager

Attachment

AMBIENT AIR QUALITY WITH REGARDS TO TOTAL SUSPENDED  
PARTICULATES AND BACKYARD BURNING IN HILLSBORO.

Examination of total suspended particulate data obtained from the monitoring station at the Hillsboro Airport reveals a total of eleven instances when the Federal secondary TSP standard (150 ug/m<sup>3</sup>) was exceeded. Of these eleven instances, three also exceeded the primary Federal TSP standard (260 ug/m<sup>3</sup>). On only one occasion did a violation achieve Federal alert status by surpassing 375 ug/m<sup>3</sup> in a 24 hour period. The table below lists the date and particulate level of each of the 11 occasions.

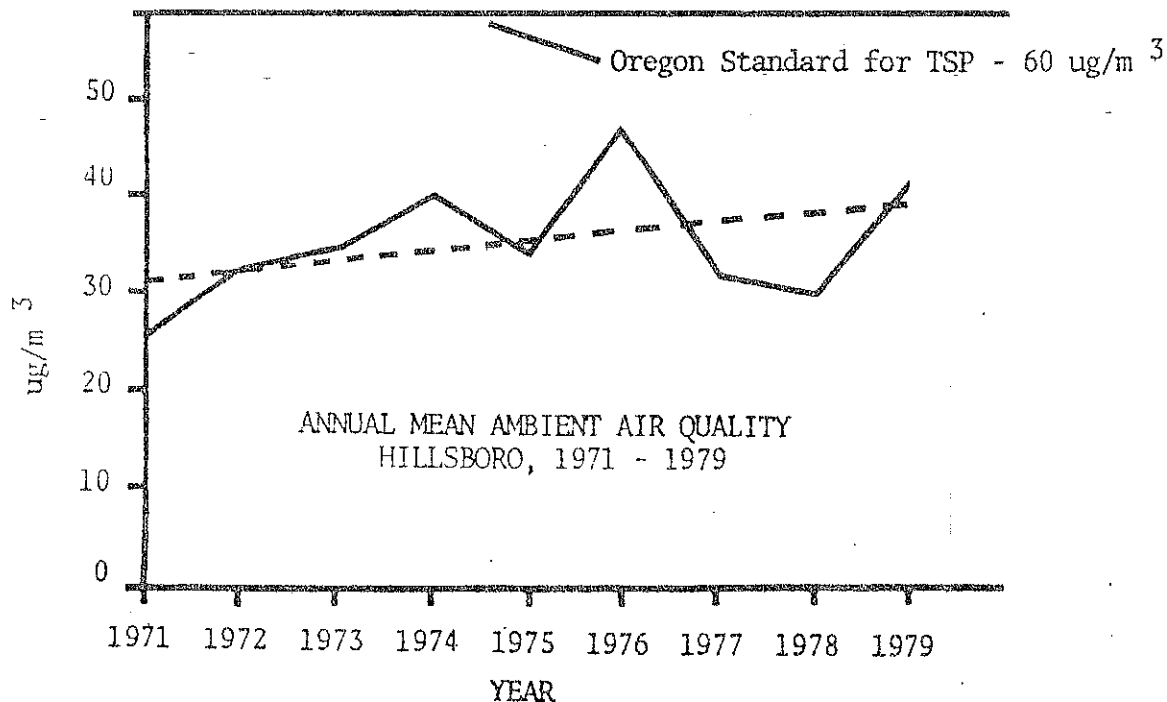
Violations of TSP Standards in Hillsboro - 1975-1979

<u>DATE</u>	<u>TSP LEVEL</u>
January 4, 1979	153 ug/m <sup>3</sup>
August 1, 1979	195 ug/m <sup>3</sup>
September 29, 1978	220 ug/m <sup>3</sup>
* May 12, 1976	170 ug/m <sup>3</sup>
July 23, 1976	207 ug/m <sup>3</sup>
August 4, 1976	280 ug/m <sup>3</sup>
September 3, 1976	210 ug/m <sup>3</sup>
* October 15, 1976	180 ug/m <sup>3</sup>
September 9, 1975	319 ug/m <sup>3</sup>
September 15, 1975	490 ug/m <sup>3</sup>
September 27, 1975	222 ug/m <sup>3</sup>

\* Violation occurred during burning season  
Source: Department of Environmental Quality.

Of the violations documented in the last five years, only two have occurred during a period designated for open burning. These two violations exceeded only secondary Federal standards and did not approach primary or alert level standards.

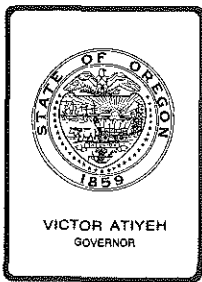
The figure below is intended to show the overall trend in ambient air quality with respect to TSP for Hillsboro during the last nine years. The solid line connects the mean level of TSP for each year from 1971 to 1979.



Since the connected points do not represent a straight line, it is difficult to determine the actual trend in pollution levels over the nine year period. To overcome this problem, a regression line is "fitted" to points on the graph to more clearly show the trend in TSP levels. This averaged value is shown by the dashed line. The dashed line represents the approximate slope, or trend, of the solid line if it were averaged into a straight line. It indicates that the yearly geometric mean level of TSP is increasing gradually in Hillsboro. The "averaged" value of TSP increased from  $30.7 \text{ ug/m}^3$  to  $39.1 \text{ ug/m}^3$  or 27 percent during the nine year period. According to data published by DEQ in 1980, backyard burning accounted for only 1.2 percent of all particulate matter emitted from all sources in 1977. Assuming that the percentage of TSP accounted for by backyard burning is fairly representative of other years it seems reasonable to assume that decreasing TSP by 1.2 percent in any given year by banning backyard burning is not going to reverse the trend for gradually increasing TSP each year. Addition or deletion of the Hillsboro area will have even less impact.

#### SUMMARY

The purpose of this statistical exercise is to bring to attention two important points. First, the number of violations of TSP standards in Hillsboro are so few as to be almost inconsequential. Second, although the general trend is toward gradually increasing TSP levels in the Hillsboro area, a ban on backyard burning would tend to reduce the trend by such a small amount as to be almost imperceptible. Based on these two facts, it seems reasonable to conclude that backyard burning has only a very small effect on the Hillsboro and Portland airshed and allowing it to continue will not have a detrimental effect on overall air quality.



## *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:** L.D. Brannock, Hearings Officer

**Subject:** Report on Public Hearing held March 23, 1981, in Coos Bay, Oregon, to receive testimony on proposed open burning rules OAR 340-23-25 through 340-23-050.

### Procedure

Pursuant to public notice, a public hearing was convened at 7:00 p.m., March 23, 1981, in the Neighborhood Facility Building, in Coos Bay, Oregon.

### Summary of Testimony

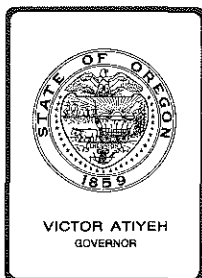
There were 3 persons attending this public hearing. A question and answer period was incorporated where one person had questions relating to the slash burning in the coast area of Coos Bay.

George X. Rempelos is the fire marshall for the North Bay Rural Fire Protection District. Mr. Rempelos does not see the need for open burning control areas in Coos Bay or Astoria. He also pointed out an error in the descriptive boundary describing the Coos Bay open burning control area.

### **Attachments:**

LDR:a  
AAD168 (1)  
229-5836  
July 6, 1981





## *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: L.D. Brannock, Hearings Officer

Subject: Report on Public Hearing held March 25, 1981 in Pendleton, Oregon on Proposed Amendments to the Open Burning Rules, OAR 340-23-025 through 340-23-050.

### Procedure

Pursuant to public notice, on March 25, 1981, at 7:00 p.m., a public hearing was convened at the Pendleton City Hall in the Council Chambers at 34 S.E. Dorian Street, for the purpose of receiving public testimony on the proposed open burning rules.

### Synopsis

The hearing was attended by approximately 35 individuals. Eighteen of these people offered oral testimony at the hearing. All of the testimony offered concerned itself with the burning regulations as they apply to agricultural burning. Most of the testimony dealt with field burning. Those testifying were uniformly opposed to the establishment of DEQ rules that would control agricultural burning in Eastern Oregon. The reasons given for this opposition were: (1) it was unnecessary, (2) it duplicates effort presently being made on a local basis, and (3) there was no need to increase government involvement in the lives of the people of Eastern Oregon.

### Summary of Testimony

Grant Henderson, a farmer from Summerville, Oregon, spoke representing the Farm Bureau. Mr. Henderson states that Union County growers prefer their own smoke management program, which they currently operate, to a program operated by the DEQ from Portland. He thinks it is unnecessary to increase government payroll and control in Eastern Oregon.

Mr. Mack Temple, a wheat farmer from Echo, Oregon, is chairman of the Production Land Use Committee of the Oregon Wheat League. Mr. Temple states that field burning is necessary to the production of some crops and he thinks Eastern Oregon should be exempted from regulation. He further stated that the DEQ received only 12 complaints from burning operations in

1980 in the Pendleton area and no complaints were received by the fire district or the sheriff's department.

Frank Tubbs, is a farmer from Adams, Oregon. Mr. Tubbs states that fire permits are now required by county courts and people in the area wish to continue local control of agricultural burning. He states that people in his area do not want a deeper layer of government regulation.

Don Starr, a farmer from Summerville, Oregon, is president of the South Forty Club. Mr. Starr thinks that any problems or complaints due to agricultural smoke are minor compared to the benefits of the agricultural income to the area and the increased costs accompanying DEQ regulation. Such regulation, Mr. Starr thinks, is overkill of the problem. He states that the inherent adversities of smoke and dust for short periods in Eastern Oregon are accepted by the general public. Mr. Starr further states on his own behalf, that the Union County farmers cooperatively have operated a smoke management program for the last five years and that they don't need increased DEQ responsibility in a time of low or declining state income. He recommends that the state should encourage the operation of local programs.

Byron Hawkins, a farmer from La Grande, in Union County, states that additional burning regulations are unnecessary because: (1) the local voluntary smoke management program has worked well, (2) the area is characterized by good smoke dispersal patterns, and (3) the area is well within the total suspended particulate standards of the state.

L.R. Starr, a farmer from Summerville, Oregon, in Union County, has been in the local fire department for 30 years. He states that in that time it has been necessary to restrict open burning only twice, due to a heavy accumulation of forest fire smoke. He thinks that this is not a sufficient problem to warrant regulation.

Bruce B. Andrews, a farmer from Cove, Oregon, states that the existing local smoke management program works well because the farmers care about their industry and self-control is a matter of pride. He feels the DEQ can do nothing to enhance air quality in Union County so that more regulation is unnecessary.

Creston Shaw, a farmer from Union County, states that a few complaints do not support the need for open burning regulation in Union County. He feels that Union County is working to take care of their own problems.

Bob Wilson, a farmer from La Grande, is president of the Union County Grass Seed Growers Association. Mr. Wilson emphasized the need for post harvest burning in grass fields to increase seed yields. He says that 69 Union County farmers operate a voluntary smoke management program to alleviate essential problems in the area. Mr. Wilson presented additional written information relating to the operation of the smoke management program in Union County.

Robert Buchanon, a wheat farmer from Milton-Freewater, is opposed to increased DEQ control in Union and Umatilla Counties. He states there are no known complaints at the Milton-Freewater fire department. Mr. Buchanon

EQC Hearing

3/25/81

Page 3

feels that probable increased costs brought about by DEQ control are unjustified in an area where school levies don't pass, levies for libraries, road maintenance, and police go unfunded and the Federal Weather Stations are being curtailed.

Tom Thompson, a farmer and consulting agronomist, questions the need of additional DEQ rules where state law requires fire permits. He sees no justification for applying open burning controls to agriculture and submitted a sample copy of the fire marshall's fire permit.

Marinas Jocab DeLint, a farmer from Union County, questions the authority of the EQC to control open burning state wide. He feels the Union County voluntary program has worked well and that DEQ has neither the staff nor the knowledge of Union County to regulate under an equivalent program. he further thinks that complaints are rare and insignificant.

Bill Howell, an Imbler, Oregon farmer, objects to rules and regulations being imposed in anticipation of a problem. He states that the expense of an expanded program is unjustified and state funds are short and feels that the rules are the beginning of an expanded control program by the state.

William Curt Howell, a farmer from Union County, thinks that the voluntary program operating in Union County has worked well and that the farmers cannot afford the increased expense of more agricultural programs. He questions the source of specific complaints. Mr. Howell fears that the rules open the door for increased monitoring and control somewhere down the road, say 10 years or more.

Doug Winn, a resident from La Grande, does not feel there is any need for DEQ in Union County and the people do not want DEQ. He asks that the Department let the farmers govern themselves.

Glen Gibbons, manager of the Blue Mountain Growers of Milton-Freewater, points out the farmers need to burn orchard prunings in the Milton-Freewater area and states that there is a program in operation which cooperates with the Walla Walla Weather Service. He feels that the fiscal impact statement is callous in nature because it does not mention added expenses expected of the farmer. He sees a need for a government that does not go beyond its authority and wants government to get off the people's back.

Tom Wallace, a local farmer, wonders if the DEQ proposal is for the purpose of regulating or just to assist people in knowing when to burn.

Jack Smith, the meteorologist in charge of the Pendleton Weather Station, asks that the DEQ accept the status-quo and let the citizens continue with the operation of self-regulation. He requests that we pass no rule based strictly on anticipated problems.

LDB:a

AAD164 (1)

229-5836

July 6, 1981

# OREGON WHEAT

503/276-7330

OREGON WHEAT GROWERS LEAGUE • 305 S.W. 10TH • P.O. BOX 400 • PENDLETON, OREGON 97801

Mr. Doug Brannock  
Air Quality Division  
Environmental Quality Commission  
Box 1760  
Portland, Oregon 97204

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 15 1981

AIR QUALITY CONTROL

Testimony to Environmental Quality Commission  
concerning open field burning  
Pendleton, Oregon on March 25, 1981

I am Mack Temple, Pendleton and wheat farmer and Chairman of the Oregon Wheat Growers Production & Land Use Committee.

Field burning of stubble is sometimes a necessary practice. If it does not cause a problem, does it need to be regulated?

As a farming practice, wheat farmers do not like to burn stubble. It is much more beneficial in Eastern Oregon to put the straw back into the ground. On rare occasions, to control weed problems, pests, or to eliminate extremely thick wheat stubble in order to plow, it is sometimes necessary to burn.

From information I obtained, the Pendleton District of the D.E.Q. is an extremely large area. It goes from Condon to Ontario. In 1980 there were only 12 complaints. Not all were complaints about agricultural burning. Twelve complaints are insignificant when you consider the tens of thousands of acres and hundreds of farms.

The Pendleton City Manager, Pendleton Chamber of Commerce, Pendleton Fire Department and Umatilla County Commissioners have had no complaints about agriculture field burning.

Woody Starrett, Chairman of the Umatilla County Board of Commissioners is on the Dept. of Environmental Advisory, said they have had no agricultural burning complaints in seven years.

Umatilla County, and as far as I know, the entire wheat growing area of Eastern Oregon, has no significant field smoke problems because there is lots of wind which clears it out.

Page 2  
Testimony to EQC  
March 25, 1981

The regulations of the State Environmental Quality Commission recognizes that wind clears smoke in construction and demolition open burning on the coast. The Oregon coast is exempt from regulations. We have the wind here and no problems. We should also be exempt from regulation. The precedent has been set by the recognition of overcontrol on the Oregon coast. For the same reasons Eastern Oregon can be exempt from regulation.

As a farmer I will not burn and cannot burn unless the weather is right. If it is something I must do, the decision can be anticipated and the burning permit now required can be obtained.

If there are problems we want to help solve them. We want to solve them voluntarily first, rather than with regulations.

Mack Temple, Chairman  
Production & Land Use Committee  
Oregon Wheat Growers League

(P)

Summerville, OR 97876  
March 25, 1981

Dept of Environmental Quality  
Air Quality Division  
Box 1760  
Portland, OR 97207

Gentlemen:

Written testimony given at Public Hearing in Pendleton, OR  
on March 25, 1981 at 7:00 p.m. at Pendleton City Hall.  
Regarding open burning regulations in ALL of Oregon.

I am Grant I. Henderson, a farmer at Summerville, OR. My crops  
include Grass seed, wheat, hay, hogs, and cattle.

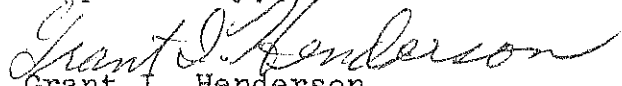
DEQ regulates open burning in nine counties in Oregon at present  
at a cost to growers of \$4.50 per acre and it still makes smoke.  
In Union County, where grass seed is produced, a charge of .25¢  
per acre is assessed. Union County does its own monitoring  
during the burning season, and permits are written on days of  
good smoke dispersal. We prefer local control, NOT DEQ of  
Portland.

To produce grass seed the fields must be burned to get rid of  
thatch, harmful bugs and eggs, such as grass hoppers, sod web-  
worm and others and it does make smoke. But the production of  
beef, pork, or paper does produce odors. Citizens of Oregon  
should be willing to accept this small inconvenience.

I donot see the need for more controls. More people on Gov't  
payroll to control all burning in ALL of Ore. would take  
several more people and more monitoring in each county to  
provide a service of quality.

I think a decision of this broad an authority should be left  
to the Oregon Legislature and not be decided by Executive Rule  
of any Committee.

Respectfully,

  
Grant I. Henderson,  
Representing  
Union Co. Farm Bureau

Copies: DEQ - State Legislators - Gov. Vic Atiyeh

(A)

March 25, 1981

To: DEQ

From: South 40 Club of Union County  
Union County Wheat Growers League

Subject: Proposed Rules Regulating Agricultural Open Burning

Dated, Jan. 30, 1981 EQC meeting

The South 40 Club of Union County is a long standing organization of farmers and agri-businessmen, with a membership on this date of 47, representing all areas of this county.

The Union County Wheat Growers League is made up of 230 farmers raising wheat in Union County.

At a meeting on Wednesday, March 18, 1981, a resolution was passed to respond to your proposed Rule Regulating Agricultural Open Burning as follows:

A. We believe the inclusion of Agricultural open burning in the proposed new regulations to be unnecessary.

1. We believe the intent of the regulations to be an increase in control by the DEQ, that will, now or in the future, be an increased cost to the agricultural community and the tax payers of Oregon, that is not cost effective.

2. We believe the problem and or complaint level in Eastern Oregon is so minor, relative to the benefits derived from agricultural income of Eastern Oregon that the regulations are another example of planned overkill to a problem.

3. We like living in Eastern Oregon because it is a farming and lumbering area, and in turn we expect to live with the inherent adversities of smoke or dust for short periods of time during the year.

Justification for our belief

1. The control is not needed because we are taking care of the problem ourselves. In the case of field burning, for about 40 days in the fall, our grass growers and wheat growers pay for a plane to fly each morning to monitor air temperatures at several elevations. This information is passed to the U.S. Forest Service who then relay this information to the U.S. Weather Bureau in Pendleton. Mr. Jack Smith of that station evaluates the information and in turn relays back within one hour the appropriate burning schedule for the day. This information then goes to the radio station for broadcast to the public and local fire departments that can issue burning permits for that day. Also a permanent record of dew point, humidity and temperature is kept at the Blue Mountain Seed plant in Imbler. This information is at all times available to the Forest Service and weather bureau for their use. This entire process has been ongoing for the last five years, paid for by the local growers and without need of DEQ supervision. We believe the local problem is being dealt with very well by the local people without additional government supervision or expense.
2. We discourage any increase in DEQ responsibility or duties in this time of low state income and need for careful allocations of state tax dollars.
3. We are very protective of our agricultural lands in Eastern Oregon and sincerely hope the people that would come to live in our area can learn to tolerate the minor adversity of occasional smoke problems as we do.
4. We would also encourage any area not now dealing with this problem on a local level, to develop a program modeled after the one in our area. This in turn will lessen the need for DEQ supervision and therefore reduce cost to tax payers. Local problems dealt with at the local level can be the least expensive and have the flexibility to be the most effective.

Respectfully submitted,

Larry Courtright, President South 40  
Don Starr, President Union County Wheat League



To : The Department of Environmental Quality at Pendleton, Oregon March 25, 1981 (8)

It disturbs us as growers that you people do not contact us in our local environment and discuss prevailing and future problems. We have organizations in our County that are well aware of our local problems and are doing an excellent job of self regulation without cost to other people. This is an agriculture and timber products area and those people living here in agriculture also have different cultural practices, but we work together locally in trying to improve our practices, and cope with the steady Urban growth creeping out around our farms. There was a statement in the Oregonian that a few complaints are received in our area at certain times of the year about Agriculture burning. Well, I'm sure that every industry will have complaints, but this doesn't necessarily indicate a State wide control by a government agency. Let's bring this complaint to a local farm organization involved in the area and give them a chance to correct and bring it to the attention of the local growers. I think regulatory agencies would find that maybe they wouldn't ~~as~~ <sup>Need as</sup> much staff and budget if they would just communicate with local problems at local levels. Many growers here, including myself, have had to travel a distance of over 150 miles to attend tonight. Now it was a real hazard driving over the mountain, let alone figuring the fuel consumed and air polluted by the auto just to get here. After all an automobile consumes 1000 times more oxygen than does a person, and to dilute this automobile exhaust to a harmless concentration requires 5 to 10 million times as much air as does the driver. Also of 2000 acres we burn puts less toxic material into the air than 5 automobiles driven 30,000 miles a year.

A blade of grass ~~that~~ we burn once a year and is green in just a short time. This blade of grass takes in carbon dioxide and the worst atmospheric pollutants, Sulfur dioxide, Ozone, Peroxycetyl Nitrate, Hydrogen flouride, etc., and gives us pure oxygen in return. In fact 25 square feet of grass releases enough oxygen a day for a grown person.

The present trend is in deregulation, less spending by state agencies. Lets give our local people a chance, and just maybe thank them for the concern they have already shown.

Creston Shaw  
Alecil Rt Boy 206  
Cove, Ore 97824  
Tel 963-485-2111

March 23, 1981

Notes for testimony at the DEQ hearing to be held in Pendleton on Wednesday, March 25th.

My name is Bob Wilson. I am a farmer east of Island City. I am president of the Union County Grass Seed Growers Association.

We have raised grass seed in Union County since about 1935. In 1980 there were approximately 9,710 acres of grass seed harvested. We basically raise Kentucky Bluegrass with some Chewings Fescue, Red Fescue, Perennial Ryegrass and Merion Bluegrass. Most of the grass seed we raise is for turf grass seed. We have been burning our fields since about 1945.

In a research report entitled "Residue Management in Kentucky Bluegrass and Red Fescue Seed Fields", F. Vance Pumphrey, agronomist with the Columbia Basin Agricultural Research Center, shows that "seed yields of Kentucky Bluegrass and Red Fescue were increased significantly by complete removal of post harvest residue prior to initiation of fall growth. Burning the residue after the initiation of fall growth significantly reduced seed yields. This research was done in 1965.

There are approximately 69 farmers that raise grass seed in Union County. The Union County Grass Seed Growers have had a smoke dispersal forecast program for some time. This program includes gathering air temperatures up to 6,000 ft each morning during the burning season. One of the local grass seed growers flies an airplane to gather this information. Information on the high and low temperature and high and low relative humidity is gathered at Alicel by another person. A hydrothermograph and mini and maxi thermometers are used to gather this information. All of this is then tele-

phoned to the US Forest Service office at the LaGrande airport. This information along with the barometric pressure is then put on the teletype and sent to the Pendleton weather station where the meteorologist, headed by Jack Smith, come up with the smoke forecast for the day. This smoke forecast is then telephoned to radio station KLBM in LaGrande and is put on the air between 9 and 9:30 daily. Farmers wishing to burn then get a burn permit from their local fire department. Farmers are also encouraged not to burn on Sundays or Holidays or to begin burning after 5:00 p.m. They are reminded that any fields within one eighth of a mile of timber require a permit from the State of Oregon Forestry Department. These permits can be obtained from the dispatch office in La Grande. Growers are reminded that areas outside a rural fire district can obtain a permit from the Union County Sheriff's office. Growers are also encouraged that regardless of the forecast, no fires should be started ~~if~~ the grower can see poor dispersal from any other fires in the valley. Growers are encouraged to be extra careful along highways and other public areas.

To finance this smoke dispersal program the growers are donating 25¢ per acre to the Union County Seed Growers Association.

Air temperature flights were first made about 1974 when a local farmer flew to gather the morning air temperatures at 500 foot intervals from about 2700 feet to 5700 feet. Prior to that air temperatures were gathered at Mt. Emily, Mt. Harris and from the valley floor. These were then given to the meteorologist to make the smoke forecast for the day. These programs are voluntary and have been finance by local growers without the need or help of the Department of Environmental Quality.

I have for you, to be entered into the record, copies of some letters that have been sent to grass seed farmers in Union County discussing field burning precautions and the operation of the program. The evidence shows that this program has been going on for several years and also shows cooperation of several

local agencies including local fire chiefs, the Forest Service and State Police. Field burning, like weather forecasting, is not always perfect. <sup>ALTHOUGH</sup> Over a period of years it has been a very successful program without the need for a regulatory agency in the Grande Ronde Valley. We feel that with our present program that we have the cooperation and support of the growers. We also feel that this program is as successful or more successful than a program under the one being proposed here tonight.

We believe that we are taking care of our program at a minimal cost. The Union County Grass Seed Growers Association is opposed to the establishment of new rules and regulations for agricultural open burning for these reasons: We feel that we have a successful and adequate program to regulate the agricultural open burning in the Grande Ronde Valley. Meteorological data is gathered by local volunteers and is sent to the Pendleton Weather Station where a smoke forecast for the day is telephoned back to La Grande and then broadcast on the radio. The Union County Grass Seed Growers cooperate with other local agencies such as fire chiefs, the Forest Service and State Police. All of this is done at the growers expense and at a minimal cost. Because of these reasons the Union County Grass Seed Growers feel there is not justification for implementation of these rules for agricultural open burning in the Grande Ronde Valley area of Oregon. If there are problems in other parts of the state, perhaps an open burning control area in those areas might be established like the Willamette Valley, Rogue Basin, Umpqua Basin and Coos Bay and leave the rest of the state alone. I would also like to receive all correspondence from DEQ and EQC regarding the proposed rules regulating agricultural open burning. I would also like to know when the EQC will be holding its meetings.

## Residue Management in Kentucky Bluegrass (*Poa pratensis* L.) and Red Fescue (*Festuca rubra* L.) Seed Fields<sup>1</sup>

F. V. Pumphrey<sup>2</sup>

**SYNOPSIS.** Seed yields of Kentucky bluegrass and red fescue were increased significantly by complete removal of post-harvest residue prior to initiation of fall growth. Burning the residue after the initiation of fall growth significantly reduced seed yields. A positive interaction between residue removal and fertilizer application was measured.

**R**ESIDUE remaining after harvest in seed fields of Kentucky bluegrass and red fescue presents a management problem. Cultivation of rows for control of weeds and seedlings is difficult unless the residue has been removed. Seed yields may or may not be higher where the residue has been removed. Reasons advanced for the higher seed yields are less disease and insect infestation, less mouse damage during the winter and early spring, stimulation of primordia growth essential to seed head formation, and greater efficiency of fertilizers, herbicides, and insecticides. Hardison (4, 5) reported reduction in foliar diseases and several seed disorders in Oregon seed fields in which the residue was burned. Musser (7) reported a significant seed yield increase from burning red fescue in the fall but no significant effect from spring burning in Pennsylvania. Burning and other methods of management as clipping and grazing had a marked effect in reducing insect numbers and increasing seed yields of Kentucky bluegrass (10). Burning straw and stubble in September was one of several management practices which helped to maintain intermediate wheatgrass seed production (2). Spencer (9) concluded that burning 'Kentucky 31' fescue and orchardgrass had no pronounced effect on seed yield but top-dressing of nitrogen fertilizer was most effective in stimulating seed yield. Rampton and Warren (8) recommended post-harvest burning of orchardgrass seed fields for sanitation and removal of residue. In Georgia, burning the residue increased seed yields of bermudagrass and bahiagrass, had no effect on ribbed paspalum, and decreased the seed yield of carpetgrass (1).

Bluegrass and red fescue residue, consisting mainly of the standing stubble and the straw which has gone through the combine, is of low palatability. Livestock will not consume an appreciable amount by grazing. Sale value of the residue for winter feed does not encourage removal for this purpose. Some chemical pesticides applied have sufficient residual value to render the straw and stubble unusable as livestock feed. Burning is a very low-cost method of residue disposal. Also, burning removes a greater percent of the residue than does any mechanical method now available.

Residue removal, especially so complete as by burning, is contrary to principles of maintaining soil organic matter and fertility, conserving plant nutrients, and keeping soil erosion at a minimum. Complete removal of the residue enhances erosion by water especially where a winter type rainfall occurs as in Oregon. Smoke and gases from burn-

ing the residue are a source of air pollution. Burning as a method of disposal is controversial.

The dry condition of the straw and stubble following seed harvest in July allows a rapid burn; however, local fire regulations restrict burning at this time because of the high combustibility of forests and range land. Burning is much safer but usually slower after fall rains have started as the residue is damp and matted and green growth has started. This fall growth includes tillers and vegetative shoots which may develop seed heads the following spring (3). Management practices which injure these tillers could be expected to have a detrimental effect on seed yield.

Results are reported of several post-harvest residue management practices on seed yields of Kentucky bluegrass and red fescue.

### MATERIALS AND METHODS

Experiments were conducted in grower's fields in the Grande Ronde Valley in northeast Oregon. Fields planted in rows were selected because of the greater possibility of controlling fire within an experimental area and ease of harvesting.

Residue on each experimental site was measured at the initiation of each experiment by randomly selecting 4 one-square-yard areas from which the residue was gathered, dried at 70° C., and weighed. A composite sample was ground in a Wiley mill and analyzed for total nitrogen (6).

Nearly complete residue removal was accomplished by two methods—mechanical means and burning. Mechanical removal consisted of mowing the stubble and raking all residue (stubble and straw) from the plot in late August. Three dates of burning—late August, mid-September, and October—were used. These dates cover the possible range in time that burning could be done in the fall. Residue was burned when a slight breeze was blowing which spread the fire rapidly and aided rapid burning. An additional treatment consisted of partial removal of the residue by baling the straw which had passed through the combine and removing the bales from the plot. This allowed the stubble to remain on the plot.

Each residue management plot was divided into three subplots for application of fertilizers. The first experiment contained a non-fertilized subplot. This was discontinued in the later experiments because of the impracticability of seed production without the use of commercial fertilizers—mainly nitrogen. Yields reported for the residue management treatments are the mean of the yields of the three fertility subplots.

Sixteen feet of row were harvested from each subplot by hand cutting when the seed was mature. The bundles of heads were placed in paper bags to prevent loss from shattering, air dried, and threshed in a Vogel thresher. The seed was cleaned and the weight of pure seed determined.

### RESULTS AND DISCUSSION

*Residue per acre and N content.* Residue on the different fields at the time experiments were started varied from 2100 to 3840 pounds per acre (Table 1). Between 1/2 and 1 ton per acre was estimated to have been removed in each of the fields where the straw was baled. These data are considered to be representative of the residue produced annually in grass seed producing fields as each field selected had been fertilized the previous year.

Nitrogen content of the residue varied from 0.51 to 0.97% N (Table 1). Bluegrass residue averaged slightly higher in N content than the red fescue residue. The maximum pounds of N per acre in the residue was 26; the

<sup>1</sup> Technical Paper No. 1954, Oregon Agricultural Experiment Station, Oregon State University, Corvallis. Received March 19, 1965.

<sup>2</sup> Assistant Professor of Agronomy, Eastern Oregon Experiment Station, Union, Oregon.

Table 1. Weight and nitrogen content of post-harvest residue in Kentucky bluegrass and red fescue seed producing fields.

Grass	Experiment	Residue, oven dry, lb/A	N content, %
Bluegrass	103-62	3,840	0.88
	104-63	1,800*	0.76
	101-64	2,400	0.97
Red fescue	101-63	1,700*	0.71
	103-63	2,950	0.64
	102-64	3,600	0.70
	104-64	2,100	0.51

\* Residue—mainly stubble remaining after baling of straw.

lowest quantity of N measured was 11 pounds per acre. This represents the amount of N lost by burning or mechanical removal of the residue.

*Success of burning.* Residue burned very rapidly and completely in late August. Successful burning was accomplished in September but was slower than in August. Burning was slowest and not nearly as complete in October. Heat was sufficient at each burn to completely kill all visible green growth. The least amount of green growth was present in August and the most in October. Most of the growth in October was new growth; thus, burning in October caused greater damage to new growth than earlier burning.

*Residue management.* Highly significant differences in seed yield were caused by the various management treatments (Table 2). Consistently the highest seed yields were produced where the residue was removed completely either by mechanical means or by burning early. Statistically, there was no difference between these 2 methods of removal except in 1 experiment. From the practical standpoint these increases in yield, which ranged from 51 to 292%, are of immense importance to the producer.

Burning the residue did not have a consistent beneficial effect. Seed yields were statistically higher where the residue was burned in late August compared to burning in October (Table 2). New growth was destroyed by the late burning; the late burned plots had less density of seed heads the following year. This new growth in the fall apparently is vital to high seed yields of these two grasses and any injury it sustains reduces seed yields. Burning the residue in September had an intermediate effect between the early and late burning. This variation in the value of burning at this time was associated with the time fall growth started. Where fall growth had not started, burning in September was as valuable as burning in late August. Since the time fall growth starts is governed by climatic conditions—namely lower temperatures, higher humidity, and an increase in rainfall—a calendar date is only a general guide as to when fall growth starts.

Burning the residue in October either had no effect or seriously reduced seed yields compared to not removing the residue. Of the 5 experiments where this comparison was made, no significant difference in yield was measured in 3 experiments. In the remaining 2 experiments, burning in October had a significant negative effect on seed yields.

Seed yields from where the residue was partly removed by baling the straw which had gone through the combine were much lower than where the residue was completely removed (Table 2). A trend is apparent that partial removal was superior to no removal as all seed yields where the straw was partially removed were higher than where no residue was removed.

*Residue management × fertility interaction.* A highly significant positive interaction was measured in the only experiment (103-62) where residue removal × the addi-

Table 2. Residue management effect on seed yield of Kentucky bluegrass and red fescue.

Residue management	Seed yield, lb/acre							
	Bluegrass				Red fescue			
	Exp. 103-62	Exp. 104-63	Exp. 101-64	Exp. 101-63	Exp. 103-63	Exp. 102-64	Exp. 104-64	
Burned, late Aug.	337 a*	475 a	302 a	765 a	335 a	766 a	388 a	
	278 b	478 a	239 b	731 b	310 b	506 b	318 b	
	169 c	398 b	170 c	674 c	83 c	194 c	69 c	
Complete mechanical removal	---	460 a	293 a	743 ab	345 a	760 a	307 b	
Straw baled	---	364 c	228 b	631 d	---	558 b	249 c	
No removal	186 c	---	181 c	---	88 c	507 b	198 d	

\* Numbers followed by the same letter in each column are not significantly different at the .05 level of probability.

Table 3. Interaction of residue management and fertilizer application on seed yield of Kentucky bluegrass.

Treatment	Pounds/acre
No residue removed and no fertilizer	59
No residue removed and 100 lb N/A	313
Residue burned in August and no fertilizer	114
Residue burned in August and 100 lb N/A	530

LSD 5%, 52; 1%, 70

tion of fertilizer could be compared to no residue removal × no fertilizer applied. Seed yields pertinent to this comparison are presented in Table 3. Burning the residue in August resulted in a small but significant increase in seed production. Fertilizing with N without residue removal increased the seed yield over 250 pounds per acre. The combination of these two management practices—burning the residue in August and fertilizing with 100 pounds of N per acre—increased the seed yield 470 pounds per acre.

No interaction between residue management and rates of fertilizer applied occurred in the other experiments.

## SUMMARY

Straw and stubble remaining in Kentucky bluegrass and red fescue fields after seed harvest varied from 2100 to 3840 pounds per acre. Nitrogen content of the residue varied from 0.51 to 0.97% with bluegrass residue having a slightly higher N content than red fescue residue.

Seed yields were highest where the residue was removed prior to the initiation of fall growth. Removal in late August by burning or by mechanical means were equally effective. Delaying burning until after fall growth had started severely reduced seed yields the following year. Partial removal of the residue had an intermediate effect between no removal and complete removal.

From these results it is concluded that (a) post-harvest residue removal increases the seed yield possible from Kentucky bluegrass and red fescue, (b) the more complete the removal the greater is the beneficial effect of residue removal, (c) removing the residue increases the value derived from applied fertilizers, and (d) removal practices which injure fall growth reduce seed yields the following year.

## LITERATURE CITED

- BURTON, G. W. Seed production of several southern grasses influenced by burning and fertilization. *J. Am. Soc. Agron.* 36:523-529. 1944.
- CANODE, C. L. Influence of cultural treatments on seed production of intermediate wheatgrass (*Agropyron intermedium* (Host) Beauv.). *Agron. J.* 57:207-210. 1965.
- EVANS, G. Technique of grass seed production at the Welsh Plant Breeding Station. *Imp. Bur. of Plant Genetics: Herbage Plants, Aberystwyth. Herbage Pub. Ser. Bul. 22.* 1937.

4. HARDISON, J. R. Disease problems in forage seed production and distribution. In W. A. Wheeler and D. D. Hill, ed. Grassland Seeds. Van Nostrand, Princeton, N. J. pp. 88-108. 1957.
5. ———. Disease control in forage seed production. *Advances in Agronomy*. 12:96-106. 1960.
6. JACKSON, M. L. Soil Chemical Analysis. Prentice-Hall, Inc., Englewood Cliffs, N. J. 1958.
7. MUSSER, H. B. The effect of burning and various fertilizer treatments on seed production of red fescue, *Festuca rubra* L. *J. Am. Soc. Agron.* 39:335-340. 1947.
8. RAMPTON, H. H., and WARREN, R. Orchardgrass seed production in Oregon. *Oregon State Univ. Ext. Bul.* 811. 1963.
9. SPENCER, J. T. Seed production of Kentucky 31 fescue and orchardgrass as influenced by rate of planting, nitrogen fertilization, and management. *Kentucky Agr. Exp. Sta. Bul.* 554. 1950.
10. ———, JEWETT, H. H., and FERGUS, E. N. Seed production of Kentucky bluegrass as influenced by insects, fertilizers, and sod management. *Kentucky Agri. Exp. Sta. Bul.* 535. 1949.

UNION COUNTY *Seed Growers* ASSOCIATION

July 14, 1980

Mailing Address: 963-8686  
P.O. Box 760 ext. 259  
La Grande, Oregon 97850

To: Union County Grass Seed Growers

From: Grant Henderson, President, Union County Seed Growers Association

Grass seed harvest is here and with it comes the burning of the grass seed fields. Smoke dispersal forecast will be announced over the radio station, KLBM between 9:00 a.m. and 9:30 a.m. daily. You need to get a burn permit from your local fire department. The local fire departments will not issue burn permits unless the smoke forecast approves of burning. One should not burn on Sundays or holidays unless absolutely necessary and fires should not be started after 5:00 p.m.

Information for the smoke forecast is gathered from several different sources. Creston Shaw flies each morning to get the air temperatures up to 6,000 feet. These are then given to the U. S. Forest Service Fire Station at the La Grande Airport. Information on the high and low temperature and the high and low relative humidity is gathered at Alicel by Steve Masters, manager of Blue Mountain Seeds. The U. S. Forest Service at La Grande Airport also adds the barometric pressure. This information is sent by teletype to the Pendleton Weather Station where Jack Smith and other meteorologists then come up with the smoke forecast for the day. They then phone radio station KLBM with the forecast.

Your donation of twenty-five cents per acre helps in the financing of this information. This should be made out to the Union County Seed Growers Burning Fund, and sent to Bob Wilson, Rt. 2, Box 2683, La Grande, OR 97850.

We would also remind you that any fields within 1/8 mile of timber requires a permit from the State of Oregon Forestry Department. You can obtain this from the dispatch office in La Grande. Areas outside a rural fire district can obtain a permit from the Union County Sheriff's office.

If the time of burn is changed, you should be sure and let the fire department know, otherwise if they see smoke coming up later in the day, they may think it is a fire. Permits may be obtained in the Imbler area from Dean McKinnis, Lynn Johnson, or Terri Jander at the Valley Blacksmith Shop. Permits in the La Grande Rural Fire District for the Island City Fire District can be obtained from Ray Hamann at Valley Chemical Company, or Clarence Chandler. Growers are encouraged that regardless of the forecast, no fires be started if the grower can see poor dispersal from any other fires in the valley. Everyone should also be extra careful along highways and other public areas.

Everyone's cooperation in making this a successful field burning season will be appreciated. It is through this cooperation that we will be able to monitor ourselves rather than have someone else monitoring us.

We hope that 1980 proves to be a good year for you and we have a good field burning season.



(9)

UNION COUNTY *Seed Growers* ASSOCIATION

Mailing Address:  
P.O. Box 760  
La Grande, Oregon 97850 (503) 963-2127

July 24, 1979

To: Union County Grass Seed Growers

From: Grant Henderson, President, Union County Seed Growers Association

Grass seed harvest is here and with it comes the burning of the grass seed fields. Smoke dispersal forecast will be announced over the radio station KLBW between 9:00 a.m. and 9:30 a.m. daily, beginning Monday, July 23. You need to get a burn permit from your local fire department. The local fire departments will not issue burn permits unless the smoke forecast approves of burning. One should not burn on Sundays or holidays unless absolutely necessary and fires should not be started after 5:00 p.m.

Information for the smoke forecast is gathered from several different sources. Creston Shaw flies each morning to get the air temperatures up to 6,000 feet. These are then given to the U. S. Forest Service Fire Station at the La Grande Airport. Information on the high and low temperature and the high and low relative humidity is gathered at Alice by Steve Masters, manager of Blue Mountain Seeds. The U. S. Forest Service at La Grande Airport also adds the barometric pressure. This information is sent by teletype to the Pendleton Weather Station where Jack Smith and other meteorologists then come up with the smoke forecast for the day. They then phone radio station KLBW with the forecast.

Your donation of ten cents per acre helps in the financing of this information. This should be made out to the Union County Seed Growers Burning Fund, and sent to Bob Gulzow, Rt. 1, Box 210A, Cove, OR 97824.

We would also remind you that any fields with 1/8 mile of timber requires a permit from the State of Oregon Forestry Department. You can obtain this from the dispatch office in La Grande.

If the time of burn is changed, you should be sure and let the fire department know, otherwise if they see smoke coming up later in the day, they may think it is a fire. Permits may be obtained in the Imbler area from Dean McKinnis, Lynn Johnston at Lynn's Repair, or Terri Jander at the Valley Blacksmith Shop. Permits in the La Grande Rural Fire District for the Island City Fire District can be obtained from Ray Hamann at Valley Chemical Company, or Clarence Chandler. Growers are encouraged that regardless of the forecast, no fires be started if the grower can see poor dispersal from any other fires in the Valley. Everyone should also be extra careful along highways and other public areas.

Everyone's cooperation in making this a successful field burning season will be appreciated. It is through this cooperation that we will be able to monitor ourselves rather than have someone else monitoring us.

We hope that 1979 proves to be a good year for you and we have a good field burning season.

9

EXTENSION SERVICE  
Union County Office



Federal Building  
Mailing Address:  
P.O. Box 760  
La Grande, Oregon 97850 (503) 963-2127

August 22, 1975

TO: ALL UNION COUNTY FARMERS

FROM: Ernest J. Kirsch, County Extension Agent

FIELD BURNING NOTICE AND SUGGESTIONS

1. Smoke dispersal forecasts are announced over radio station KLBM between 9:00 a.m. and 9:30 a.m. daily. Be sure and check these forecasts before burning.
2. Farmers should have road signs available when they are burning adjacent to a public road. These can be checked out at Hamann's Trading Company in Island City or Blue Mountain Seeds in Imbler.
3. Notify the State Police, telephone 963-7174, if you are going to burn adjacent to a highway. Also advise them immediately if any smoke is crossing the highway. Sgt. William Labhart of the State Police said they are anxious to cooperate with the growers to assure that no accidents occur as a result of smoke.
4. Smoke forecasts are not always accurate because the Weather Bureau makes these forecasts with incomplete information. Individual judgement must be brought into play. If wind direction will cause a problem or smoke fails to rise when a neighbor burns or a test fire is lighted, fields should not be burned.

REMEMBER, YOUR RIGHT TO BURN WILL BE IN JEOPARDY IF EXCESSIVE AIR POLLUTION RESULTS FROM FIELD BURNING. PERMITS FROM YOUR FIRE DISTRICT ARE STILL REQUIRED.



Agriculture, Home Economics, 4-H Youth, Forestry, Community Development, and Marine Advisory Programs  
Oregon State University, United States Department of Agriculture, and Union County cooperating

9

EXTENSION SERVICE  
Union County Office



Federal Building  
Mailing Address:  
P.O. Box 760  
La Grande, Oregon 97850 (503) 963-2127

September 9, 1974

Radio Station KLBM  
U. S. Weather Service, Pendleton  
Ralph Wade, Blue Mountain Seed  
Russell Elmer

We will plan to discontinue smoke dispersal forecasts September 12. The last forecast will be made that morning. As far as we know, all of the grass seed fields will have been burned and only a few grain stubble fields remain to be burned after that date.

I want to thank each one of you for your assistance in making these forecasts available to Union County seed growers. As far as I can determine we had an excellent burning season with the growers cooperating with the forecasting program.

We particularly want to thank Russell Elmer who made daily flights with his airplane to get morning air temperatures at 500 foot intervals, from 2700 to 5700 feet. Jack Smith of the Weather Service said that these readings were particularly helpful in their forecasting procedure.

Sincerely yours,

Ernest J. Kirsch  
County Extension Agent

EJK:jb

cc: Earl Bates, Weather Service, Oregon State University  
Mt. Emily Seeds  
H. L. Wagner & Sons, Inc.



Agriculture, Home Economics, 4-H Youth, Forestry, Community Development, and Marine Advisory Programs  
Oregon State University, United States Department of Agriculture, and Union County cooperating

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# OREGON WHEAT

— 1980 OFFICERS —

Don Thompson, President . . . . . Moro  
Stan Timmermann, First Vice Pres. . . . . Pendleton  
Louis Carlson, Second Vice Pres. . . . . Ione  
Earl Pryor, Past Pres. . . . . Condon  
Wesley Grilley, Exec. V.P. . . . . Pendleton

OREGON WHEAT GROWERS LEAGUE • 305 S.W. 10th • P.O. BOX 400 • PENDLETON, OREGON 97801 • 503/276-7330

## T E S T I M O N Y

## F O R

## PROPOSED RULES REGULATING AGRICULTURAL OPEN BURNING

25 MARCH 1981

SUBJECT. Oregon Wheat Growers League testimony regarding "Proposed Rules Regulating Agricultural Open Burning".

Sir,

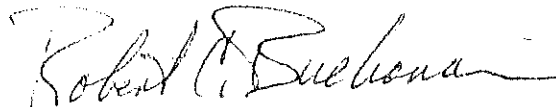
My name is Robert Buchanan. I'm a wheat farmer from the Milton-Freewater area. I am President of the Umatilla County Wheat Growers and chairman of the Oregon Wheat Growers legislative committee.

Upon receipt of the packet of proposed rule changes concerning Agricultural Open Burning that was directed to Oregon Agriculturists, I noted that Agenda Item No. G Jan. 30, 81, cited the primary mandate was to "redraft the open burning rules so they would be easier to interpret and understand". As I have read the rule changes, it is apparent that this is not merely a mechanical procedure to clear up sloppy verbiage, but an attempt to broaden the power base of a financially gluttonous state beaurocracy. In our current lean budgetary environment, it appears that someone is being less than intellectually honest when the DEQ proposes to come into an area of public activity that has not demonstrated an overwhelming need for state control. In the Eastern Oregon areas cited for "increasing comments" about open burning, there has been no mention of the severity of the problem, any investigation as to the ligitimacy of the complaint, nor any follow up action. I would like to point out that the area of Union and Umatilla counties that I am acquainted with all have either formal procedures for obtaining burning permits through local fire districts or Extension offices or procedures for the determination of appropriate meterological conditions for the dispersal of smoke. In several cases, this is through private grower efforts to control any potential problems. When I contacted the Milton-Freewater Fire Captain and the Assistant Chief, they not only had not heard of the proposed rules, but had never had nor heard of a complaint toward the air quality in the Milton-Freewater area.

I personally doubt the wisdom of an expenditure of tax money in an area where there is overwhelming negative cost benefit ratio. The state mandate

that the local governments be required to find and fund disposal alternatives and support the development of a county beaurocracy to receive applications and fees, issue permits, maintain records, and police burning procedures is incongruous with an economic environment that prohibits the passage of school levies, "A" and "B" budgets, financing of libraries, county road maintenance, the closure of Federal weather bureaus, and funding of county police protection.

Our recommendation is that any revision of Agricultural Open Burning rules be restricted to the original mandate of clarification and to regions that have gone through democratic processes to establish a credible and cost beneficial need.



Robert Buchanan

Oregon Wheat Growers League

Legislative Chairman

March 25, 1981

To: Department of Environmental Quality

From: Marinus J. deLint

Subject: Open burning rules regulating agricultural open burning

My name is Marinus Jacob deLint, I am a farmer, in the Grande Ronde Valley. The crops grown on our farm are grass seed and cereals.

I am in opposition to the proposed rules regarding open burning in Eastern Oregon for the following reasons:

1. I challenge the DEQ's statutory authority to regulate state wide agricultural burning. I realize that on June 29, 1979, the EQC requested the department to redraft the rules. Not until September 30, 1980 did the EQC request a formal opinion from the Attorney General. By my knowledge, no formal opinion has been rendered as of yet. My opinion therefore, is that the DEQ is improperly holding these hearings or even proposing these rules.

2. In Union County we have a very effective, voluntary, burning control program administrated and regulated by the Union County Seed Growers Association cooperation with the local news media, and also the Fire departments, Extension Service and Weather Bureau in Pendleton. We are doing this at a very minimal cost to the farmer. By my knowledge, the DEQ has no monitoring equipment or staff to give us the necessary information to conduct our necessary field burning on time. Sir, you will have to admit, that if these rules are adopted, there will be an enormous cost to the taxpayers to set up monitoring stations, equipment and staff to execute these rules. If you only look at the map of Oregon you can see the vastness of Oregon, east of the Cascades. With many areas that have complete different climatical situations, I therefore feel that the DEQ is proposing rules that are impossible for them to execute, unless they have a considerable increase in their budget, like 100% - 200%. Proposing this at a time, when we all have to economize and cut back on our budgets is totally foolish.

3. The DEQ claims that a moderate level of complaints have been received by the department, I would like to know how many did you receive, and in case you received a complaint of some smoke blowing across the road for 10 minutes or for any other reason, do you think that warrants to put these rules in effect? I doubt that anyone in the DEQ really has any knowledge of the situation in Union County. There is no large problem in Eastern Oregon with field burning, at least not to the extent to warrant adopting any rules and regulations by the DEQ before they are necessary. I quote a Union County Fire Chief, "There is no significant problem here. The farmers are doing a good job policing themselves. I hope the DEQ doesn't come in and screw it all up."

4. I take issue with your comments, Mr. Brannock in the Sunday Oregonian of March 22, 1981 your comment "Farmers philosophical objections to more government regulations probably won't carry much weight with D.E.Q. Shows that the D.E.Q. already has made up its mind on this issue and is just going thru the procedures. To make a comment like that is very irresponsible.



TO: The DEQ of Oregon

As a concerned citizen, I would like to submit my views on the proposed new DEQ regulations governing air quality.

We are in Eastern Oregon, Northeast Oregon to be specific. A vast area with little rainfall in most areas and with extreme temperatures.

This area's economy is heavily dependent on basic industries for the production of food and fiber. There would not be a Pendleton, La Grande, Milton-Freewater, or Hermiston, as we know them today, without agriculture or the wood products industry.

The people who live here are a hearty lot who work and play hard. They understand the environment they live with every day. Many of our farms and ranches are "Century Farms" and are far more productive now than they were one hundred years ago and strive each year to produce even more. They have accomplished this with the help of increasingly new technologies; and, at the same time, leave the balance of nature intact.

These proposed regulations open the door for DEQ to establish monitoring stations and hire additional personnel to administer controls on agricultural burning. In my opinion we do not need the regulations nor can afford their potential implications, and cost.

The facts are that Eastern Oregon, and in particular Northeast Oregon, is a very climatically diverse area. Whereas, Western Oregon, particularly the Willamette Valley, has a completely different and non-diverse climatic pattern. Considering the afore mentioned facts one has to wonder why we need any new regulations.

Since the final weight of these regulations is placed on the grass seed grower and the timber slash burner, please let me point out in Union County the circumstances surrounding air quality. Perhaps we should look at the seasons starting with spring.

In the early spring people in La Grande are still burning some wood in their homes to keep the chill off at night. The evening air at times is so full of smoke it burns one's eyes. But, it is gone by mid-morning due to prevailing winds.

Late spring through summer has relatively clear days. The usual haze around the mountains is present, but I'm told this is how the Blue Mountains got their name, long before a population moved in around them.

In late summer and early autumn, from about July 20 through early September, slash and field burning takes place. The smoke produced usually dissipates quickly and by the next day, one can find little of the previous day's burning. During the warmer months we have a prevailing north wind that keeps the air in a constant churn.

In the fall and winter the wood stoves are burning again and the prevailing south wind has begun.

Our population is sparse and air movement flushes out contaminants on a regular basis.

The Union County Seed Growers, several years ago, set up a self-governing plan to keep smoke from burning grass seed and grain fields from being a problem in the Grande Ronde Valley.

Growers today assess themselves .25¢ per acre of grass and .10¢ per acre of grain stubble to pay for the voluntary flying needed for air temperature readings. The program has been quite successful. The climatic conditions are sent to the Pendleton Weather Station, and forecasts are given over a local radio station as to good or bad burn days. This information also helps in weather forecasting and helps local fire districts in issuing burning permits.

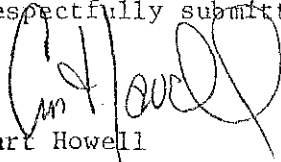
With this relatively inexpensive program, Union County Seed Growers are doing what could take the DEQ thousands of dollars and man hours to accomplish the same goals. I ask: Why should we begin to impose regulations into areas that justifiably don't need them? How many complaints are there from citizens

complaining about open burning to the DEQ; Why open the door for more regulations in a time when we as tax payers can least afford more government?

Must we tamper with industries and livelihoods when they are economically productive and in harmony with their surroundings?

In answering these questions and others like them, I am quite sure that one must search hard to find justification in proposing more regulations and going as far as holding these hearings.

Respectfully submitted,



Curt Howell  
1108 Cedar Street  
La Grande, OR 97850

Can you give us any specific  
evidence of problems or concerns?

*Doug*

Summerville, OR 97876  
March 25, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 30 1981  
AIR QUALITY CONTROL

DEPT. of Environmental Quality  
Air Quality Division  
Box 1760  
Portland, OR 97207

Gentlemen:

Written testimony given at Public Hearing in Pendleton, OR  
on March 25, 1981 at 7:00 p.m. at Pendleton City Hall.

Rules governing open burning throughout the State will be giving authority and power to DEQ. It will destroy more local control. It is also giving them authority to mandate control over Legislative Control Laws.

Grande Ronde Valley has prevailing winds that reduce air pollution to the valley to a <sup>minimum</sup> minimum. We have our own monitoring system, and it has been working well with the cooperation of all agriculture.

To prohibit all open burning prevails a hardship on low income families. This would be forcing them to use facilities which they may not be able to afford - or the alternative of letting garbage and rubbish accumulate and not doing anything with it, which is a greater health hazard than any caused by open burning. It also creates an unsightly environment.

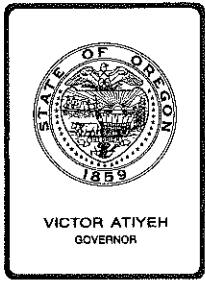
Inclusion of the whole state in DEQ regulation control would require more manpower and more budget to support the extra manpower. This would lead to more tax dollars being spent by industries who would be controlled, or fees would be imposed on industries to support it. We do NOT need more hands in the pocket of industry - We NEED a better climate for incentive to industry for productivity - not more control to hamper their efforts!

*Helen D. Henderson*  
Helen D. Henderson  
Rt 1 Box 74  
Summerville, OR 97876

Please forward a copy of the proposed rules.

Thank you.

Copies: DEQ - State Legislators - Gov. Vic Atiyeh



## *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: L. D. Brannock, Hearings Officer

Subject: Public Testimony Received for the Record on Proposed Amendments to Open Burning Rules, OAR 340-23-025 through 340-23-050

The attached letters were received in response to the proposed open burning rules.

LDBrannock:ahe  
229-5836  
08-13-81

LD 15

OREGON PROJECT NOTICE ACKNOWLEDGEMENT



State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N.E.
Salem, Oregon 97310

Phone (503) 378-3732 or Toll Free in Oregon 1-800-452-7813

Applicant: DEQ

Project Title: Opening Burning Rules-

Date Rcd. 3/30/81

PNRS # 8103 6 1140

Your project notice has been assigned the file title and number that appear above. Please use it in correspondence and if applicable enter it in Block 3A on the 424 form for the project. Your project notice must also be submitted for review to any affected areawide clearinghouse.

a. FEDERAL GRANTS

- Initial 30 day review of your notice of intent to apply for grant funds began on above date
30 day review of your final grant application began on the above date.

b. HUD HOUSING

- Initial 30 day review began on the above date

c. DIRECT FEDERAL DEVELOPMENT

- Initial 30 day review

d. ENVIRONMENTAL IMPACT STATEMENT

- Initial 45 day review of draft EIS began on above date.
30 day review of final EIS began on the above date

e. STATE PLAN/AMENDMENT

- 45 day review began on above date.

Your project notice was circulated to state agencies checked below

Revisions
ECON DEVELOPMENT & CONSUMER SVCS.

- X Agriculture
X Economic Development
Fire Marshal
Housing
Labor
Real Estate
EDUCATION
Education
Higher Education
Educ Coordinating
EXECUTIVE
Budget
HUMAN RESOURCES
Elderly Affairs
Children's Services
Community Services
Corrections
Employment
Health
Mental Health
Vocational Rehabilitation
Adult & Family Services

NATURAL RESOURCES

- Governor's Office
DEQ
Fish and Wildlife
Forestry
Geology
Lands
Soil & Water
Water Resources

TRANSPORTATION

- Director
Highway Division
Parks Division
Public Transit
Aeronautics

MISCELLANEOUS

- Extension Service
Health Plng & Dev. Agcy.
LCDC
Law Enforcement
Energy
Historic Preservation
Other

State Clearinghouse use only:
St. Agcy. Due Date
Fed Agency
County

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 30 1981
AIR QUALITY CONTROL

VICTOR ATIYEH  
GOVERNOR



OFFICE OF THE GOVERNOR  
STATE CAPITOL  
SALEM, OREGON 97310

May 4, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
MAY 11 1981

AIR QUALITY CONTROL

Doug Brannock  
Dept of Environmental Quality  
Air Quality Division  
P.O. Box 1760  
Portland, OR. 97207

RE: Opening Burning Rules-Revision  
PNRS 8103 6 1140

Thank you for the opportunity to review your state plan amendment.

The amendment was circulated for review among appropriate state agencies. No significant conflicts with state plans or programs were identified.

I am pleased to add my approval as required by OMB A-95, Part III.

Sincerely,

Victor Atiyeh  
Governor

VA:cb

TOM THROOP  
DESCHUTES AND  
KLAMATH COUNTIES  
DISTRICT 54

REPLY TO ADDRESS INDICATED:

- House of Representatives  
Salem, Oregon 97310  
 P.O. Box 643  
Bend, Oregon 97701



COMMITTEES  
Vice-Chairperson:  
Environment and Energy  
Member:  
Aging and Minority Affairs  
Legislative Rules and Operations  
Revenue

ASSISTANT MAJORITY LEADER  
HOUSE OF REPRESENTATIVES  
SALEM, OREGON

97310

March 12, 1981

Dear Friend,

Thank you very much for meeting with me this past Monday concerning Central Oregon's field burning question. I felt that the meeting was very productive and my commitment to each of you is to work closely with you in the implementation of your proposal.

I am really impressed with your efforts and am honored to be able to assist in carrying it to those who need the information.

After thoroughly reviewing the Department of Environmental Quality's proposal, I conclude that these regulations are not really needed for our 18 counties lying east of the crest of the Cascades. For years in Oregon, though, stagnant air masses have covered the State for periods from three days to a week. During these very unusual times, burning would be inappropriate and the DEQ does not feel that current rules would allow them to enforce bans at these times. The Environmental Quality Commission does have the right to implement a regulatory scheme concerning this topic, but they simply have never adopted the rules that would authorize this action. The sense that I receive from them is that they desire the authority in case the unique situation does arise.

The DEQ does not currently have the staff, time, or inclination to try to really enforce and control these proposed rules statewide. They are well aware of your proposed program and are very strong supporters of it. They do conclude that your self-imposed program is certainly a much stiffer requirement than any authority that they would have under these rules. With your meteorologist, Jack Mercer, you would be far ahead of any impositions the DEQ may wish to impose and would already be shut down during the times that the State desired such an action. In conclusion, it does not appear to me that the rule will cause you any difficulties, assuming that you do adopt the voluntary program that you have drafted. The Environmental Quality Commission and the DEQ currently seem to have no desire to expand this authority beyond what is proposed. I do remain a little nervous, though, when contemplating possible actions that may occur in the future.

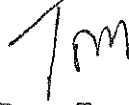
I would suggest that you all go to the hearing and indicate kindly that you do not see a need for the adoption of this rule east of the crest of the Cascades. I think that you might also refer to the statement that is most often attached to Governor Atiyeh, "If it ain't broke, don't fix it." To the contrary in Central Oregon, it ain't broke and it is extremely healthy. With great foresight, you all have anticipated that a future problem may result and you have moved very quickly and very appropriately to address it in advance. Make certain that your program is addressed very thoroughly at the hearing and that you have a number of your people there to provide the sufficient support in order to enable its acceptance, too.



I will communicate the same message to the Environmental Quality Commission and the Department personnel. At the very least, we will establish a very strong record that clearly states your intentions to control the burn management of your own industry. If any unanticipated problems arise in the future, we will have a clear historical record to rely upon. We may even have an opportunity to encourage the Commission to reconsider the adoption of these rules east of the mountains.

Thank you, again, and I look forward to working closely with you.

Sincerely,

A handwritten signature in black ink that reads "Tom". The letters are stylized and connected.

Rep. Tom Throop  
District 54

ROBERT A. BROGOITTI  
UNION, WALLOWA AND UMATILLA COUNTIES  
DISTRICT 58

REPLY TO ADDRESS INDICATED:

HOUSE OF REPRESENTATIVES  
SALEM, OREGON 97310

1511 ADAMS STREET  
LA GRANDE, OREGON 97850



COMMITTEES  
VICE CHAIRMAN:  
TRADE AND ECONOMIC DEVELOPMENT  
MEMBER:  
TRANSPORTATION  
AGING

HOUSE OF REPRESENTATIVES  
SALEM, OREGON  
97310

March 24, 1981

Mr. William H. Young, Director  
Department of Environmental Quality  
522 SW 5th  
Portland, OR 97204

Dear Bill:

After reading the rules and regulations put out by your department affecting Eastern Oregon, I feel it is unnecessary to make such changes. As you know, we have none of the problems in our area similar to those in the Valley and at this point in time there simply is no reason to make these changes.

The people in our area are extremely disturbed about these impending regulations, and I would ask that you forget imposing field burning regulations in our part of the state.

Sincerely,

*Balo*

Robert A. Brogoitti  
State Representative

RAB:ml

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 27 1981  
AIR QUALITY DIVISION

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 26 1981  
OFFICE OF THE DIRECTOR



*Forestry Department*

**OFFICE OF STATE FORESTER**

2600 STATE STREET, SALEM, OREGON 97310 PHONE 378-2560

March 30, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
MAR 31 1981

AIR QUALITY CONTROL

Mr. Doug Brannock  
Department of Environmental Quality  
Air Quality Division  
P.O. Box 1760  
Portland, OR 97207

RE: Comments on Proposed Open Burning Rules

Dear Mr. Brannock:

I have the following comments to offer on the proposed revision to the DEQ's open burning rules.

1. I support the concept of conducting all types of burning based on meteorological conditions. In the past, our offices have received complaints of agricultural field burning outside of the Willamette Valley occurring in areas and on days when meteorological conditions were not conducive to good dispersion of the smoke.
2. Defining special control areas as a radius around a city limit is good in theory, but presents some significant problems in administering and enforcing the burning rules in the field. Given the irregular shape of city boundaries, it can be very difficult to determine if a piece of property lies within a special control area. I suggest identifying special control area boundaries statewide on the basis of fire district boundaries or areas within certain townships. Such an identification process could be similar to the program in the Portland area.
3. The split burning season does not seem to have any logical reason for existing. Our field offices feel that this approach creates frustration and confusion for the public and increases the administration for permit issuing agencies. I suggest establishing a burning program that is based on air quality, meteorological conditions and fire hazard conditions only. Of course, the permit issuing agencies would make the determination of fire hazard as they presently do. It has been our experience that people will willingly comply with this "burn day" or "no burn day" approach.
4. I suggest adding "(f) slash" to 340-23-030(7), thereby clearly stating that slash is not "commercial waste". Also, add the words "and slash" to 340-23-030(21) to provide accuracy and consistency in the definitions.

Doug Brannock  
March 30, 1981  
Page 2

5. I suggest the following definition of "slash" to replace that which is listed in 340-23-030(27). "Slash means forest debris or woody vegetation burned under the Oregon Smoke Management Plan administered by the Oregon Department of Forestry pursuant to ORS 477.515. Such burning is related to the management of forest land and does not include the burning of any other waste created by land clearing."
6. With regards to proposed 340-23-043, ORS 477.520 should be added to the applicable laws governing the burning program. This specific law allows for revocation of a permit which may be necessary should air quality conditions deteriorate to the point such that burning should be curtailed.
7. To make the rules somewhat easier to follow with regards to agricultural open burning outside of the Willamette Valley, I suggest that the rules refer the reader directly to 340-23-043 instead of to 340-23-042(3) which refers to 340-23-043. An example of this referencing can be found in 340-23-050(2).

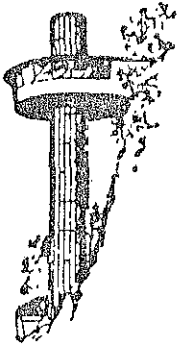
Thank you for the opportunity to comment on the proposed regulations.

Sincerely,



H. Mike Miller  
State Forester

HMM/MZ:sc



**CITY OF OREGON CITY**  
INCORPORATED 1844

P. O. Box 631

February 19, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**  
FEB 20 1981

**AIR QUALITY CONTROL**

Environmental Quality Commission  
Box 1760  
Portland, Oregon 97207

Dear Commissioners:

The Oregon City Commission at its regular meeting on February 13, 1981, held discussion regarding the burning ban imposed on our jurisdiction by the action of your Commission.

We strongly protest the implementation of this ban without providing adequate and reasonable alternatives for the collection and disposal of backyard debris. We also protest the fact that the added financial burden of accomplishing this disposal has been left up to the City to address without provision for adequate funds to accomplish this disposal.

We were given to believe, from a discussion with Rick Gustafson, Executive Officer of METRO, that the proposed ban on burning would not be imposed on the people of the metropolitan area at least for the first six months of 1981. Under this assumption we naively thought it would not be necessary to attend the Environmental Quality Commission public hearing on this subject. Apparently we were wrong in our interpretation and it is our understanding that approximately a dozen people convinced the Commissioners that the ban should be implemented and your subsequent action to do so.

We strongly request that you reconsider your actions and that we be given an opportunity to appear before your group to plead our case.

Yours very truly,

DON ANDERSEN  
Mayor

DA:rl

- cc: Mayor Frank Ivancie, Portland
- Mayor Joy Burgess, Milwaukie
- Mayor Alan Brickley, West Linn
- Mayor H. Wade Byers, Gladstone
- Mayor Harold Campbell, Lake Oswego

# COOS-CURRY COUNCIL OF GOVERNMENTS

P.O. BOX 647  
NORTH BEND, OREGON 97459  
756-2563

WOODROW ROBISON, Chairman  
DON BUFFINGTON, Vice-Chairman  
C. W. HECKARD, Treasurer  
SANDRA DIEDRICH, Director

April 3, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 6 1981

AIR QUALITY CONTROL

Doug Brannock  
Department of Environmental  
Quality  
Air Quality Division  
P.O. Box 1760  
Portland, Ore. 97207

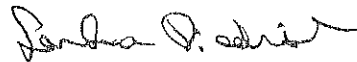
Dear Mr. Brannock:

Please be advised that the "Notice of Intent" from the Department of Environmental Quality entitled "Proposed Revision of Open Burning Rules" will be considered by the Coos-Curry Council of Governments at their meeting on April 9, 1981.

Enclosed please find a copy of the agenda for that meeting and a copy of the staff report which was included in the agenda packet relating to your "Notice of Intent". You may wish to attend the meeting and to present the "Notice of Intent". If we can be of any assistance to you please do not hesitate to call. If you do not attend the meeting, you will receive a letter advising you of the Council's action.

Thank you.

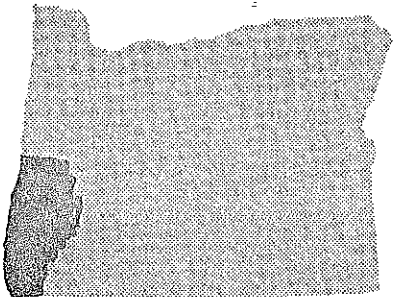
Sincerely,



Sandra Diedrich  
Director

SD/tlj

Enclosures



#### MEMBER AGENCIES

COOS COUNTY	PORT ORFORD	COOS BAY SCHOOL DISTRICT
CURRY COUNTY	POWERS	COQUILLE SCHOOL DISTRICT
BANDON	PORT OF BANDON	BANDON SCHOOL DISTRICT
BROOKINGS	PORT OF COOS BAY	BROOKINGS-HARBOR SCHOOL DISTRICT
COOS BAY	PORT OF BROOKINGS	GOLD BEACH HIGH SCHOOL DISTRICT
COQUILLE	PORT OF GOLD BEACH	MYRTLE POINT SCHOOL DISTRICT
EASTSIDE	PORT OF PORT ORFORD	SOUTHWESTERN OREGON COMMUNITY COLLEGE
GOLD BEACH	COOS BAY-NORTH BEND WATER BOARD	NORTH BEND SCHOOL DISTRICT
LAKESIDE	LAKESIDE WATER DISTRICT	POWERS SCHOOL DISTRICT
MYRTLE POINT	LOWER BAY WATER DISTRICT	CHARLESTON SANITARY DISTRICT
NORTH BEND	COOS SOIL AND WATER CONSERVATION DISTRICT	

COOS-CURRY COUNCIL OF GOVERNMENTS

April 9, 1981  
Orford's, Port Orford  
6:30 p.m.

AGENDA

Dinner 6:30 p.m.

- Item 1. Call to Order and Introductions  
(as dinner service permits)
- Item 2. Announcements, Correspondence, Clearinghouse Review and  
Follow-Up, Agenda Follow-Up
- Item 3. Council Administrative Items
  - A. Approval of March 12, 1981, Full Council Minutes
  - B. Acceptance of March 12, 1981, Executive Committee Minutes
  - C. Treasurer's Report: CCCOG Balance Sheet, Senior Nutrition  
Program Balance Sheet, Monthly Status of Accounts, Senior  
Nutrition Program Operations Summary
  - D. CCCOG Membership Handbook Additions
  - E. Evaluation Committee Report
  - F. Membership Orientation: Review Status of Current Projects  
and Programs
- Item 4. Clearinghouse Review
  - A. Local Projects
    - 1. City of Coos Bay: Community Development Block Grant  
Reprogramming
    - 2. Southwestern Oregon Community Action Committee, Inc.:  
Headstart
    - 3. Southwestern Oregon Community Action Committee, Inc.:  
Coos County Guardian Ad Litem Demonstration Program
    - 4. Follow-Up: Institutional Marketing of Domestically Har-  
vested and Processed Pacific Whiting
    - 5. Bandon Community Development Block Grant Preapplication
    - 6. Myrtle Point Community Development Block Grant Preappli-  
cation
    - 7. Environmental Impact Assessment - Shelley Road/Crest Acres  
Water District
    - 8. Other

# COOS-CURRY COUNCIL OF GOVERNMENTS

P.O. BOX 647  
NORTH BEND, OREGON 97459  
756-2563

WOODROW ROBISON, Chairman  
DON BUFFINGTON, Vice-Chairman  
C. W. HECKARD, Treasurer  
SANDRA DIEDRICH, Director

TO: Council Representatives

FROM: Jack Sabin and Sandra Diedrich

SUBJECT: Department of Environmental Quality Proposed Regulations for Revision of Oregon's Open Burning Rules

DATE: April 3, 1981

Purpose: It is proposed to completely reorganize the open burning rules. Ways are also being sought to implement a prohibition on domestic burning (background burning) in Multnomah, Clackamas and Washington Counties.

Description: The proposed open burning rules have been completely re-organized and rewritten for the purpose of making them easier to understand. In addition changes are proposed which would have the following effects:

- Establish a boundary roughly equivalent to the boundaries of the Metropolitan Service District boundaries around Portland where backyard burning is prohibited.
- Remove a date for a proposed ban on backyard burning in the Willamette Valley outside of the Portland area.
- Extend the Department's ability to regulate under adverse meteorological conditions, all types of burning including agricultural, backyard, commercial and demolition in counties outside the Willamette Valley.
- Add petroleum-treated wood, such as railroad ties and wharf piers, to the list of materials that are prohibited from being burned.
- Change backyard burning hours in the Willamette Valley to the period from 7:30 a.m. to two hours before sunset.
- Remove Columbia County from the Portland-area backyard burning ban.
- Remove the existing prohibition of demolition open burning in the coastal cities of Coquille, Florence, Lincoln City, Newport, Reedsport and Tillamook.
- Reorganize the rules to facilitate understanding.

HC-4

11/1  
11/6  
11/1  
X



Who is Affected by This Proposal?

- Citizens of the Willamette Valley and Columbia County who have an interest in "backyard burning".
- Anyone, including contractors, businessmen, and farmers who conduct open burning as a part of business anywhere in the State.
- Local government agencies, especially fire districts.

Consistency with Oregon Coastal Zone Management: The reorganization of the open burning rules is consistent with local comprehensive land use planning and support statewide and coastal goals.

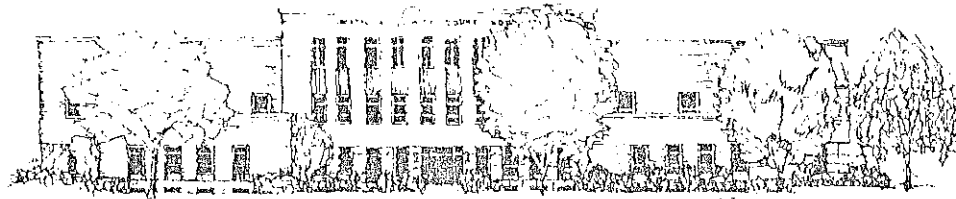
Staff Recommendation: Favorable review.

107  
X

UMATILLA COUNTY BOARD OF COMMISSIONERS

COMMISSIONERS

F.K. "Woody" Starrett  
A.L. "Bud" Draper  
Bob Ten Eyck



STAFF

Michele Hallman  
Legal Counsel

216 S.E. 4th P.O. Box 1427 Pendleton, Oregon 97801

Phone 503/276-7111

Marcia Wells  
Office Manager

April 7, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
APR 14 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
APR 11 1981

Mr. William H. Young, Director  
Environmental Quality Commission  
Box 1760  
Portland, Oregon 97207

OFFICE OF THE DIRECTOR

Dear Mr. Young:

As Umatilla County Board of Commissioners, we stand by the request that Umatilla County be removed from the proposed changes in the open burning rules.

We have had no complaints at county level, or has the cities received any complaints that we know of regarding open burning. We are against any action which will place more unwanted rules and regulations on people which they don't want in the first place.

Testimony of local residents during the March hearing notes the regulations were initiated without input from those affected; and, finally when testimony was taken, people spoke against any such rules and regulations.

Therefore, based on the feelings of those citizens most involved with open burning, we hereby request Eastern Oregon be omitted from this action.

Sincerely,

UMATILLA COUNTY  
BOARD OF COMMISSIONERS

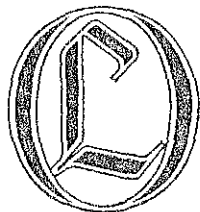
*F. K. Starrett*  
F. K. Starrett, Chairman

*A. L. Draper*  
A. L. Draper

*Robert Ten Eyck*  
Robert Ten Eyck

BCC:mw

191



*EQC  
Young  
Gillaspie  
Weather*

# CITY OF LAKE OSWEGO

March 6, 1981

Environmental Quality Commission  
c/o William Young, Director, D.E.Q.  
522 S.W. 5th Avenue  
Portland OR 97204

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**  
MAR 11 1981

AIR QUALITY CONTROL

Dear Commissioners,

The City Council of Lake Oswego by unanimous vote at its regular meeting Tuesday, March 3, 1981, moved that the State EQC revise its open burning regulations which in effect prohibit open "backyard" burning of vegetative yard debris in the Portland Metropolitan Area.

Available statistics show that backyard burning accounts for only a miniscule amount of the region's air pollution and it is presently the only practical, cost-effective method of disposing of this type of waste. Any alternatives so far advanced would have substantial and unacceptable cost consequences to our already overburdened citizens, and are likely to result in other problems more critical than backyard burning's minimal impact on the environment.

Were burning to be permitted throughout the year on any day the airshed could accept minimal input of this sort, the results would be far less noticeable than that which has resulted from the previous practice of concentrating the burning to two short periods annually.

Respectfully,

C. Herald Campbell, MAYOR

By order of the City Council

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**RECEIVED**  
MAR 9 1981

OFFICE OF THE DIRECTOR

*[Handwritten initials]*

Young  
EQC  
Weatherbe

1 IN THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Declaring Support for )  
Continuation of "Backyard Burning". )

RESOLUTION AND ORDER  
NO. 81-63

4  
5 The above-entitled matter came on regularly before the Board at its  
6 meeting of April 21, 1981; and

7 It appearing to the Board that the Environmental Quality Commission is  
8 responsible for regulating domestic open burning, commonly referred to as  
9 backyard burning; and

10 It appearing to the Board that backyard burning allows for property  
11 owners to maintain yards and property without accumulation of unsightly material,  
12 the filling of our shrinking solid waste disposal sites, or consumption of  
13 energy; and

14 It appearing to the Board that the banning of backyard burning does not  
15 serve the public interest; now, therefore, it is

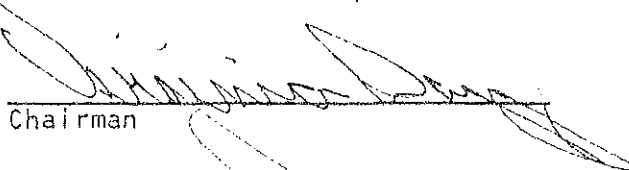
16 RESOLVED AND ORDERED that the Board of Commissioners for Washington  
17 County supports the continued allowance of backyard burning, subject to regu-  
18 lations as necessitated by atmospheric conditions; and it is further

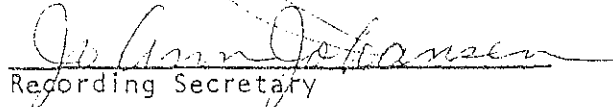
19 RESOLVED AND ORDERED that the Board of Commissioners for Washington  
20 County ask that the Environmental Quality Commission cease and desist from  
21 declaring a total ban of backyard burning in the Portland Metropolitan Area,  
22 at least until 1985 when viable alternatives to burning may be available.

23 State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
DATED THIS 21st day of April, 1981.

24 RECEIVED  
MAY 1 1981

BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

25  
26  
  
Chairman

  
Recording Secretary

AIR QUALITY CONTROL  
5 VOTES AYE  
State of Oregon

Page DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 30 1981

OFFICE OF THE DIRECTOR

HILLSBORO, OREGON 648-8747



DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MARCH 15 1981  
**AIR QUALITY CONTROL**

March 12, 1981

Department of Environmental Quality  
Box 1760  
Portland, OR 97207

To Whom it May Concern:

The Forest Grove City Council discussed the proposed revision of burning rules during the course of several meetings in recent weeks, and on March 9 passed a resolution regarding the matter.

Resolution No. 81-17 is enclosed. It states the support of Council for the former system of backyard waste disposal for the City of Forest Grove, which was a twice-yearly schedule allowing residents to burn on days approved by the DEQ. It was said that there is no practicable alternative to this method in the City.

The City Council feels strongly about this issue and wishes to communicate its position to you. Thank you for your review and consideration of this resolution on this most important matter.

Sincerely,

A handwritten signature in cursive script that reads "Daniel F. Durig".

Daniel F. Durig  
City Manager

DFD:NHW:nhw

encl.

RESOLUTION NO. 81-17

RESOLUTION SUPPORTING THE CONTINUATION OF  
A TWICE YEARLY BURNING SEASON IN THE CITY  
OF FOREST GROVE.

WHEREAS, the Council of the City of Forest Grove has carefully reviewed the proposed burning ban which would significantly affect this community; and

WHEREAS, the Council of the City of Forest Grove finds the imposition of this burning ban could result in unacceptable health and fire hazards; and

WHEREAS, the geographical location of the city of Forest Grove is on the fringe of the Metropolitan Portland area; and

WHEREAS, no practicable alternative method for disposal of waste is currently available in the City of Forest Grove.

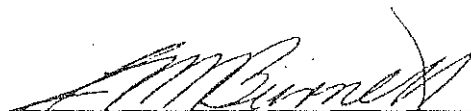
NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. That the total burning ban proposed within the City of Forest Grove is found not to be in the best interest of the residents of the community.

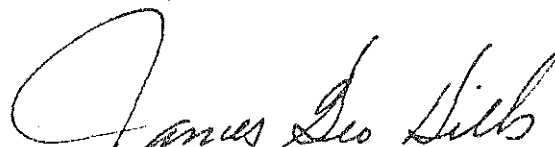
Section 2. That the present twice yearly controlled burning periods be continued under the current rules and regulations.

Section 3. That the elected officials whose area of representation includes the City of Forest Grove be provided a copy of this resolution and requested to support the points contained in this resolution.

PRESENTED AND PASSED This 9th day of March, 1981.

  
T. M. Burnett, Recorder

APPROVED By the Mayor this 9th day of March, 1981.

  
James Geo. Hills, Mayor

RESOLUTION # 81-01

RESOLUTION OPPOSING THE BACKYARD BURNING BAN FOR THE FOREST GROVE  
RURAL FIRE PROTECTION DISTRICT DIRECTED TO DEPARTMENT OF ENVIRONMENTAL  
QUALITY AND ENVIRONMENTAL QUALITY COMMISSION.

BE IT RESOLVED, by the Board of Directors of the Forest Grove Rural  
Fire Protection District as follows:

WHEREAS, the Forest Grove Rural Fire Protection District is primarily  
rural in nature and

WHEREAS, the problem of air pollution from backyard burning is minimal  
compared to the Portland Metropolitan area and

WHEREAS, the accumulation of garden and tree trimmings would create  
unacceptable health and fire hazards.

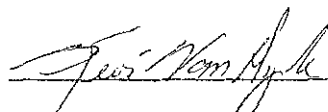
NOW THEREFORE BE IT RESOLVED, that the Directors of the Forest Grove  
Rural Fire Protection District are opposed to the discontinuance of  
backyard burning within the District boundaries and

BE IT FURTHER RESOLVED, that the Board of Directors further requests  
that the District residents be allowed to conduct backyard burning on  
a year-round basis.

ATTEST:



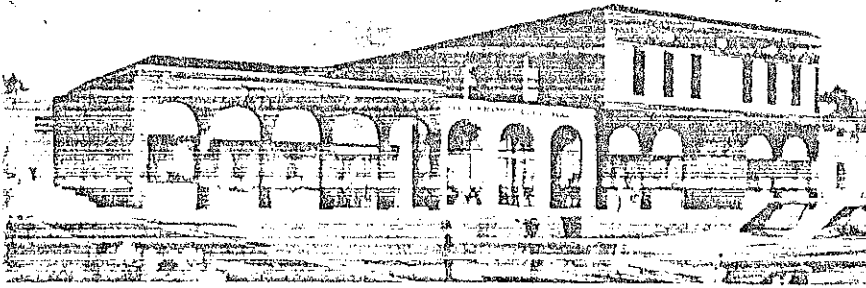
R. Curtis Ritchey  
Chairman



Kevin Van Dyke  
Secretary

RECEIVED  
MAR 05 1981

Oregon Operations Office  
EPA—REGION X



## City Of Hillsboro

205 S.E. Second Ave. □ 648-0821 □ Hillsboro, Oregon 97123

January 21, 1981

Metropolitan Service District Council  
527 SW Hall Street  
Portland, Oregon 97201

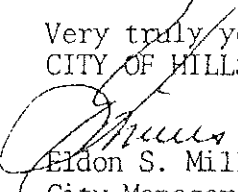
Dear Councilors:

I wish to take this opportunity on behalf of the citizens of Hillsboro to express support for Resolution No. 81-219, a recommendation to reduce the area subject to the Department of Environmental Quality's ban on backyard burning. The proposed resolution recommends the elimination of Hillsboro from the ban area, an action which is supportable and justified by the following facts relating to backyard burning and air quality in the Hillsboro area:

1. The amount of particulate matter contributed by backyard burning in the Hillsboro area is a negligible portion of total particulate matter emitted in the Portland area. Wood burning for heat and road dust generated by motor vehicles contribute many times more particulate matter.
2. Few, if any, complaints are received by the Fire Department regarding backyard burning. Any complaints received on backyard burning are most appropriately handled under our nuisance ordinance rather than as an air quality problem.
3. During the last five years, only eleven violations of secondary Federal TSP standards were documented. Of these eleven, only two occurred during a burning season. Overall, air quality in the Hillsboro area has remained well within the established standard for Oregon.
4. The only landfill in the Hillsboro area is currently over capacity and is unable to handle an increased volume of backyard debris.
5. No reasonable, economic or funded alternative to backyard burning exists at the present time.

Attached to this letter is a brief statistical analysis of air quality data on total suspended particulate levels in Hillsboro. This data reveals that air quality problems in the Hillsboro area are minimal and that a ban on backyard burning will have an inconsequential effect on alleviating the overall problem. The ban on backyard burning will have a major impact on the City by creating enforcement problems, increasing illegal dumping and further burdening an inadequate landfill. Your passage of this resolution will be a step towards resolving an issue for which the City has no solution-disposal of yard debris.

Very truly yours,  
CITY OF HILLSBORO

  
Eldon S. Mills  
City Manager

Attachment

137



AMBIENT AIR QUALITY WITH REGARDS TO TOTAL SUSPENDED  
PARTICULATES AND BACKYARD BURNING IN HILLSBORO.

Examination of total suspended particulate data obtained from the monitoring station at the Hillsboro Airport reveals a total of eleven instances when the Federal secondary TSP standard ( $150 \text{ ug/m}^3$ ) was exceeded. Of these eleven instances, three also exceeded the primary Federal TSP standard ( $260 \text{ ug/m}^3$ ). On only one occasion did a violation achieve Federal alert status by surpassing  $375 \text{ ug/m}^3$  in a 24 hour period. The table below lists the date and particulate level of each of the 11 occasions.

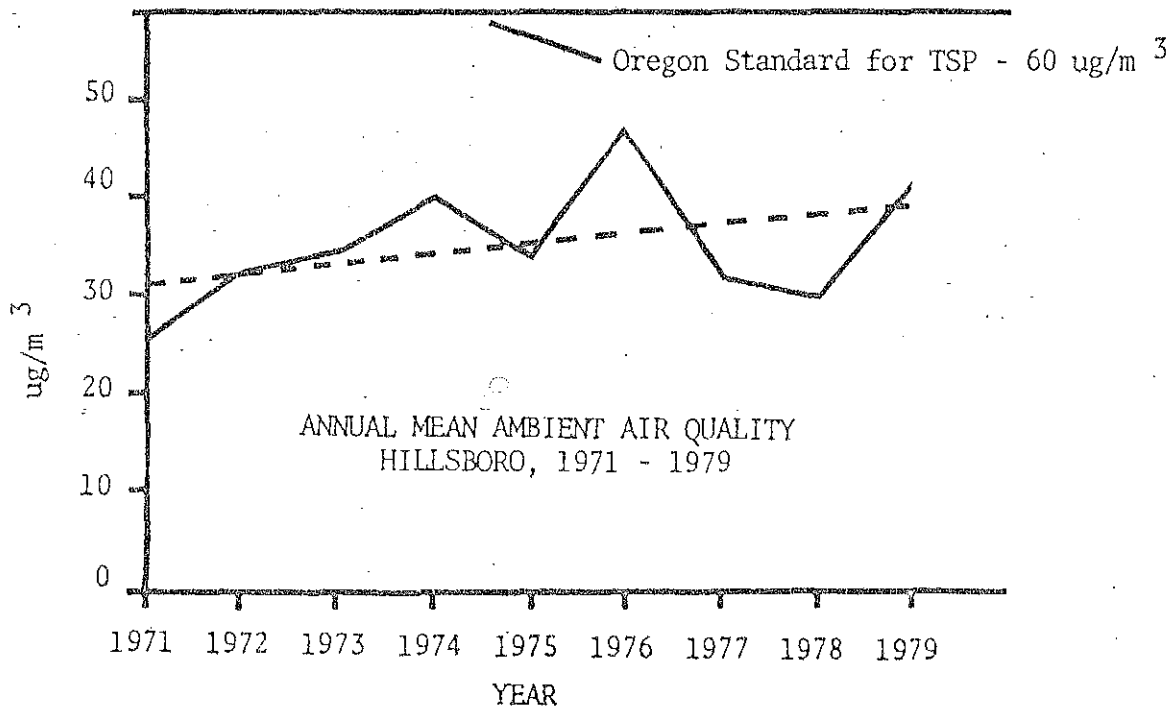
Violations of TSP Standards in Hillsboro - 1975-1979

<u>DATE</u>	<u>TSP LEVEL</u>
January 4, 1979	153 $\text{ug/m}^3$
August 1, 1979	195 $\text{ug/m}^3$
September 29, 1978	220 $\text{ug/m}^3$
* May 12, 1976	170 $\text{ug/m}^3$
July 23, 1976	207 $\text{ug/m}^3$
August 4, 1976	280 $\text{ug/m}^3$
September 3, 1976	210 $\text{ug/m}^3$
* October 15, 1976	180 $\text{ug/m}^3$
September 9, 1975	319 $\text{ug/m}^3$
September 15, 1975	490 $\text{ug/m}^3$
September 27, 1975	222 $\text{ug/m}^3$

\* Violation occurred during burning season  
Source: Department of Environmental Quality.

Of the violations documented in the last five years, only two have occurred during a period designated for open burning. These two violations exceeded only secondary Federal standards and did not approach primary or alert level standards.

The figure below is intended to show the overall trend in ambient air quality with respect to TSP for Hillsboro during the last nine years. The solid line connects the mean level of TSP for each year from 1971 to 1979.



Since the connected points do not represent a straight line, it is difficult to determine the actual trend in pollution levels over the nine year period. To overcome this problem, a regression line is "fitted" to points on the graph to more clearly show the trend in TSP levels. This averaged value is shown by the dashed line. The dashed line represents the approximate slope, or trend, of the solid line if it were averaged into a straight line. It indicates that the yearly geometric mean level of TSP is increasing gradually in Hillsboro. The "averaged" value of TSP increased from 30.7 ug/m<sup>3</sup> to 39.1 ug/m<sup>3</sup> or 27 percent during the nine year period. According to data published by DEQ in 1980, backyard burning accounted for only 1.2 percent of all particulate matter emitted from all sources in 1977. Assuming that the percentage of TSP accounted for by backyard burning is fairly representative of other years it seems reasonable to assume that decreasing TSP by 1.2 percent in any given year by banning backyard burning is not going to reverse the trend for gradually increasing TSP each year. Addition or deletion of the Hillsboro area will have even less impact.

#### SUMMARY

The purpose of this statistical exercise is to bring to attention two important points. First, the number of violations of TSP standards in Hillsboro are so few as to be almost inconsequential. Second, although the general trend is toward gradually increasing TSP levels in the Hillsboro area, a ban on backyard burning would tend to reduce the trend by such a small amount as to be almost imperceptible. Based on these two facts, it seems reasonable to conclude that backyard burning has only a very small effect on the Hillsboro and Portland airshed and allowing it to continue will not have a detrimental effect on overall air quality.

RESOLUTION NO. 1087

A RESOLUTION REQUESTING THE STATE OF OREGON ENVIRONMENTAL QUALITY COMMISSION (EQC) TAKE ACTION TO REDRAW THE BOUNDARIES OF THE AREA WHERE BACKYARD BURNING IS TOTALLY BANNED TO EXCLUDE HILLSBORO AND TO ALLOW CONTINUATION OF TWO ANNUAL BURNING SEASONS.

WHEREAS, the EQC has recently taken action to totally ban burning within the metropolitan area, and

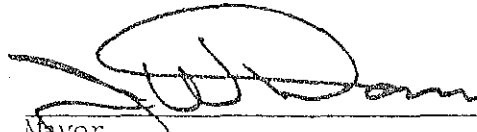
WHEREAS, considerable study and expense has been devoted to attempts to devise alternative disposal methods for materials which are currently being burned, and

WHEREAS, these attempts have been unsuccessful, and

WHEREAS, landfill locations for disposal are not available in the Hillsboro area and hauling the material excessive distances to available landfills and additional collection requirements would unnecessarily consume scarce energy resources and accelerate the filling of the very limited landfill space available.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HILLSBORO that the City hereby requests the EQC take action to eliminate Hillsboro from the area in which burning is totally banned and to restore the permit system allowing two annual seasonal burning periods.

Introduced and passed this 20th day of January, 1981.

  
\_\_\_\_\_  
Mayor

ATTEST: Lernice C. Barreira  
City Recorder

A RESOLUTION REQUESTING THE OREGON ENVIRONMENTAL QUALITY COMMISSION TO REDEFINE THE BACKYARD BURNING BAN AREA TO EXCLUDE CORNELIUS AND TO PERMIT TWO (2) ADDITIONAL BURNING SEASONS.

WHEREAS, Environmental Quality Commission has recently banned backyard burning within the metropolitan area and

WHEREAS, no viable alternative for the disposal of the materials currently being burned has been found, and

WHEREAS, there are no landfills in this area which would result in hauling the materials long distances to already limited landfill space - a waste of valuable energy resources,

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF CORNELIUS, OREGON, THAT the Environmental Quality Commission is requested to exclude Cornelius from the area in which backyard burning is banned and to permit two (2) additional seasonal burning periods.

INTRODUCED AND ADOPTED this 22nd day of January 1981.

CITY OF CORNELIUS, OREGON

BY: *Charles D. Walters*  
Mayor

ATTEST:

BY: *J. Woodruff*  
Recorder - *Pro-tem*

# CITY OF ROSEBURG

LDB

900 S. E. Douglas Avenue  
ROSEBURG, OREGON 97470

February 17, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

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AIR QUALITY CONTROL

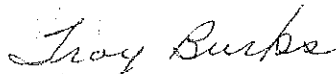
Department of Environmental Quality  
522 S.W. 5th Avenue  
P.O. Box 1760  
Portland, Oregon 97207

Gentlemen:

In response to the proposed new rules on control of burning, I would like to make the following comment.

I would like to see local jurisdictions have more control over open burning as far as the demolition and minor land clearing operations go. There are many occasions each year where people clear small parcels of land of old buildings and brush to build new homes and we can't allow burning of the debris with the present rules. I think that we should have the authority to issue a permit to burn most of the materials. I also don't see anything wrong with allowing burning of wood scraps at building sites. This type of burning is usually a lot cleaner burning than the allowed back yard burning where wet leaves, cut grass and yard trimmings are disposed of. The only time I see these types of burning as problems are when the atmospheric conditions won't allow any burning and in that case no burning of any type should be allowed. The enforcement of the existing rules make our department very unpopular with the public, who pass our operating budgets each year.

Sincerely,

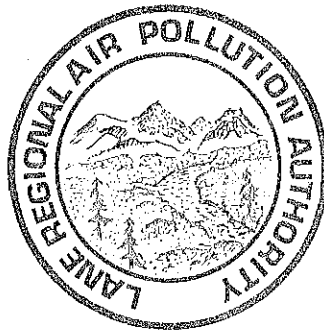


Troy Burks, Fire Marshal  
Roseburg Fire Department

TB:clb

LANE REGIONAL

AIR POLLUTION AUTHORITY



*by Young*  
*cc: Weather*  
*EQC*  
*O'Connell*  
(503) 686-7618  
1244 Walnut Street, Eugene, Oregon 97403

Donald R. Arkell, Director

February 17, 1981

Mr. William H. Young, Director  
Dept. of Environmental Quality  
P.O. Box 1760  
Portland, OR 97207

Dear Mr. Young:

The Lane Regional Air Pollution Authority Board of Directors, at its February 10 meeting, directed that a local ad hoc committee be formed to examine the State's existing and proposed open burning rules as those rules pertain to Lane County. The committee will include representatives from Lane County fire districts and LRAPA.

Specifically, the committee will consider the following: 1. a proposal by Cottage Grove Mayor (and LRAPA Boardmember) Bill Whiteman to expand the open burning season into the winter months; 2. clarifying the designated burning control areas of Lane County; 3. enforcement procedures. Hopefully, the committee will complete its study and make recommendations to the LRAPA Board of Directors within the next month.

In view of these circumstances, the LRAPA Board of Directors is requesting that final action by the Environmental Quality Commission to amend that portion of the open burning rules affecting Lane County be held pending the report and recommendations by the local ad hoc committee.

I anticipate that this request will not unduely delay final EQC action on the State's open burning rules.

Thank you for your consideration of this request.

Sincerely,

*Donald R. Arkell*  
Donald R. Arkell  
Director

DRA:md

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DEPARTMENT OF ENVIRONMENTAL QUALITY

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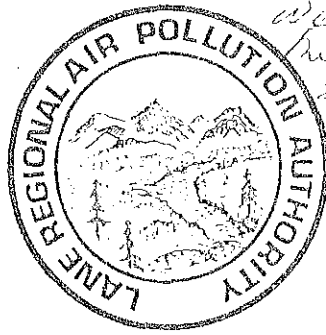
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DEPARTMENT OF ENVIRONMENTAL QUALITY

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FEB 19 1981

OFFICE OF THE DIRECTOR

LANE REGIONAL

AIR POLLUTION AUTHORITY



*To LDB we must consider use of response in some manner*

*EQC Young Underwood Weather*

*1244 Walnut Street, Eugene, Oregon 97403*

Donald R. Arkell, Director

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

May 22, 1981

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MAY 27 1981

AIR QUALITY CONTROL

Joe Richards, Chairman  
Environmental Quality  
Commission  
P.O. Box 1760  
Portland, OR 97207

RE: Proposed Open Burning Rules

Dear Mr. Richards;

LRAPA appreciates the opportunity to review the draft revisions to the proposed Open Burning Rules prior to final action by the EQC. There are several provisions of the draft dated 05/05/81 which merit some additional comment.

1. The proposed definition of boundaries for restricted zones for construction, demolition, and domestic open burning are now proposed for Lane County, as suggested in LRAPA and Local Fire District testimony. That provision is still supported by the Authority.
2. The requirement to extinguish fires two hours before sunset is, in our view, unenforceable for domestic burning in rural areas. There is substantial incentive for individuals to do such burning during the late afternoons, after normal working hours, and we believe that resource constraints on fire districts in rural areas will cause this rule to have a generally low enforcement priority. LRAPA's recommendation is that the current dawn-to-dusk burning hours be retained.
3. The LRAPA Board proposed that a single, nine-month burning season be instituted for domestic open burning in place of the current two-season burning year. The reasons for this proposal were that:
  - A. There is expressed desire from the rural areas of Lane County to provide additional time for disposal, by burning, of yard debris, because of limited opportunity to do so during the Spring and Fall burning seasons.
  - B. Ambient concentrations of Particulate Matter from domestic open burning would not increase, as long as it is conducted only on days of good atmospheric ventilation.

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
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MAY 26 1981

OFFICE OF THE DIRECTOR

Joe Richards  
May 22, 1981

Page 2


- C. That the cost of administering the domestic burning permit program by the Fire Districts would be cut substantially by reducing the number of permits necessary each year.

We reaffirm our position that a single season is easier to manage and, with vigorous enforcement, will not cause increases in Ambient Particulate concentrations.

In taking the above positions and in developing recommendations for the State Rules which apply to Lane County, it is recognized that restrictions on open burning are necessary in areas of the State where there is high population exposure potential or unacceptable air quality. We believe that the recommendations above are modest, and do not endanger that precept. They will, however, provide a measure of relief in those areas where alternative disposal is not reasonably available, and will provide sufficient flexibility within which the Authority and the local Fire Districts can administer effective open burning controls.

It is requested that you give serious consideration to LRAPA's comments and testimony, as well as that of the local Fire Districts in Lane County.

Sincerely,

  
Bill Hamel, Chairman  
LRAPA Board of Directors

DRA/mjd



LANE REGIONAL

AIR POLLUTION AUTHORITY



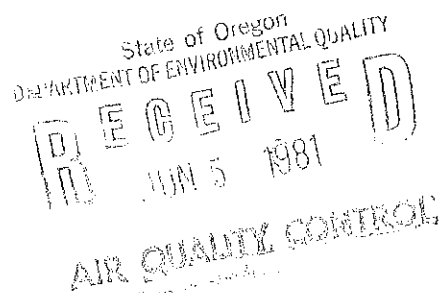
(503) 686-7618  
1244 Walnut Street, Eugene, Oregon 97403

Donald R. Arkell, Director

June 3, 1981

MEMORANDUM

TO: Doug Brannock  
FROM: Don Arkell  
SUBJ: Proposed Open Burning Rule Changes



On May 22, Bill Hamel, LRAPA Board Chairman, wrote to Joe Richards, the EQC Chairman, regarding the draft recommendations for the open burning rules. The letter reemphasizes LRAPA's position on open burning; that is, to allow Lane County to fall under the general state rules which would permit establishment of a single nine-month open burning season for Lane County and, secondly, would eliminate the restriction on open burning two hours before sunset, based on enforcibility.

I suggest the attached specific amendments in order to respond to our needs in Lane County. This proposal should supplement the letter to Joe Richards.

PROPOSED AMENDMENTS TO OPEN BURNING RULES

With reference to the March 5, 1981 draft:

1. Page 43 (6) Domestic open burning.
  - (a) Domestic open burning outside the fire districts listed in Section (5) of this Rule is allowed subject to OAR 340-23-040 and 340-34-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
  
2. Page 44 (b) Domestic open burning is prohibited within all fire districts listed in Section (5) of this Rule except that open burning of yard debris is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
  
3. Delete 6 (b) (B,C)

157

L-COG Referral # 181  
 State PNRS # 8103-6-1140  
 Type of Referral A-95

REGIONAL CLEARINGHOUSE REVIEW AND COMMENT CONCLUSIONS

Air Quality Telephone: 687-4283

Applicant Doug Brannock, Oregon DEQ By: Galen Howard  
P.O. Box 1760  
Portland, OR 97207 Clearinghouse Coordinator

Project Title: Proposed Revision of Open Burning Rules Date: April 27, 1981

PNRS SUMMARY FORMAL APPLICATION OTHER

The L-COG Regional Clearinghouse has reviewed the proposed project for its relationship to existing plans, goals, or policies of this agency and finds the proposal to be:

- It is consistent with or contributes to areawide planning.
- Consistent, pending resolution of concerns noted in comments included.
- It is inconsistent with areawide planning.
- Request the opportunity to review the full application.
- No comment.
- Professional comments are included.

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 DEPARTMENT OF ENVIRONMENTAL QUALITY  
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 MAY 4 1981  
 AIR QUALITY SECTION

For A-95 Reviews Only:

- Recommend approval.
- Do not recommend approval.
- Recommend approval, conditional on resolution of concerns included.
- No comment.

For Environmental Assessment (if attached):

- Negative declaration is consistent with information presented.
- Environmental assessment is adequate.
- Environmental assessment is not adequate for the following reasons.
- Impacts exceed established environmental standards referenced.

L-COG REVIEW COMMENTS

See Comments Attached.

Note: L-COG has received review comments from the \_\_\_\_\_  
 following local agencies which have been \_\_\_\_\_  
 incorporated into this summary: \_\_\_\_\_

A-95 review comments should not be considered as a substitute of required permit or license procedures necessary for projects or programs. Nor does this review system waive regularly required performances standard reviews.

Copy to:

## II. DEPARTMENT OF ENVIRONMENTAL QUALITY REFERRALS

### (1B1) REVISION OF OPEN BURNING RULES (Department of Environmental Quality)

**Project Description:** The Proposed rules would remove the July 1, 1982 ban on domestic open burning in area of the Willamette Valley outside the Portland Metropolitan Service District, remove the ban on construction, demolition and land clearing open burning on the coast (except for the Coos Bay area); establish a fee schedule for letter permits and prohibit open burning two hours before sunset.

**Comments Requested From:** Lane County, Eugene, L-RAPA

**Comments Received:** Lane County commented: "(We) support such actions since viable alternatives are not available. Implementations would cause a negative effect (i.e. increase work load) on solid waste disposal sites.

Eugene had no comment since the city currently bans all background burning within its corporate limits.

L-COG staff states the L-RAPA Board commented directly to the DEQ during the public hearing process on the proposed rules. The Board recommended that:

1. Open burning be allowed through the winter months, only on allowed burning days, based on minimal air quality impact and fewer violation of burning rules;
2. Opposed the restriction on burning two hours before sunset;
3. Supported establishment of a letter permit fee schedule;
4. Restricted burning areas be the same as the boundaries of Fire Districts.

**Action Requested:** L-COG staff would advise the Board support this proposed revision.



# Jackson County Oregon

COUNTY COURTHOUSE / MEDFORD, OREGON 97501

EQC  
Young  
Weatherford

BOARD OF  
COUNTY COMMISSIONERS  
Commissioners Office 776-7231

March 27, 1981

Joe B. Richards, Chairman  
Environmental Quality Commission  
Department of Environmental Quality  
Post Office Box 1760  
Portland, Oregon 97207

SUBJECT: Proposed Open Burning Rule, OAR 340-30-025 through 340-30-050, and 340-30-070

Dear Mr. Richards:

At its regular meeting of <sup>Mar?</sup> April 25, 1981, the Jackson County Board of Commissioners considered the open burning rule being proposed by the Department of Environmental Quality.

The Board unanimously supported the proposed rule, with the specific exception of the daily maximum ventilation index which would be applicable to Jackson County. Our staff advises that the Bear Creek Valley exhibits geographic features which are less conducive to good ventilation than in the Willamette Valley. For this reason, we feel it is not appropriate to adopt a more relaxed standard than that which would be applicable for the Willamette Valley.

In summary, then, the Jackson County Board of Commissioners supports:

- 1) The proposed open burning rule, excepting the daily maximum ventilation index applicable to Jackson County.
- 2) A ventilation index criteria for Jackson County which would be no lower than that applicable to the Willamette Valley.

We appreciate this opportunity to express our views concerning this important air quality consideration.

Sincerely,

Don Schopffield  
Chairman

DC:bp

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

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AIR QUALITY CONTROL

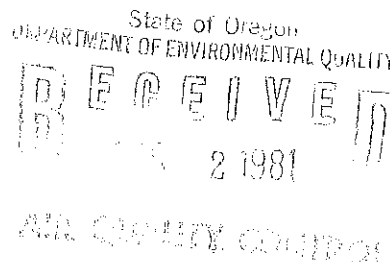
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OFFICE OF THE DIRECTOR

# DEPARTMENT OF PLANNING & DEVELOPMENT

March 31, 1981



Mr. Doug Brannock  
Air Quality Division  
Department of Environmental Quality  
P. O. Box 1760  
Portland, OR 97207

Dear Mr. Brannock:

This will confirm our telephone conversation this morning concerning Jackson County's written testimony regarding the proposed open burning regulations.

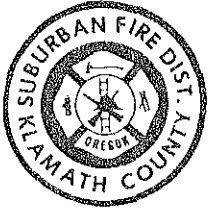
At its regular meeting on March 25, 1981, the Board of Commissioners tentatively supported the proposed rules, with a ventilation index equal to that indicated for the Willamette Valley. However, they deferred final action in the matter, pending review and recommendation by the Jackson County Air Quality Committee. That Committee moved yesterday to adopt an identical recommendation for transmittal to the Board.

I expect the Board of Commissioners to sign its position statement in the next day or so, and forward it to your office. We would appreciate your consideration of the testimony, even though it is received a few days beyond the established hearing deadlines.

Sincerely,

Kerry L. Lay  
Planning and Development Director

KLL:jj



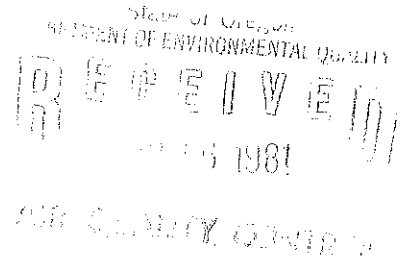
## Suburban Fire Protection District

2342 Gettle Street  
Klamath Falls, Oregon 97601

503/884-7745

March 13, 1981

Department of Environmental Quality  
522 Southwest 5th Avenue  
Portland, Oregon 97207



### COMMENT TO PROPOSED RULE CHANGES

Due to the fact that the listed public hearings are being held in cities remote to Klamath Falls, we the Board of Directors of the Suburban Fire Protection District wish to have the following comment for the public record.

#### PROPOSED CHANGE:

Extend the Department's ability to regulate under adverse meteorological conditions, all types of burning including agricultural, backyard, commercial and demolition in counties outside the Willamette Valley.

We, as a Fire District oppose this proposal most strongly. Our previous experience with D.E.Q. and their ability to enforce such rules has been very poor. The Fire District is not willing to be placed into the position of enforcer. Currently the District adheres to the State Statutes requiring a permit for all open burning. This in itself is a difficult issue to totally enforce to compound this by adding another lay of rules would be next to impossible.

The ventilation within the Klamath Basin is on which it is self-purging and therefore poses no great meteorological problems. There however, can be many days in which fire weather conditions would restrict all open burning when according to D.E.Q. rules it would be allowed. As experience has shown in other areas of the state this has created conflicts.

There is much of Klamath County that is agricultural lands and much of which is not within the confine of any fire district. This in itself poses permit issuing and enforcement problems and we do not see D.E.Q. providing staff to take care of this issue.

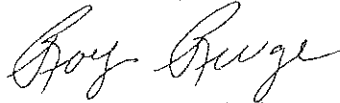
With this background to this issue we again affirm our position to this proposed rule change.

Page Two

Our second concern deals with the proposed ban to prohibit petroleum-treated wood. We have a vast amount of land area where burning of small amounts of this type materials creates no impact on air quality. We do feel that close in to the urban areas this burning of heavy smoke producing materials such as rubber tires, asphalt roofing and similar materials should be prohibited as currently done.

Hopefully your records will reflect our position on these issues and will be considered along with the verbal testimony.

Sincerely yours,

A handwritten signature in cursive script that reads "Roy Ruge".

Roy Ruge, Chairman  
Board of Directors

ew



LA GRANDE-UNION COUNTY  
Chamber of Commerce

P. O. Box 308  
LA GRANDE, OREGON 97850

April 29, 1981

Representative Bob Brogoitti  
Room H 366  
State Capitol Bldg  
Salem, OR 97310

my Young  
Weather

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

MAY 1 1981

OFFICE OF THE DIRECTOR

Dear Representative Brogoitti:

The La Grande-Union County Chamber of Commerce is very concerned about the efforts of the Department of Environmental Quality to expand its authority into Eastern Oregon. We support the position taken by the South 40 Club and the Union County Wheat Growers League in their enclosed letter to the DEQ and feel this is just one more example of government control of business and private lives.

The business community is disturbed and alarmed by the ever-increasing time, effort, and travel required to combat such unnecessary and detrimental regulatory administrative rulings by state and federal agencies. We realize there is a need for regulations, but we believe that in many cases regulatory agencies go far beyond the legislative intent. We would like to encourage the legislature to limit the power of these agencies, such as DEQ, to create and enforce administrative rules and the additional record-keeping and restrictions that result.

The Chamber of Commerce is very concerned about how testimony from public hearings is considered and evaluated when the time comes for the final decision on an issue. The involved agency may interpret input in any way it sees fit. For example, at a DEQ hearing in Pendleton on March 25, we were told that out of eight hearings throughout the state only a couple of people from Portland were in favor of new rules to regulate backyard burning but that DEQ could impose the new rules even though the majority of the testimony was against it. What we were told in effect was that DEQ was not taking a public opinion poll. It appears that often the hearings process is a farce to satisfy public demand and legal requirements, but the input is disregarded in the final outcome. We have to question whether the time and money spent are worthwhile when it appears the agency's decision has been made before the hearings are conducted.

It seems that during a period of budgetary shortfalls, we should look at the adverse effects these regulatory agencies have on

Representative Bob Brogoitti

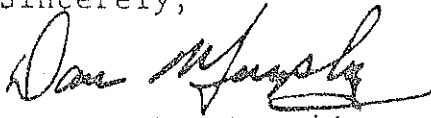
Page 2

April 29, 1981

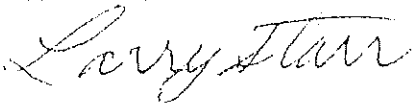
Oregon's economy and what they do to our business community. To increase the power base of DEQ at the same time we are decreasing our support to higher education and research programs is of great concern.

We would request that you evaluate the benefits against the adverse effects of all regulatory agencies when considering budget expenditures and limit the non-essential and non-productive.

Sincerely,



Dan Murphy, President  
Chamber of Commerce



Larry Starr, Chairman  
Resource Council

DM/vjp

cc: Governor Victor Atiyeh  
Senator Mike Thorne  
William H. Young, Director, DEQ

146

March 25, 1981

To: DEQ

From: South 40 Club of Union County  
Union County Wheat Growers League

Subject: Proposed Rules Regulating Agricultural Open Burning

Dated, Jan. 30, 1981 EQC meeting

The South 40 Club of Union County is a long standing organization of farmers and agri-businessmen, with a membership on this date of 47, representing all areas of this county.

The Union County Wheat Growers League is made up of 230 farmers raising wheat in Union County.

At a meeting on Wednesday, March 18, 1981, a resolution was passed to respond to your proposed Rule Regulating Agricultural Open Burning as follows:

- A. We believe the inclusion of Agricultural open burning in the proposed new regulations to be unnecessary.
  1. We believe the intent of the regulations to be an increase in control by the DEQ, that will, now or in the future, be an increased cost to the agricultural community and the tax payers of Oregon, that is not cost effective.
  2. We believe the problem and or complaint level in Eastern Oregon is so minor, relative to the benefits derived from agricultural income of Eastern Oregon that the regulations are another example of planned overkill to a problem.
  3. We like living in Eastern Oregon because it is a farming and lumbering area, and in turn we expect to live with the inherent adversities of smoke or dust for short periods of time during the year.

Justification for our belief

1. The control is not needed because we are taking care of the problem ourselves. In the case of field burning, for about 40 days in the fall, our grass growers and wheat growers pay for a plane to fly each morning to monitor air temperatures at several elevations. This information is passed to the U.S. Forest Service who then relay this information to the U.S. Weather Bureau in Pendleton. Mr. Jack Smith of that station evaluates the information and in turn relays back within one hour the appropriate burning schedule for the day. This information then goes to the radio station for broadcast to the public and local fire departments that can issue burning permits for that day. Also a permanent record of dew point, humidity and temperature is kept at the Blue Mountain Seed plant in Imbler. This information is at all times available to the Forest Service and weather bureau for their use. This entire process has been ongoing for the last five years, paid for by the local growers and without need of DEQ supervision. We believe the local problem is being dealt with very well by the local people without additional government supervision or expense.
2. We discourage any increase in DEQ responsibility or duties in this time of low state income and need for careful allocations of state tax dollars.
3. We are very protective of our agricultural lands in Eastern Oregon and sincerely hope the people that would come to live in our area can learn to tolerate the minor adversity of occasional smoke problems as we do.
4. We would also encourage any area not now dealing with this problem on a local level, to develop a program modeled after the one in our area. This in turn will lessen the need for DEQ supervision and therefore reduce cost to tax payers. Local problems dealt with at the local level can be the least expensive and have the flexibility to be the most effective.

Respectfully submitted,

Larry Courtright, President South 40  
Don Starr, President Union County Wheat League

LDB



*Department of Environmental Quality*

522 S.W. 5th AVENUE, P.O. BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-  
May 6, 1981

Wes Hagman, President  
Jefferson County Seed  
Growers Association  
Route 1, Box 4  
Culver, OR 97734

Dear Mr. Hagman:

This will acknowledge your letter of April 29, 1981, and the attached position papers.

Our present thinking is to recommend exclusion of the Eastern portion of the State from the proposed agricultural open burning rule provisions.

These rules will probably be before the Environmental Quality Commission at its July or August, 1981 meeting.

A copy of the staff report, containing the Department's recommendation, will be sent to you approximately ten days prior to any scheduled EQC action.

We appreciate your efforts to minimize field burning smoke impact and are looking forward to continuing to deal effectively with these matters on a voluntary rather than a regulatory basis.

Sincerely,

E. J. Weathersbee, Administrator  
Air Quality Division

EJW:ahe

cc: Central Region, DEQ



Contains  
Recycled  
Materials

117

JEFFERSON COUNTY SEED GROWERS

ASSOCIATION

April 29, 1981

William Young, Director  
Environmental Quality Commission  
Box 1760  
Portland, OR 97201

The Jefferson County Seed Growers would again encourage the Environmental Quality Commission staff and advisory board to carefully scrutinize their proposed changes in the agricultural burning rules for those counties east of the Cascades. It continues to be our contention (as stated in our March 16, 1981 testimony, -copy enclosed) that Central and Eastern Oregon have a unique condition which makes the proposed rule changes unnecessary to maintain the excellent environment which residents and visitors alike now enjoy.

The area east of the Cascades has: 1) atmospheric conditions conducive to clean, rapid burning and smoke dispersal 2) a relatively small acreage to be burned and 3) few concentrated population areas to affect which allows open burning with minimal environmental impact. Realizing however, that no area is perfect, the farmers in Jefferson and Union counties have developed policies (copy enclosed) to monitor conditions in their areas during the burning season and limit burning on those occasions when smoke is a threat to the environment, to the concentrated population and areas and to tourist traffic. All these factors considered, the Environmental Quality Commission rule changes are unnecessary.

We as farmers are as concerned about the environment as any group in the world since we derive our living and inner satisfaction from managing and nurturing of mother natures production. We feel that the environment can best be served by making sure a problem of significant importance exists before rules and regulations are adopted.

Mr. Brannock contacted me with regards to excluding the areas with their own field burning program from the rule change for the time being. The board of the Jefferson County Seed Growers felt that the field burning in Central and Eastern Oregon has such a small impact on the environment that the rules should not be extended to cover the Eastern portion of the state.

Sincerely,

*(Wes Hagnan)*

Wes Hagnan, President  
Jefferson County Seed  
Growers Association

Enclosures

cc: Governor Atiyeh  
Rep Bill Bellamy  
Senator Ken Jernstedt  
Rep Tom Throop  
Senator Fred Heard  
Rep Bob Brogiotti  
Senator Mike Thorne

JEFFERSON COUNTY SEED GROWERS  
POSITION ON OPEN BURNING CONTROLS  
FOR CENTRAL OREGON

The Jefferson County Seed Grower's League, an organization representing 250 to 300 farmers in Jefferson, Crook, and Deschutes counties, is very much interested in the Department of Environmental Quality's current proposal to expand control of agricultural open burning to areas outside the Willamette Valley. Seed league members are firmly behind the DEQ's quest for a safe and healthy environment. Desert, forest and mountains merge to make Central Oregon one of the most liveable and visitable areas in the nation. Clean water and air, the status quo for resident and visitor alike, are essential to the economic well being of the area. However, it is the contention of the Jefferson County Seed Growers' League that expanding the agricultural open burning regulations to include Central Oregon is at this time, premature.

In the past, smoke from field burning in the Madras area has occasionally affected the more populous areas of Deschutes County. During the summer burning season of 1980, smoke from Jefferson County was present in the Redmond-Bend Sun-river areas on two different days (based on local DEQ estimates). Although the amount of smoke did not reach levels considered serious in the Willamette Valley, it was discernable to local Deschutes County residence. Complaints and rumors of complaints filtered back to the Board of Directors of the Central Oregon Seed Growers League. After several meetings and much discussion, the local board decided to initiate a smoke management program for area growers designed to minimize the impact of field burning on the general public. The final plan, adopted by unanimous vote and the annual Seed League meeting on February 19, 1981, called for burning to be prohibited on weekends, holidays and those days when meteorological conditions are not conducive to smoke dispersal. The daily weather data, interpretation and burning recommendation is to be assimilated by a local Bend meteorologist, Jack Mercer, and passed on to the North Unit Rural Fire Department in Madras. The fire department may issue (or not issue) burning permits for that specific day based on the meteorologists' recommendation. The adopted smoke management plan is included with this report.

It is the Jefferson County Seed Growers opinion that expansion of the agricultural open burning regulations to include Central Oregon is at this time unnecessary for several reasons.

- 1 - The aforementioned, self-imposed and self-financed program by the growers will offer more control than will the DEQ proposal, particularly in light of the economic dilemma state finances are currently undergoing.
- 2 - There is little or no data in existence at this time which delineates the scope of the problem. When there is smoke in Bend, there has been no quantitative determination whether the smoke originated from Willamette Valley burning, slash burning, Central Oregon field burning, local wood stoves, or some combination of the above.

Jefferson County Seed Growers  
Position on Open Burning Controls  
for Central Oregon - pg. 2

- 3 - The relatively small size of the area burned (less than 20,000 acres in Central Oregon versus 250,000 acres in the Willamette Valley) limits potential affect on any given day. A good burning day in the valley will result in more acres being burned than will be burned in Central Oregon in an entire season.
- 4 - Atmospheric conditions are much more conducive to clean, rapid burning and smoke dispersal than are found in other parts of the state. Low humidity, high temperatures, predictable afternoon breezes and low air stagnation (inversion) potential create excellent burning conditions most of the time.
- 5 - Some of the wording of the DEQ proposal is so ambiguous that it could easily be interpreted in any number of ways, regardless of what is presently intended. Page 20 of Division 23 of AQQ075 (OAR 340-23-042) prohibits open burning that is "(a) a private nuisance; (b) a public nuisance; (c) a hazard to public safety." No definition of what constitutes a private nuisance, public nuisance or public hazard is even hinted at, leaving one with the feeling of being totally at the mercy of the powers that be.
- 6 - In a letter to seed growers from Representative, Tom Throop about the field burning questions, he quoted Governor Atiyeh saying, "If it ain't broke, don't fix it."

Necessary regulation to protect a fragile and often misused environment is in the best interest of the citizens of any society. Regulation of a poorly defined or non-existent problem only creates more problems. It is our recommendation that the impact of agricultural open burning in Central Oregon be quantified with meaningful data before any regulations are imposed.

Wes Hagman, President  
Jefferson County Seed  
Growers Association



## FIELD BURNING POLICY FOR CENTRAL OREGON

WHEREAS, seed growers believe that high air quality standards are necessary for wholesome livability, and

WHEREAS, smoke has become a problem in parts of Oregon, and

WHEREAS, the seed growers of Central Oregon wish to follow a voluntary field burning policy, and

WHEREAS, field burning is a necessary management tool for growing seed crops, and

WHEREAS, seed growers wish to help maintain the desirability of the Central Oregon tourist and recreational industry,

THEREFORE, be it resolved that the Jefferson County Seed Growers Association adopt and follow the following guidelines:

- 1 - Field burning will be permitted Monday through Friday. On Labor Day weekend no burning permitted until Tuesday morning. Burning on Friday should be completed as early in the day as possible.
- 2 - No field burning will be permitted at night.
- 3 - The Seed Growers Association shall engage the services of a weather consultant during the burning season.
- 4 - The North Unit Fire District will advise growers of a no-burn day when weather conditions are bad for field burning.
- 5 - Coordinated field burning along main highways will be conducted in cooperation with the growers, Highway Department, County Sheriff Department and the Extension Service to promote maximum traffic safety.
- 6 - Minimal contribution of ten dollars (\$10.00) per annual permit will be collected by the North Unit Fire District for the Seed Growers Association to implement the program.

Adopted by Jefferson County Seed  
Growers Association. February 19, 1981

I. LDB  
include in record  
Send letter acknowledging receipt EJM  
Willy Young  
Weatherhead

# OREGON WHEAT

503/276-7330

OREGON WHEAT GROWERS LEAGUE • 305 S.W. 10TH • P.O. BOX 400 • PENDLETON, OREGON 97801

March 31, 1981

William H. Young, Director  
Environmental Quality Commission  
Box 1760  
Portland, Oregon 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 7 1981

Dear Mr. Young:

WHEAT QUALITY CONTROL

We are opposed to including the Eastern Oregon wheat area in the proposed changes in Oregon's Open Burning rules as administered by the Department of Environmental Quality. We recommend the Columbia Basin and Blue Mountain wheat area, and in fact, all of Eastern Oregon be removed from these proposed rule changes.

We are opposed to the attempt to regulate agricultural open burning in Eastern Oregon. No significant problems have occurred in the past, nor have complaints been filed with city or county government in this area. In fact, Woody Starrett, Chairman, Umatilla County Board of Commissioners, and a member of the DEQ 208 Advisory Committee, reports the county has not had one complaint related to agricultural open burning in seven years he has been associated with that office. As Jack Smith, U.S. Weather Bureau in Pendleton stated at the conclusion of the Pendleton meeting, "regulations were not needed in this area nor would a state-wide mandated program be justified due to the nature of our area".

During the Pendleton 3/25/81 hearing on the proposals, various Oregon wheat grower representatives noted several reasons for our opposition other than the fact complaints have been insignificant or non-existent. We, also, especially resent development of these regulations by the mere fact the regulations were proposed without first consulting the people in the area.

As was pointed out in the Pendleton hearing, several local programs have been underway on a voluntary basis in conjunction with local groups along with the U.S. Weather Bureau. The DEQ was not aware of these programs.

It seems the present national mood is to reduce the ever increasing development of new rules and regulations on the state and national level. Your action would not be in keeping with the time, nor in this case, even necessary.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 6 1981

OFFICE OF THE DIRECTOR

Page 2

Wm. H. Young  
March 31, 1981

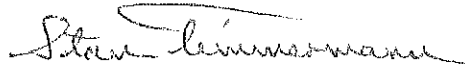
It is likewise interesting to note the Department of Environmental Quality is proposing new regulations which would require additional staff and operating money in a time of critical budget decision on the state and national level.

Presently, and for many years, agricultural burning in open areas outside of cities or fire districts is controlled on the local level under ORS 478:960 and 476:380. Farmers now desiring to conduct open burning must obtain a burning permit under these regulations from their local county court. The proposed regulations thus seem to transfer this local control at a minimum expense to your state agency. We oppose this action.

With these further comments and those made directly at the Pendleton hearing, we are opposed to the proposed regulations and ask that Eastern Oregon be stricken from this action.

Sincerely,

OREGON WHEAT GROWERS LEAGUE



Stan Timmermann  
President

ST:ih

cc: Governor Atiyeh  
Selected Oregon agricultural interests

P.S. Enclosed is a copy of ORS 476:380 noted in the above letter.

**476.380 Fire permits; limitations upon burning; records.** (1) No person, outside the boundaries of a rural fire protection district or a forest protection district, shall cause or permit to be initiated or maintained on his own property, or cause to be initiated or maintained on the property of another any open burning of commercial waste, demolition material, domestic waste, industrial waste, land clearing debris or field burning without first securing a permit from the county court or board of county commissioners.

(2) The county court or board of county commissioners, or its designated representative, shall prescribe conditions for issuance of any permit and shall refuse, revoke or postpone issuance of permits when necessary to prevent danger to life or property or to protect the air resources of this state. The Environmental Quality Commission shall notify the State Fire Marshal of the type of and time for burning to be allowed on each day under schedules adopted pursuant to ORS 468.450 and after ORS 468.460 becomes operative, under rules as provided in ORS 468.460. The State Fire Marshal shall cause all county courts and boards of county commissioners or their designated representatives in the affected areas to be notified of the type of and time for burning to be allowed on each day and of any revisions of such conditions during each day. The county court, board or representative shall issue permits only in accordance with schedules of the Environmental Quality Commission adopted pursuant to this section and ORS 468.455 to 468.485, 476.990, 478.960 and 478.990 but may reduce the hours allowed for burning if necessary to prevent danger to life or property from fire. The State Fire Marshal may refuse or postpone permits when necessary in his judgment to prevent danger to life or property from fire, notwithstanding any determination by the county court or board of county commissioners or its designated officer.

(3) Nothing in this section:

(a) Requires permission for starting a campfire in a manner otherwise lawful.

(b) Relieves a person starting a fire from responsibility for providing adequate protection to prevent injury or damage to the property of another. If such burning results in the escape of fire and injury or damage to the

property of another, such escape and damage hereby constitutes prima facie evidence that burning was not safe.

) Relieves a person who has obtained permission to start a fire, or his agent, from liability for property damage resulting from the fire.

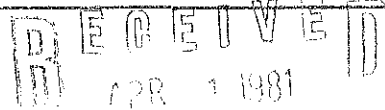
) Permits an act within a city or regional quality control authority area that otherwise is unlawful pursuant to an ordinance of city or rule, regulation or order of the local authority.

) The county court or board of county commissioners shall maintain records of all permits and the conditions thereof, if any, are issued under this section and shall file them at such times, as the Environmental Quality Commission shall require such records or summaries thereof to the commission. The Environmental Quality Commission shall provide forms for the reports required by this subsection. [1967 c.420 §3; 1969 c.613 §1 c.563 §8; 1973 c.835 §164; 1975 c.635 §2]



Telephone 503 585-1157

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY



2140 TURNER RD. S.E.  
SALEM, OR 97302

AIR QUALITY CONTROL

March 31, 1981

L.D. Brannock  
Air Quality Division  
Dept. of Environmental Quality  
P.O. Box 1760  
Portland, OR 97207

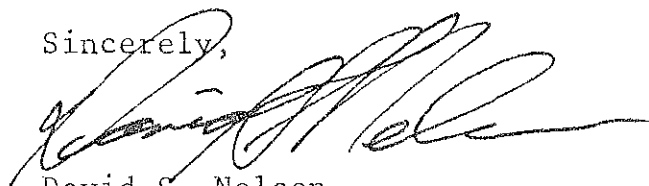
Dear Mr. Brannock,

The Oregon Seed Council has reviewed the Department's proposed amendments to the open burning rules and submit the following comments:

1. Agricultural burning, particularly field burning, in the 9 Willamette Valley counties is controlled under Division 26 of the Department's rules.
2. The proposed amendments to Division 23 appear to introduce some control over field burning in the 9 Willamette Valley counties. This occurs on pages 1 Division 23, 340-23-022, 20 Division 23, 340-23-042 and 23 Division 23, 340-23-043 (2) (d).
3. The Oregon Seed Council strongly opposes any control over agricultural open field burning in the 9 Willamette Valley counties in any rules other than Division 26.
4. Division 26 rules have been negotiated by and between the City of Eugene, the Oregon Seed Council and the Department of Environmental Quality then subjected to public hearing before adoption and were and are expected to be the sole controlling rules for open field burning.

We would appreciate it if you would enter the appropriate amendments in those sections listed above and any others where it is needed exempting open field burning from the Division 23 rules as we discussed in our numerous telephone conversations on the subject. We would be happy to work with you to develop the necessary language to accomplish this goal.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Nelson", written in a cursive style.

David S. Nelson  
Executive Secretary

DSN/ln

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
DEC 23 1980

December 19, 1980

AIR QUALITY CONTROL

TO WHOM IT MAY CONCERN:

Has anyone predicted the amount of energy lost in transporting the trash that is now being burned? Also, isn't there additional pollution created in hauling this trash? Just because other cities have banned burning doesn't mean Portland needs to. How well kept are the cities that have banned burning? Because of the cost many people would let rubbish pile up and not bother to take it to a dump.

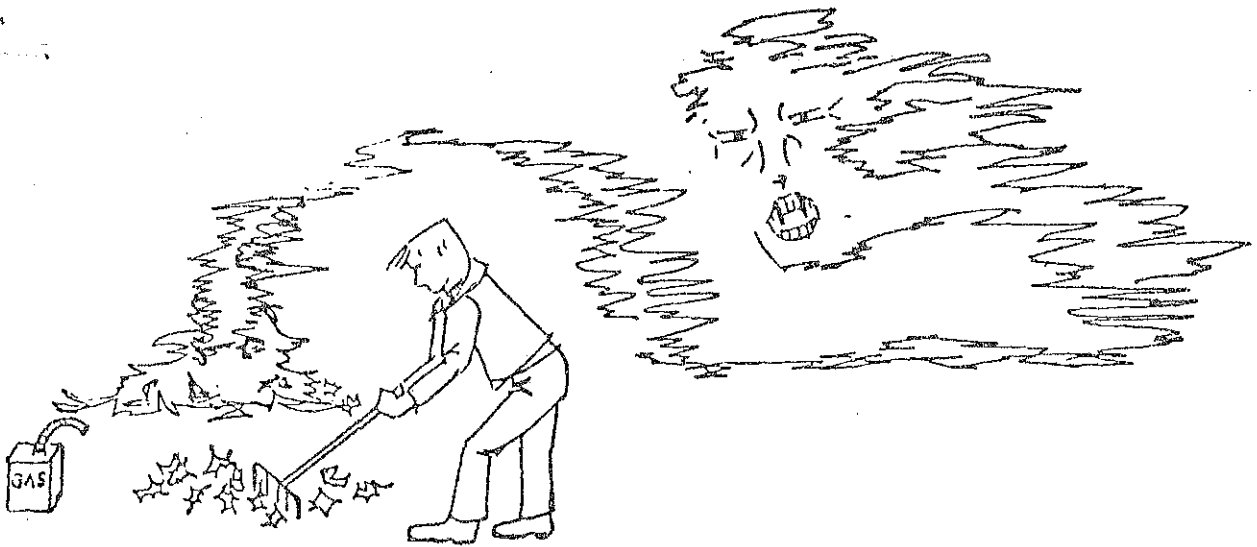
Enclosed is a mailer that was sent out by some folks that seem to have priority problems. They would also probably be the first to object if there were going to be a land-fill in their neighborhood.

I have said my piece. Thank you for your time.

Respectfully,

*John Gregory*

John Gregory



## Should we "postpone" cleaner air?

While most major cities in this country prohibited backyard burning decades ago due to its detrimental effect on air quality, Portland still allows this practice to continue. Every spring and fall, people are burning yard debris, often adding gasoline to their fires to keep the damp leaves burning (and smoking). Seeking to remove this source of air pollution, the Environmental Quality Commission, in June, 1979, banned backyard burning in the Portland Metropolitan Area, with the ban to take effect on December 31, 1980.

In the meantime, DEQ, Metro, and the cities and counties involved were to find solid waste alternatives. Despite the fact that they have made some progress on this (including recycling programs, centralized and individual composting, contacts with wood chipping companies, etc.), the DEQ now says that they need more time (although they have had 1½ years to accomplish this task). They are requesting a 6-month postponement of the ban which would allow another spring burning season. The danger in this delay is that, without pressure from the DEQ, those groups responsible will not make a real commitment to finding alternatives to backyard burning. In fact, it could lead to a removal of the ban entirely, obliterating years of hard work by air quality activists to improve our air.

Anyone who cares about clean air in our metropolitan area should make their views known at the public hearing on this postponement of the ban to be held at the next Environmental Quality Commission meeting on December 19th at 10:00 a.m.:

14th Floor Conference Room  
Yeon Building  
522 S.W. 5th Avenue  
Portland, Oregon

If you cannot make it to the hearing, please submit a written comment before December 19 to: Department of Environmental Quality, Air Quality Division, Box 1760, Portland, Oregon 97207.

For further information or assistance in drafting your testimony, call John Charles at the Oregon Environmental Council (222-1963), or Ann Kloka (242-0199, evenings).



5512 S. W. Shattuck Rd.  
Portland, Oregon 97221

Jan. 3, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
JAN 3 1981  
AIR QUALITY

Department of Environmental Quality  
Air Pollution Control  
522 S. W. Fifth  
Portland, Oregon 97205

Gentlemen:

We live in the southwest just inside the Multnomah county line and have a small orchard (twenty-two fruit trees).

Our question is - what do we do with the debris from our annual pruning of the twenty-two fruit trees plus the trimmings from our ornamental shrubs and trees if there is a ban on burning?

We normally would collect the burning material and burn only twice and occasionally only once a year. It would take all day but then it was finished. Now we will have the usual large pile of branches and twigs with no means of disposing of them if the ban is in effect.

We have also discovered, from past experience, that a pile of burning material untouched for a period of time, attracts rats creating a serious problem.

We feel our burning once or twice a year on days when it was allowed was not contributing as much to air pollution as someone burning in a fireplace or wood stove most every day.

We have no way of disposing of the burning material from our pruning and do not want to contribute to an increase in the rat population.

*Mrs. Phil Blunk*

Mrs. Phil Blunk

111

January 27, 1981

13401 S. E. Foster Road  
Portland, Oregon 97236

Department of Environmental Quality  
Post Office Box 1760  
Portland, Oregon 97207

Gentlemen:

We oppose very strongly your ban on backyard burning. It is a mystery to us how five people can vote and decide on this very important problem which affects so many thousands of people.

We are not even within the City limits.

Please re-consider the ban on backyard burning.

Very truly yours,

*Lester C. Eakin*  
*Mrs. Lester C. Eakin*

cc - Governor Victor Atiyeh

Mayor of Portland

Fire District #10

Solid Waste Division  
Dept. of Environmental Quality  
**RECEIVED**  
JAN 28 1981

November 3, 1980

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

In Re: Ban on Back-Yard Burning

Gentlemen:

We request that you reconsider the ban on backyard burning, effective December 31, 1980. We are very opposed to the ban on backyard burning as it would be a real hardship on us. We have a lot of brush to burn since we have an acre of ground. We could not afford to have the brush hauled away and we have no means of disposing of it. Permitting the brush to pile up (which is what we would have to do) would be a fire hazard, be a nesting ground for insects, and unwanted animals such as rats, mice, opossums, etc.

Please consider our plea not to ban backyard burning, effective December 31, 1980.

Very truly yours,

Mrs. L. C. Eakin  
13401 S. E. Foster Road  
Portland, Oregon 97236

cc - Fire District No. 10  
Office of Public Education  
P. O. Box 16368  
Portland, Oregon 97216

Solid Waste Division  
Dept. of Environmental Quality  
**RECEIVED**  
JAN 28 1981

To. D.E.Q.

# letters

## Exceptions to burning ban

In regard to the state ban on backyard burning, I wish to submit two justifiable exceptions:

(1) Those living on public lakes and streams, e.g. Blue Lake and particularly Johnson Creek, be exempted from the ban. There already exists a growing problem of trash thrown into creeks from bridges, or by bad neighbors. Any total ban will vastly increase the problem.

(2) Those people with one acre or more of maintained garden and/or orchard have huge volumes of non-compostable woody debris. Chipping would consume large quantities of fuel and the exhaust fumes contain more poisonous carbon monoxide and nitrous gases than are generated by open fires.

Dry rubbish creates little smoke (i.e. particles), but the DEQ seems always to wait until it is too wet to burn, hence smokes profusely and needs fuel oil to

keep it going.

For eligibility on (1) and (2) above I would suggest filing a print-out of the property and location.

Donald C. Birch  
675 SE Park Drive  
Gresham

*Please file as letter*

*Donald C. Birch*

## Burning ban alternative

Outlook subscriber Donald Birch has two interesting suggestions (see letters to the editor) on how to approach the Environmental Quality Commission's ban on backyard burning.

Briefly, he would exempt those living on lakes or creeks because of the debris problem, i.e. people dumping their unwanted debris in lakes or streams.

Secondly, he would exempt those people with an acre or more of maintained gardens or orchards.

He points out that these people have huge quantities of non-compostable material. Conversion of this into chips would consume considerable fuel and cause gas fumes as unpleasant as those coming from automobiles.

Dry rubbish, Birch points out, creates little smoke. He suggests the EQC should allow burning on other than wet days.

Reader Birch's comments make sense.

LAMAR TOOZE  
801 STANDARD PLAZA  
PORTLAND, OREGON 97204

February 20, 1981

The Honorable Victor Atiyeh  
Governor of the State of Oregon  
Office of the Governor  
State Capitol  
Salem, OR 97310

Dear Governor Atiyeh:

The citizens of the Portland metropolitan area have got to have some reasonable relief against the present permanent DEQ ban against "backyard burning."

I do not mean to suggest that the DEQ has abused its authority in this ban, but I do assert that its mandate should be tempered to relax the ban.

I daresay there are more citizens in St. Johns, or Southwest Portland, than there are in all of the rural areas of Oregon, yet the Portland citizens are denied the right to burn a little trash once or twice a year, while 1% of their number, down in the Willamette Valley, are entitled to burn a whopping 250,000 acres of stubble, producing an acrid smoke-pall that in comparison makes Pittsburgh at its worst look like a sylvan scene.

Now, that is just plain inequitable. If it's o.k. for a grass farmer to stink up a county, it's o.k. for a longshoreman to burn a few twigs in his backyard. If you ban the latter, you have to ban the former.

Technically, the ideal compromise would allow "backyard burning" in highly-controlled increments: Say, "Southwest" postal addresses one day, "Northeast" the next suitable day, etc. Indeed,

The Honorable Victor Atiyeh  
February 20, 1981  
Page 2

you could reduce the maximum one-day activity to 1/50th by using the five "quadrants" and ten final digits of mail addresses. All burning would depend on the weather and airflow. As before, the Portland radio stations would be glad to handle the communications.

Without some such adjustment, the people of Portland are either going to break the law because it is manifestly unfair, or they are going to endure (as I do now), messy little piles of debris which the garbage-man refuses to haul away. Either way, it is a very irritating failure of the political system.

Sincerely,



Lamar Tooze

LT:rr

ccs: The Honorable Frank Ivancie  
L. Douglas Brannock, DEQ

Doug

LAMAR TOOZE  
801 STANDARD PLAZA  
PORTLAND, OREGON 97204  
323-5181

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
JAN 11 1981

January 6, 1981

Oregon Department of  
Environmental Quality  
522 S. W. Fifth Ave.  
Portland, OR 97204

Gentlemen:

I need the following information:

1. Is the present moratorium on "backyard trash burning" in the Portland area intended to be permanent, or will it be permitted in 1981 and later years?
2. What is the geographical extent of the ban on "backyard trash burning"?
3. What is the Willamette Valley acreage allowance for grass-seed field burning in 1981?

Thank you for an early reply.

*Lamar Tooze*

LT:rr

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
JAN 11 1981

I was wondering if it could not  
 be worked out. I have the odd side  
 of the street been one day. The  
 down number out from the next.  
 provided it is OK by the A.E.C.  
 I am 81 yrs old, I have the case  
 and that Co. and have 100 ft of  
 down slope, 8 ft high. I have  
 all around the place a 70 ft high  
 fence. I now have only 3 feet from  
 the top after the 1962 storm. I have  
 a place away from every thing - a  
 water piped to a location in the  
 back yard. I have always been able  
 to clean up the work of home to burn.  
 I have no  
 however only 5 and I know that most  
 the lot of old people like me who  
 would have trouble disposing of the matter.  
 I'll put in water. But that's all I can do.

Regarding the outdoor

AIR QUALITY CONTROL

RECEIVED  
 JAN 9 1981  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 State of Oregon

Jan 7th 1981

Attention



V. A. DANIELS  
 3835 SW 91ST  
 PORTLAND, ORE.  
 97225





Brownock

DEQ

Forest Grove is a rural community not a big city, western Wash. Co. should really be a part of one of our neighboring counties, or a lone county, as we are very different from eastern Wash. Co. Come out & live here awhile.

People here have grapes, berry vines, and lots of fruit trees that have to be pruned every year (besides the ornamental shrubs). Most of this isn't big enough for the fireplace but too big for compost. If we couldn't burn it, the piles would start climbing towards the sky. We have clean air, we have no car or factory pollution, and have smoke in the air only a few days out of the year, when people have to burn wet leaves. If leaves could be burned when raked & dry there would be very little smoke emitted.

Already a lot of trees have been cut down, & if people can't burn there will be many more cut down. Then Forest Grove will have to change its name. Please continue burning in our area.

Mrs. Georgia Sylvester

Doug  
Forest Grove, Or.  
Feb. 27, 1981

D.E. Q.  
Portland, Or.

We have two acres within the city limits of Forest Grove. On these two acres are more than 1100 fir trees about 40 ft. high, with the lower limbs dying, within the thick stand; a fence-row with trees and much brush; a family orchard; shrubs and shade trees. I understand I can't get an agricultural permit to burn. I feel it is important to burn the leaves and trimmings. The ashes are also a help to the garden ground. None of our neighbors have complained about the smoke when I have burned.

Those I have talked to have said they hope there will be no ban on backyard burning.

Sincerely  
James C. Simonton

DECEIVED  
STATE OF OREGON  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
APR 4 1981  
AIR QUALITY CONTROL

8190909770

Portland

1637 N. E. - 119th Ave

Mr + Mrs Henry Becker

Thank you

Your care help

It would be fine if hope

we stay in the face + summer

it may if we could have

there is no way to have

try to keep our yard clean

years and have no help

hope as we are in our lots

to have our tree planting of

lots fine in the Multnomah County

we hope may help the

my neighbors too

Deanna Richards

March 1 - 88

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March 9, 1981

Dept. of Environmental Quality  
522 - S. W. 5<sup>th</sup> St.  
Portland, Oregon  
97204

Dear Sir:

This letter is in protest to your recent ban on back yard burning. We live on an acre of ground on which we have 10 large fruit trees plus cane berries, grape arbor and numerous shrubs & shade trees. All these need pruning each year. These prunings plus leaves and grass clippings must be disposed. We are a retired couple, living on a fixed income, so disposal of this refuse would be a hardship. In the past years, a few days of burning in the spring and fall, has been adequate. We hope you will reconsider your ban on burning.

Sincerely,  
Mr. & Mrs. M. Lockwood

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
MAR 10 1986

AIR QUALITY CONTROL

3825 SW Hamilton  
Portland Ore 97221

Dept. of E. Q.

Dear all (not so dear)

I would like to protest the  
burn ban as I cannot see  
why it is necessary. For me  
the only solution is controlled  
burning when conditions are  
O.K. This is a prime  
example of Government overkill.

We apparently do not  
have enough land fill yet  
your dept wants to make  
conditions worse.

Let's have controlled burning!

H. B. Jacobsen

Phone 223-7816

LDB

BRUCE H. RUSSELL  
4921 S.W. HEWETT BOULEVARD  
PORTLAND, OREGON 97221

April 1, 1981

Dept. of Environmental Quality  
c/o Doug Brannock  
Box 1760  
Portland Or 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
APR 2 1981

AIR QUALITY CONTROL

Dear Sirs:

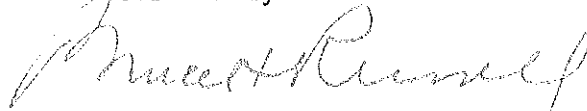
I would like to put on record my strong objection to any ban on backyard burning. Stringent controls may be justified but a ban, in my view, is not.

Two reasons support this position:

- 1) There is no convincing evidence that, with proper controls, burning will increase pollution in any significant way.
- 2) There is no real alternative to burning in maintaining the tree and brush covered areas that cover, for example, the West Hills. If cleaning up is made too difficult and expensive, these areas will not be cleaned up. In time, a real fire hazard and perhaps a fire would result.

Let the regulation fall on when to burn - and How to burn. Trash fires need not be smoky, smudge-pot nuisances.

Yours Truly



Bruce H. Russell

114

LD B

5512 S. W. Shattuck Rd.  
Portland, Or. 97221

March 10, 1981

Department of Environmental Quality  
Air Quality Division  
Box 1760  
Portland, Or. 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
MAR 13 1981

AIR QUALITY CONTROL

Gentlemen:

Having read the proposed rule package, I would like to make a few comments.

First, too many of the figures reported in the survey were at best, just estimates and guesses to be of real value. Even some of the modeling techniques used were quite inconclusive as information was derived from such sources as "back yard burning occurred on only one day analyzed during PACS" and "The KOIN tower TSP site at the top of the West Hills, the only site operating that day".

Also, the Yard Debris Survey hardly gives a clear picture when you consider the small percentage available for tabulation and that by far the largest percentage who responded had small lot sizes of 50 x 100 with probably little need for burning.

Back yard burning accounts for a relatively small amount of the total pollution in the air over a year. If the concern is on the "worst day" situations, divide up the areas for alternate allowed burning days.

The report seemed to really only address the hauling of debris by garbage can fulls. It certainly is impossible to contain fir tree limbs, prunings from fruit and ornamental trees in cans. And then too, there are situations like ours where the only access to the back of our half acre is through the garage. Also, as to "picking up" debris for hauling, where and how would large amounts be placed and contained? Also, residences in areas without sidewalks or parking strips would create a problem.

The proposed residential fee for hardship cases supposedly based on administration costs seems quite high. Also, even if an owner had a means of hauling to a landfill or collecting area, the cost and difficulty would probably prevent him from making very many trips and piles of debris would become the norm rather than the exception.

The dangers of this are many, including fire hazards, havens for rodents and the like, etc. Even so far this year, piles of debris are becoming more evident.

115

2 - Dept. of Environmental Quality

It would seem if backyard burning with some control such as adequate space to accomodate burning to eliminate fire hazards and only wood debris was burned during designated "burn days", that there would be little viable complaints. There seems to be no real alternative to burning for homeowners.

Sincerely,

*Luana Blunk*

(Mrs) Luana Blunk



6937 S. W. 31 Ave.  
Portland, Ore 97219  
Mar. 15, 1981

D.E.Z.  
522 S. W. 5<sup>th</sup> Box 1760  
Portland, Ore 97207

Dear Sirs:

With great joy and heartfelt  
thanks we read the headline re:  
Lifting of the burning ban.  
Thank you, Thank you, Thank you  
for considering the homeowners!  
We own a one family home on  
a 100x200 lot. We have: 1 fig, 2  
Cherry, 2 prunes, 3 apple, 3 pear, 2  
walnut, 1 Filbert, raspberries, boysen,  
berries, a Laurel hedge, lilacs, rhodias,  
roses, camellias, a Hawthorne, a  
Holly tree -

We have always composted  
everything compostible. We have  
always saved and cut limbs 2"  
and above, dried them & used  
them in our fireplace the following  
year.

But water sports, ducks, ferry  
comes, freely (with big mowers, etc.)  
dressed in brown canvas, etc.,  
etc., etc. - are beyond me!

We honestly and sincerely for  
several days your running, your  
around, in sleep with you in  
movement in that matter. All my

summer from age one to my  
eighteen was spent in England.

All that happens at least two nights  
every week every summer. The most  
mischanceless, and very very and  
breathed wood smoke like you

occident's. I believe. None of us  
five families, (Ten adults and 13

children) have ever had anything or  
frenchise problems. My <sup>best</sup> friend, all

year at 88 from a heart attack, my  
from in 88 plus - heart, independent

Again, thank you!  
Sincerely,

Franklin King  
(Mrs. William E.)

MR. Dave Brannock  
DEQ  
P.O. Box 1760  
Portland OR 97207

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
MAR 23 1981  
AIR QUALITY CONTROL

March 15, 1981

Dear Sir:

While I am uninformed as to the Nature of proposed changes in the regulation of 'backyard burning', I am very much in favor of allowing homeowners to dispose of organic debris in this manner for the following reasons:

- Landfill sites - with the difficulty associated with locating appropriate sites for disposal of waste it seems illogical to hasten the need for another landfill by filling it with 'Non-garbage'.
- Pollution - As a layman, I have no data to support my concerns, but I do question the relative volumes/types of pollution caused by the backyard brush burn opposed to the alternative of hauling the limbs, etc in multiple 20 mile roundtrips to the county disposal facility in Glenwood. Beyond the pollution I would directly produce in these trips the pollution caused in a secondary way would need to be figured in - such as transport of gasoline to station I bought my fuel from - the fuels used to move my brush out of Glenwood to the landfill etc.
- Energy - referring to the fuels used in the transport of brush - we're using a resource for which reasonable alternatives exist. Then there's my personal energy - some days just getting the trees pruned is all I can manage, let alone load it into a pickup. Not so facetiously, several of my neighbors are elderly and have no access to transportation other than a car. If they couldn't burn their limbs it would be more burdensome than just hauling it - either they'd have to hire someone to haul them or find a friend.

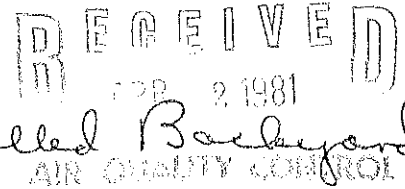
Vector Control — If disposal of berry vines, tree limbs, etc were made more difficult it seems reasonable to assume there would be an increase in brush piles that didn't get hauled to the dump for a variety of reasons. These brush piles could promote the increase of rats, mosquitos etc. Additionally, brush piles foundering in the backyard of the Neighbor either unable or disinclined to get rid of it aren't particularly pleasing to the eye.

Beyond the above, there's a personal satisfaction I would lose — a sense of accomplishment — if I couldn't burn the limbs I spent the chilly day trimming. Perhaps it's suppressed pyromania or it's an extension of the campfire, but it's a way to unwind — poking around the edges of the brushfire occasionally warming your backside.

Thanks for the opportunity to comment.

Sincerely,

Gerald Betts  
535 Bushnell Lane  
Eugene OR 97404



# Statement

Supporting Continued Controlled Backyard  
Burning.

To the Environmental Quality Commission

March 30, 1981

My name is Harry Sherman Jr, my wife and I live on a  $\frac{3}{4}$  acre lot at 1429 Rosearden Drive, Forest Grove, Oregon 97116.

The fruit trees, cane berries and vegetable garden grow much of our food which makes it possible for us to continue to live on this property with our fixed income.

It is essential for us to have the opportunity to burn our yard debris because when it accumulates we have rats, skunks, possums and other rodents in a very short time.

Since backyard burning has always been a right of the homeowner, a part of the airshed should be saved for that purpose. We believe, that if industry, farmers, or others need to use this part of the airshed then let them pay for the removal of the backyard debris.

Backyard burning is so very important to us because we depend on the food from our trees

Page 2

and garden to supplement our income. Easy, cheap disposal is as important to us as it is to farmers, industry and others.

We question the actual amount of damage backyard burning does to the air, since it is so well controlled.

We know that different locations are different and that more backyard burning is possible in rural areas than urban areas.

We urge you to find ways of low cost disposal of backyard debris that will not penalize the senior citizen taxpayers.

We think the best way is controlled burning.

Respectfully submitted for consideration.

Harry Skerms Jr.  
March 30, 1981

182

EQC  
AQ

June 29, 1981

RECEIVED  
JUL 02 1981  
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Department of Environmental Quality  
Salem, OR.

RECEIVED  
JUL 8 1981  
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
Salem, Oregon  
OFFICE OF THE DIRECTOR

AIR QUALITY CONTROL

Dear Sir,

I hope this letter reaches the proper department of environment control. I wish to express my appreciation to the DEQ people who permitted backyard burning in the season just past. I hope that the decision to allow future will be made.

I live in a semi-rural on the edge of the City of Milwaukie, close to Clackamas High School. We have a great deal of shrubbery, evergreen and fruit trees on our lot. These require yearly pruning and cutting back. Having to haul all the clippings to a land fill would be an enormous task. So being able to burn the accumulation on a day is really appreciated. I hope we can continue to do so.

RECEIVED  
JUL 7 1981  
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

Sincerely  
Norm Kuhlman  
6035 S.E. Willow Lane  
Milwaukie, OR.

December 18, 1980

Department of Environmental Quality  
Air Quality Division  
Box 1760  
Portland, Oregon  
97207

Dear D.E.Q.:

As a former science teacher and resident of Portland, I feel the postponement of the ban on burning would be irresponsible. If we are to respect our air quality and in turn improve it then a ban on burning is one positive step toward that much needed goal.

With the increase of woodstove use and a recently voted increase of the parking capacity of down town Portland, how can we allow this postponement?

But most important, in light of our recent air alert, can we ignore this one most important aspect of air quality improvement?

Sincerely,

*Sharon Lee Casey*

Sharon Lee Casey

s/c

1/14



LDB  
12705 S.E. River Rd. 502A  
Portland, Or. 97222



Dept. of E. & D.  
Portland, Or.

ty

Gentlemen:

I hope you won't change  
your mind and allow any backyard  
burning. It seems so good to be able to  
open the windows at night for fresh,  
smokeless air.

I arrived from California  
seven years ago and have not been able  
to have the windows open at night very  
often until now.

California has not allowed  
backyard burning for at least ten years,  
except for barbecues. We lived on three  
and a half acres in the country but had  
garbage service. Every so often we paid  
them extra to grind it up and haul it  
away.

Please stick to your guns  
Yours truly,  
M. Davine Hubbard

10011 SE Wichita Ave.  
Portland, OR 97222  
March 3, 1981

Environmental Quality Commission  
P.O. Box 1760  
Portland, OR 97207

Gentlemen:

Limitation of backyard burning has greatly improved the air in this area.

Last year you allowed burning about six months, which was too much. People leave the fires to smolder and ruin the air for everyone in the neighborhood.

Why not allow a short burning period in the Spring and in the Fall? By short, we mean a matter of weeks instead of months.

Yours truly,

Mr. and Mrs. Harvey Maddux

*Harvey Maddux*  
*Mrs. Harvey Maddux*

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 5 1981

AIR QUALITY CONTROL

3-17-81

DEQ  
522 SW 5th  
Portland OR

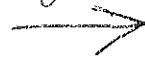
State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
MAR 19 1981  
AIR QUALITY CONTROL

Dear DEQ Administrators,

We are very disappointed with your relaxing the ban on backyard burning. The air quality is very bad here since the burning started.

We and our neighbors were all learning to cope without backyard burning. You make us feel foolish for all the cutting & hauling we've done with our branches.

Please put the ban on backyard burning back in effect NOW - permanently.



Sincerely  
Lola Durkin  
Honor Durkin

April 6, 1981

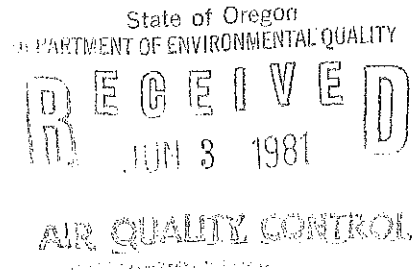
Dear Sir/Madam:

I am opposed to the action of the Environmental Quality Commission in lifting its ban on backyard burning. The decision to put the ban into effect on January 1, 1981, was made with deliberation; area citizens and local governments had sufficient warning to prepare alternatives to backyard burning. That they failed to do so is not sufficient reason to reverse the decision. Thank you.

Margaret R. Larson  
831 S.W. Vista Avenue, #209  
Portland, Oregon 97205

100

June 1, 1981  
1400 Hours  
77°



"Is Your Air Fresh?"

D.E.Q.C.  
P. O. Box 1760  
Portland, Oregon 97207

I live at 2804 S. E. Vineyard Way, Milwaukie, Oregon,  
97222 ..... which is south of Milwaukie.

On Sunday, March 31, 1981, I awoke to a beautiful  
Sunday morning..... so my wife decided to wash  
blankets and other types of bedding. Myself, I de-  
cided to wash our car and the outside of our house  
which we done.

The next thing ..... this guy across the street  
lites this smudge fire ..... totally stinking  
and smoking up the area to no end. Then we get the  
fly ash all over our blankets, car, etc.

In this populated area, BURNING MUST BE OMITTED.  
I am voting "NO" ON ALL OPEN BURNING. I JUST  
CANNOT BREATHE ANYMORE.

Sincerely Yours,

*Jack Paveletz*

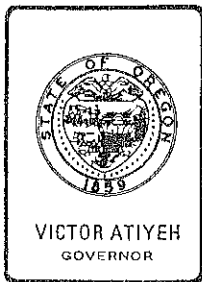
Jack Paveletz  
2804 S.E. Vineyard Way  
Milwaukie, Oregon 97222

JP:mp

187

ATTACHMENT C

Notice of Hearing and Statement of Need



# Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

Prepared: January 16, 1981

Hearing Date: March 9-27, 1981

## NOTICE OF PUBLIC HEARING

### A CHANCE TO BE HEARD ABOUT:

#### PROPOSED REVISION OF OPEN BURNING RULES

The Department of Environmental Quality has proposed revisions to its Open Burning Rules which reorganize the rules and make several changes in operation under the rules. Portions of these rules may affect the Clean Air Act State Implementation Plan. Hearings will be held in March to accept comments on the proposed changes.

### WHAT IS THE DEQ PROPOSING?

Interested parties should request a copy of the complete proposed rule package. The proposed open burning rules have been completely reorganized and rewritten for the purpose of making them easier to understand. In addition changes are proposed which would have the following effects:

- \*\* Establish a boundary roughly equivalent to the boundaries of the Metropolitan Service District boundaries around Portland where backyard burning is prohibited.
- \*\* Remove a date for a proposed ban on backyard burning in the Willamette Valley outside of the Portland area.
- \*\* Extend the Department's ability to regulate under adverse meteorological conditions, all types of burning including agricultural, backyard, commercial and demolition in counties outside the Willamette Valley.
- \*\* Add petroleum-treated wood, such as railroad ties and wharf piers, to the list of materials that are prohibited from being burned.
- \*\* Change backyard burning hours in the Willamette Valley to the period from 7:30 a.m. to two hours before sunset.
- \*\* Remove Columbia County from the Portland-area backyard burning ban.

- \*\* Remove the existing prohibition of demolition open burning in the coastal cities of Coquille, Florence, Lincoln City, Newport, Reedsport and Tillamook.
- \*\* Reorganize the rules to facilitate understanding.

WHO IS AFFECTED BY THIS PROPOSAL?

- \*\* Citizens of the Willamette Valley and Columbia County who have an interest in "backyard burning".
- \*\* Anyone, including contractors, businessmen, and farmers who conduct open burning as a part of business anywhere in the State.
- \*\* Local government agencies, especially fire districts.

HOW TO PROVIDE YOUR INFORMATION

Written comments should be sent to the Department of Environmental Quality, Air Quality Division, Box 1760, Portland, Oregon 97207, and should be received by March 31, 1981.

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

<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Gresham	7:00 p.m.	March 9, 1981 (Monday)	Gresham City Hall 1333 NW Eastman
Medford	7:00 p.m.	March 10, 1981 (Tuesday)	Jackson County Courthouse Auditorium 10 South Oakdale
Eugene	7:00 p.m.	March 12, 1981 (Thursday)	Lane County Courthouse Commissioners Room 125 East Eighth St.
Bend	7:00 p.m.	March 16, 1981 (Monday)	Bend City Hall Commission Chambers 720 Wall St.
Portland	7:00 p.m.	March 18, 1981 (Wednesday)	Multnomah County Courthouse 1021 SW Fourth
Hillsboro	7:00 p.m.	March 19, 1981 (Thursday)	Council Chambers 205 SE 2nd
Coos Bay	7:00 p.m.	March 23, 1981	Community Building Junior Auditorium 115 N. Berg



<u>City</u>	<u>Time</u>	<u>Date</u>	<u>Location</u>
Pendleton	7:00 p.m.	March 25, 1981 (Wednesday)	Pendleton City Hall Council Chambers 34 SE Dorian

Opportunity for an oral hearing in other communities not specifically listed above shall be granted upon request, if notification is received from ten persons or from an association having not less than ten members within 15 days after issuance of this notice. Call toll free 1-800-452-7813.

WHERE TO OBTAIN ADDITIONAL INFORMATION

Copies of the proposed rules may be obtained from any DEQ regional or branch office, or:

L.D. Brannock, Meteorologist  
DEQ Air Quality Division  
Box 1760  
Portland, Oregon 97207  
(503) 229-5836  
Toll Free 1-800-452-7813

LEGAL REFERENCES FOR THIS PROPOSAL:

This proposal amends OAR Chapter 340 Division 23. It is proposed under authority of ORS Chapters 183 and 468 including Sections 468.020, 468.290, 468.310 and 468.450.

This proposal does not affect land use as defined in the Department's coordination program with the Department of Land Conservation and Development.

FURTHER PROCEEDINGS

After public hearing the Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted regulation may be submitted to the Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in June, 1981 as part of the agenda of a regularly scheduled Commission meeting.

A statement of Need and Fiscal Impact Statement are attached to this notice.

## STATEMENT OF NEED FOR RULEMAKING

The Environmental Quality Commission intends to adopt revised Open Burning Rules, OAR 340-23-022 through 340-23-080.

### Legal Authority

ORS Chapter 468 including:

ORS 468.020, 468.045, 468.065, 468.290, 468.295, 468.310, 468.450, and 477.515.

### Need for the Rule

1. The current open burning rules impose a Domestic open burning prohibition in Clackamas, Columbia, Multnomah and Washington counties which include areas where practicable disposal alternatives are not available. In addition, a prohibition on domestic open burning in Benton, Lane, Linn, Marion, Polk and Yamhill counties is scheduled to take effect on July 1, 1982. New legislation prevents the Commission from adopting such a prohibition unless it finds that the ban is necessary to maintain air quality standards and alternatives are available to a substantial majority of the affected population.

The proposed rules do not impose a date for a permanent prohibition of domestic open burning and provide specified times when such burning can be done.

2. The Environmental Quality Commission has determined that the rules are not easily comprehended by the public and that they need to be rewritten. The organization and language of the proposed rules are revised to make the rules easier to read and understand.
3. Open burning, including agricultural open burning is creating public concern in various areas of the state including Medford. The Environmental Quality Commission has never implemented specific authority to regulate open burning outside of the Willamette Valley. In addition, the open burning rules have exempted agricultural open burning even though exemption is not a requirement of the law. In the proposed rules the agricultural exemption has been removed from areas in western Oregon and provisions have been added to control open burning, including agricultural open burning, outside the Willamette Valley under a schedule of adverse meteorological conditions based upon meteorological and air quality factors. This proposal will allow minimal control of open burning based on air quality and meteorological factors.
4. The prohibition of construction, demolition and land clearing open burning in open burning control areas on the coast is not necessary except for the Coos Bay and Astoria areas and causes undue hardship in

the small developing areas. Changes are proposed to allow this type of burning on the coast.

Fiscal Impact Statement

The current rules will have a considerable economic impact on local governments in the areas where open burning is banned. Local governments and the public will be required to find and fund disposal alternatives for yard debris.

The proposed revision will allow disposal of waste to continue by open burning giving a beneficial fiscal impact on those areas where open burning was scheduled to be prohibited.

The economic impact on individuals will be minimal. At most it will involve postponement of desired burning activities on a few of the worst air quality days.

Principle Documents Relied Upon

1. Personal communication with fire chiefs/marshalls of local fire districts, local elected officials, city and county governments, the Portland-Vancouver AQMA Air Quality Advisory Committee, and the Lane Regional Air Pollution Authority.
2. Requests from citizens to change the burning ban.
3. Environmental Quality Commission action on June 29, 1979 requesting the Department to revise the language of the rules to make them more clearly understandable.
4. Hearing record.
5. Senate Bill 327, 1981 Legislation.

AI752

Revised August 5, 1981

ATTACHMENT D

Letter from Attorney General to W. H. Young giving opinion regarding agricultural open burning under ORS 468.450

DAVE FROHNMAYER  
ATTORNEY GENERAL



*Young  
Weatherbee  
O'Connell*

**DEPARTMENT OF JUSTICE**

100 State Office Building  
Salem, Oregon 97310  
Telephone: (503) 378-4400

March 13, 1981

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 17 1981

Mr. W.H. Young, Director  
Dept. of Environmental Quality  
522 S.W. Fifth Ave.  
Portland, OR 97207

AIR QUALITY CONTROL

Re: Opinion Request OP-5079

Dear Mr. Young:

Enclosed is my formal Opinion No. 8010, which has just been issued in response to your questions regarding agricultural open burning under ORS 468.450, and related questions.

Very truly yours,

DAVE FROHNMAYER  
Attorney General

DF:ct  
Enclosure

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAR 17 1981

OFFICE OF THE DIRECTOR



DEPARTMENT OF JUSTICE

100 State Office Building  
Salem, Oregon 97310  
Telephone: (503) 378-4400

March 13, 1981

No. 8010

This opinion is issued in response to questions presented by William H. Young, Director of the Department of Environmental Quality.

FIRST QUESTION PRESENTED

Can the Environmental Quality Commission (EQC) regulate agricultural open burning under ORS 468.450?

ANSWER GIVEN

Yes. EQC can regulate any agricultural open burning, not limited to field burning.

SECOND QUESTION PRESENTED

Can EQC regulate these activities outside of the Willamette Valley counties?

ANSWER GIVEN

Yes.

THIRD QUESTION PRESENTED

Can EQC regulate these activities pursuant to a smoke management program?

ANSWER GIVEN

Yes.

FOURTH QUESTION PRESENTED

Can EQC regulate the manner in which burning is conducted under its authority to regulate the "types and extent" of burning?

ANSWER GIVEN

Yes.

DISCUSSION

The questions presented relate to the jurisdiction of the Environmental Quality Commission over open burning, other than field burning in the Willamette Valley, conducted as a part of an agricultural operation. The burning involved could include stumpage and brush from field clearings, barn cleanings, fence line weeds, orchard prunings, field burning outside the Willamette Valley, etc.

The air pollution control laws generally are contained in ORS ch 468. There is a broad exemption, with three specified exceptions, from all the provisions of the chapter, for agricultural operations other than field burning. The exemption also applies to residential barbecue and heating equipment, and to burning for purposes of official weed abatement, fire hazard elimination, etc. This exemption is set forth in ORS 468.290, which provides in part:

"Except as provided in this section and in ORS 468.450, 476.380 and 478.960, the air pollution laws contained in this chapter do not apply to:

"(1) Agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.480 and this section;

"(2) Use of equipment in agricultural operations in the growth of crops or the raising of fowls or animals, except field burning which shall be subject to regulation pursuant to ORS 468.140, 468.150, 468.455 to 468.485 and this section;

". . . .

"(4) Agricultural land clearing operations or land grading; . . ."

The general public understanding of this exemption has been that a farmer could burn orchard prunings (etc.) without regulation based on pollution control requirements. This may also have been the administrative construction, in view of the exemption provided in EQC rule OAR 340-23-035(4) for "[o]pen burning as a part of agricultural operations . . . ," from EQC's statewide general open burning rules. See OAR ch 340, div 23.

We are now asked, however, whether EQC may amend its rules to eliminate that exemption and subject agricultural open burning to regulation, by authority of ORS 468.450. That statute is specifically named as an exception to the exemptions granted by ORS 468.290, quoted above. We conclude that EQC does have authority to regulate all agricultural open burning under ORS 468.450.

ORS 468.450, since its enactment as Or Laws 1969, ch 613, sec 1, has been the primary control over all open burning. It is captioned "Regulation of field burning on marginal days."



(Emphasis added.) However, we disregard the caption, as it was added by Legislative Counsel as the compiler of ORS and is not a part of the statute. ORS 174.540.

ORS 468.455 to ORS 468.485 provide additional regulations for field burning. These statutes have primary impact upon Willamette Valley grass seed and grain crops. The burning schedules required to be adopted under ORS 468.450(2) must give priority to such grass seed and grain crops, ahead of "all other burning." But ORS 468.450 according to its terms is not limited, as the following statutes (ORS 468.455 et seq.) are, to field burning, nor is it limited to the Willamette Valley.

The problem is that if ORS 468.450 is applicable to agricultural open burning other than Willamette Valley field burning, the agricultural exemption in ORS 468.290 would appear at first blush to be virtually meaningless. It is argued that this justifies seeking a way to find that ORS 468.450, so far as agriculture is concerned, applies only to field burning. But any such conclusion becomes impossible after reviewing the history of these statutes.

The exemption statute, ORS 468.290, predates 1969. It originally contained no exceptions. Agricultural burning was totally exempt from the air pollution laws. See ORS 449.775 (1967 replacement part), as ORS 468.290 was then numbered.

As previously noted, ORS 468.450 was then enacted as Or Laws 1969, ch 613, sec 1. Sections 2 and 3 of the same Act amended ORS 476.380 and 478.960 to provide that burning permits could be

issued (by rural fire protection districts, and by fire prevention authorities in other areas, respectively), only in accordance with burning schedules of the EQC's predecessor, the State Sanitary Authority, created under the new open burning regulatory statute. And section 4 amended ORS 449.775, as the exemption statute was then codified, by adding the words "Except as provided in this 1969 Act . . . ." (Emphasis added.)

Thus the legislature created a new statute providing for comprehensive regulation of open burning, and in the same Act specifically narrowed the agricultural exemption statute, to make agricultural open burning subject to the new statute. We have not examined the 1969 statutes to determine what other air pollution laws then existed which would have been applicable to agricultural open burning, but for the exemption. But if the effect of the 1969 law was to make the agricultural exemption virtually meaningless, because agricultural open burning was made subject to comprehensive regulation, that was clearly the legislative intent. In fact, we can think of no clearer indication of legislative purpose.

Further, the additional Willamette Valley field burning regulation statutes contained in ORS 468.453 did not then even exist, but were enacted in their original form two years later by Or Laws 1971, ch 563. All agricultural open burning, and not merely field burning, is subject to regulation under ORS 468.450.

No extended discussion of the second question is necessary. Although the more restrictive field burning limitations in ORS

468.453 to 468.490 impact primarily upon the Willamette Valley, ORS 468.450, 476.380 and 478.960 have statewide scope and contain no geographic limitations. Field burning outside the Willamette Valley has the same status as all other open burning.

The third question is not quite so easy to answer. ORS 468.455 declares it to be ". . . the public policy of the state to reduce air pollution from open field burning by smoke management . . . ." (Emphasis added.) But ORS 468.455 is not one of the statutory exceptions to the agricultural exemption, and farm burning other than Willamette Valley field burning is not subject to ORS 468.455.

Nevertheless, the schedule adopted under ORS 468.450(2) can contain the elements of a smoke management program. The schedule must specify the extent, duration and types of burning to be allowed under different combinations of atmospheric conditions. ORS 468.450(2). The smoke management program similarly schedules the times, places and amounts of open burning. ORS 468.453(2)(d). The schedule adopted under ORS 468.450 regulates burning occurring under "marginal conditions." Marginal conditions are defined in ORS 468.450(1)(a) to mean

". . . atmospheric conditions such that smoke and particulate matter escape into the atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety."

This language expresses an intent similar to that expressed in ORS 468.453(1) regarding the escape of smoke and particulate matter into the atmosphere with minimal intrusion into cities and

minimal impact on public health. A schedule adopted pursuant to ORS 468.450, regulating the extent, duration and types of burning with a view to the escapement of smoke into the atmosphere, can therefore accomplish much of the same result as a smoke management program as defined by ORS 468.453(2).

Finally, EQC has authority to regulate the manner in which burning is conducted. It is given authority under ORS 468.450(2) to regulate the "types and extent of burning" and the duration of time during which burning is allowed during the day. The authority to regulate the "types and extent of burning" includes authority to regulate the manner in which burning is conducted, not merely the materials that can be burned.

ORS 468.450(3) provides that

". . . in preparing this schedule . . . the commission shall weigh the economic consequences of scheduled burnings and the feasibility of alternative actions, and shall consider weather conditions and other factors necessary to protect the public health and welfare."  
(Emphasis added.)

In its general open burning rules, EQC has long required those "alternative action[s] and . . . other factors necessary to protect the public health and welfare" under its power to regulate the "types and extent of burning." For example, OAR 340-23-040 provides, in pertinent part, as follows:

"(4) Open fires allowed by these rules shall be constantly attended by a responsible person until extinguished.

"(5)(a) All combustible material to be open burned shall be dried to the extent practicable to prevent emissions of excessive smoke.

"(b) All combustible material to be open burned shall be stacked or windrowed in such a manner as to eliminate dirt, rocks, and other noncombustible material, and to promote efficient burning. Equipment and tools shall be available to periodically re-stack the burning material to insure that combustion is essentially complete and that smoldering fires are prevented.

"(6)(a) Open burning which creates any of the following is prohibited:

"(A) a private nuisance;

"(B) a public nuisance;

"(C) a hazard to public safety.

"(b) If subsection (a) hereof is violated, the person or persons responsible for the open burning under these rules shall immediately abate the nuisance or hazard.

"(c) This section applies equally to otherwise authorized and unauthorized open burning.

"(7) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to, household garbage, plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking or service of food is prohibited.

"(8) If the Department determines that open burning allowed by these rules may cause or is causing a public nuisance, the Department may require that the burning be terminated or that auxiliary combustion equipment or combustion promoting materials to [sic] be used to insure complete combustion and elimination of the nuisance. Auxiliary combustion equipment required under this section may include, but is not limited to, fans or air curtain incinerators. Combustion promoting materials may include, but are not limited to, propane, diesel oil, or jellied diesel."

The above rules serve the purpose of minimizing the amount of pollutants and the adverse effects of open burning by regulating

the manner of burning. So regulating the manner of burning also helps achieve the policy and purpose of the air pollution control statutes. This policy and purpose are set forth as follows:

"In the interest of the public health and welfare of the people, it is declared to be the public policy of the State of Oregon:

"(a) To restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state." ORS 468.280.

"It is the purpose of the air pollution laws contained in . . . this chapter to safeguard the air resources of the state by controlling, abating and preventing air pollution under a program which shall be consistent with the declaration of policy in this section. . . ." ORS 468.285.

We accordingly conclude that EQC has power to regulate the manner of agricultural open burning under ORS 468.450.



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ATTACHMENT E

Proposed Rules for Open Burning, OAR 340-23-022 through 340-23-080

DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 340

DIVISION 23

[In the following proposed rules new material has been underlined and deleted material is contained in brackets and is also lined out [thus].]

How to use these Open Burning Rules

340-23-022

(1) These rules classify all open burning into one of seven classes: (a) Agricultural, (b) Commercial, (c) Construction, (d) Demolition (which includes land clearing), (e) Domestic (which includes burning commonly called "backyard burning" and burning of yard debris), (f) Industrial or (g) Slash.

Except for field burning within the Willamette Valley and slash burning which is controlled by the forest practices smoke management plan administered by the Oregon Department of Forestry, these rules prescribe requirements for and prohibitions of open burning for every location in the state. Generally, if a class of open burning is not specifically prohibited in a given location, then it is authorized subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. In addition, some practices specifically mentioned in OAR 340-23-035 are exempted from regulation under these rules.



(2) Organization of rules

- (a) OAR 340-23-025 is the Policy statement of the Environmental Quality Commission setting forth the goals of these rules.
- (b) OAR 340-23-030 contains definitions of terms which have specialized meanings within the context of these rules.
- (c) OAR 340-23-035 lists specific types of open burning and practices which are not governed by these rules.
- (d) OAR 340-23-040 lists general requirements which are usually applicable to any open burning governed by these rules.
- (e) OAR 340-23-042 lists general prohibitions which apply to most open burning.
- (f) OAR 340-23-043 establishes the open burning schedule based on air quality and meteorological conditions as required by ORS 468.450.
- (g) OAR 340-23-045 indexes each county of the state to a specific rule giving specific restrictions for each class of open burning applicable in the county.
- (h) OAR 340-23-050 through 340-23-060 are rules which give specific restrictions to open burning for each class of open burning in the counties named in each rule.
- (i) OAR 340-23-070 provides for a letter permit authorization for open burning under certain circumstances which otherwise would be prohibited.
- (j) OAR 340-23-072 establishes criteria for use of forced-air-pit incineration.

- (k) OAR 340-23-075 requires fire permit issuing agencies to keep records and reports.
- (l) Oar-340-23-080 contains the legal description of Open Burning Control areas and maps which generally depict these areas.
- (3) Use of these rules will be made easier by using the following procedure:
- (a) Read OAR 340-23-040 and OAR 340-23-042 to understand general requirements and prohibitions which apply to all burning which is governed by these rules.
- (b) In OAR 340-23-030 read the definitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning plus the definitions of land clearing and yard debris to determine the type of burning of concern. Also read OAR 340-23-035 to determine if the type of burning is exempted from these rules.
- (c) Locate the rule (OAR 340-23-050 through OAR 340-23-060) which governs the county in which burning is to take place. OAR 340-23-045 is an index of the county rules.
- (d) Read the sections of the county rules which apply to the type of burning to be accomplished.
- (e) If not prohibited by these rules, obtain a fire permit from the fire district, county court or county commissioners before conducting any burning.
- (f) If the type of burning proposed is prohibited by these rules, refer to OAR 340-23-070 (Letter Permits) or OAR 340-23-072 (Forced Air Pit Incinerators) for a possible alternative.

## Policy

**340-23-025** In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission: to eliminate open burning disposal practices where alternative disposal methods are feasible and practicable; to encourage the development of alternative disposal methods; to emphasize resource recovery; to regulate specified types of open burning; to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and to require specific programs and timetables for compliance with these rules.

## Definitions

**340-23-030** As used in these rules unless otherwise required by context:

- (1) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops or by the raising and sale of [~~or-the-produce-of,~~] livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose; it does not include the construction and use of [~~human~~] dwellings customarily provided in conjunction with the agricultural operation.
- (2) "Agricultural open burning" means the open burning of any agricultural waste.
- (3) "Agricultural waste" means any material actually generated or used by an agricultural operation but excluding those materials

described in OAR 340-23-042(2).

(4) "Auxiliary Combustion Equipment" includes, but is not limited to, fans or air curtain incinerators.

(5) "Combustion Promoting Materials" include, but are not limited to, propane, diesel oil, or jellied diesel.

(6) "Commercial open burning" means the open burning of any commercial waste.

(7) [~~2~~] "Commercial Waste" means [~~combustible-waste-which-is generated-by-any-activity-of-wholesale-or-retail-commercial offices-or-facilities, or-by-industrial, governmental, institutional, or-charitable-organization-offices-and-facilities, or-by-housing-facilities-with-more-than-four-living-units including, but-not-limited-to, apartments, hotels, motels, dormitories, and-mobile-home-parks, but-does-not-include-any waste-which-is-defined-as-industrial-waste-under-section-(9) of-this-rule-or-which-is-prohibited-in-section-340-23-040(7).~~]  
any material except

(a) Agricultural waste,

(b) Construction waste,

(c) Demolition waste,

(d) Domestic waste,

(e) Industrial waste and

(f) Slash.

Examples of commercial waste are material from offices, whole-sale or retail yards and outlets, warehouses, restaurants, mobile home parks, and dwellings containing more than four family living units such as apartments, condominiums, hotels, motels or dormitories.

(8) [~~3~~] "Commission" means the Environmental Quality Commission.

(9) "Construction open burning" means the open burning of any construction waste.

~~[(4) - "Construction and Demolition Waste" means combustible waste which is generated by the removal of debris, logs, trees, brush, or demolition material from any site in preparation for land improvement or a construction project; any waste occurring as the result of a construction project; or any waste resulting from the complete or partial destruction of any man-made structures such as houses, apartments, commercial buildings, or industrial buildings.]~~

(10) "Construction waste" means any material actually resulting from or produced by a building or construction project. Examples of construction waste are wood, lumber, paper, crating and packing materials used during construction, materials left after completion of construction and materials collected during cleanup of a construction site.

(11) "Demolition open burning" means the open burning of demolition waste.

(12) "Demolition waste" means any material actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site for land improvement or cleanup excluding yard debris (domestic waste) and agricultural waste.

(13) [~~5~~] "Department" means the Department of Environmental Quality.

(14) [~~6~~] "Director" means the Director of the Department [of

~~Environmental-Quality]~~ or [ his] delegated employee representative pursuant to ORS 468.045(3).

(15) "Domestic open burning" means the open burning of any domestic waste.

(16) [~~47~~] "Domestic Waste" means [~~combustible~~] household [~~waste,~~ other-than-wet-garbage,-such-as-paper,-cardboard,-leaves,-yard clippings,-wood,-or-similar-materials-generated-in-a-dwelling housing-four-(4)-families-or-less,-or-on-the-real-property-on which-the-dwelling-is-situated,-] material, which includes paper, cardboard, clothing, yard debris, or other material, actually generated in or around a dwelling of four (4) or fewer family living units, or on the real property appurtenant to the dwelling. Such materials actually generated in or around a dwelling of more than four (4) family living units are commercial wastes. Once domestic waste is removed from the property of origin it becomes commercial waste.

(17) [~~48~~] "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.

(18) [~~49~~] "Forced-air Pit Incineration" means any method or device by which burning [~~waste~~] is done using:

~~[In-a-subsurface-pit-or-above-ground-enclosure-with]~~

(a) Combustion air supplied under positive draft [~~or~~] by an air curtain, and

(b) Combustion air controlled in such a manner as to

optimize combustion efficiency and minimize the emission of air contaminants, and done

(c) in a subsurface pit or above ground enclosure.

(19) "Industrial open burning" means the open burning of any industrial waste.

(20) [~~(10)~~] "Industrial Waste" means [~~combustible-waste~~] any material, including process waste, produced as the direct result of any manufacturing or industrial process.

(21) "Land clearing" means the removal of trees, brush, logs, stumps, debris or man made structures for the purpose of site clean-up or site preparation. All material generated by land clearing is demolition waste except those materials which are included in the definitions of agricultural wastes, yard debris, (domestic waste), and slash.

(22) "Local jurisdiction" means

(a) the local fire permit issuing authority or

(b) local governmental entity with authority to regulate by law or ordinance.

(23) [~~(11)~~] "Open Burning" [~~means-conducted-in-such-a-manner-that combustion-air-and-combustion-products-may-not-be-effectively controlled-including,-but-not-limited-to,-burning-conducted-in~~] includes burning in

(a) Open outdoor fires,

(b) Burn barrels, [~~and-backyard~~]

(c) incinerators which do not meet the emission limitations specified for refuse burning equipment in OAR 340-21-025 and

(d) any other burning which occurs in such a manner that

combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

- (24) [~~12~~] "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state [~~including, but not limited to, the following areas:~~] Open burning control areas in the State are described in OAR 340-23-080.

The open burning control areas in the state are:

- (a) All areas in or within [~~incorporated~~] three (3) miles of the corporate city limits of cities having a population of four thousand (4000) or more, [within three (3) miles of the corporate limits of any such city (See Figure 4)] as further described in OAR 340-23-080(1) and generally shown in Figure 2 thereof.
- (b) The Coos Bay open burning control area as described in OAR 340-23-080(2) and generally shown in Figure 3 thereof.  
~~[generally depicted on Figure 1, and as defined as follows:--Beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, Coos County, at the intersection of the north boundary of T25S, R13E and the east line of the Pacific Ocean, thence east to the NE corner of T26S, R12E, thence south to the SE corner of T26S, R12E; thence west to the intersection of the south boundary of T26S, R14W and the eastline of the Pacific Ocean, thence northerly and easterly along the eastline of the Pacific~~



~~Ocean-to-its-intersection-with-the-north-boundary-of-T25S,  
R13E,-the-point-of-beginning.]~~

- (c) The Rogue Basin open burning control area as described  
in OAR 340-23-080(3) and generally shown in Figure 4  
thereof [~~generally-depicted-on-Figure-2,-and-as-defined~~  
~~as-follows:-Beginning-at-a-point-approximately-4-1/2-miles~~  
~~NE-of-the-City-of-Shady-Cove,-Jackson-County-at-the-NE-corner~~  
~~of-T34S,-R1W,-Willamette-Meridian,-thence-south-along-the~~  
~~Willamette-Meridian-to-the-SW-corner-of-T37S,-R1W,-thence~~  
~~East-to-the-NE-corner-of-T38S,-R1E,-thence-South-to-the-SE~~  
~~corner-of-T38S,-R1E,-thence-East-to-the-NE-corner-of-T39S,-~~  
~~R2E-thence-South-to-the-SE-corner-of-T39S,-R2E,-thence-West~~  
~~to-the-SW-corner-of-T39S,-R1E,-thence-NW-along-a-line-to~~  
~~the-NW-corner-of-T39S,-R1W,-thence-West-to-the-SW-corner~~  
~~of-T38S,-R2W,-thence-North-to-the-SW-corner-of-T36S,-R2W,~~  
~~thence-West-to-the-SW-corner-of-T36S,-R4W,-thence-South-to~~  
~~the-SE-corner-of-T37S,-R5W,-thence-West-to-the-SW-corner~~  
~~of-T37S,-R6W,-thence-North-to-the-NW-corner-of-T36S,-R6W,~~  
~~thence-East-to-the-SW-corner-of-T35S,-R1W,-thence-North-to~~  
~~the-NW-corner-of-T34S,-R1W,-thence-East-to-the-point-of~~  
~~beginning.]~~

- (d) The Umpqua Basin open burning control area as described  
in OAR 340-23-080(4) and generally shown in Figure 5  
thereof. [~~generally-depicted-on-Figure-3,-and-as-defined~~  
~~as-follows:-Beginning-at-a-point-approximately-4-miles-WNW~~  
~~of-the-City-of-Oakland,-Douglas-County,-at-the-NE-corner~~  
~~of-T25S,-R5W,-Willamette-Meridian,-thence-South-to-the-SE~~

~~corner of T25S, R5W, thence East to the NE corner of T26S, R4W, thence South to the SE corner of T27S, R4W, thence West to the SE corner of T27S, R5W, thence South to the SE corner of T30S, R5W, thence West to the SW corner of T30S, R6W, thence North to the NW corner of T29S, R6W, thence West to the SW corner of T28S, R7W, thence North to the NW corner of T27S, R7W, thence East to the NE corner of T27S, R7W, thence North to the NW corner of T26, R6W, thence East to the NE corner of T26, R6W, thence North to the NW corner of T25S, R5W, thence East to the point of beginning.]~~

(e) The Willamette Valley open burning control area as described OAR 340-23-080(5) and generally shown in Figure 2 thereof. ~~[defined as follows: All of Benton, Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington and Yamhill counties and that portion of Lane County east of Range 7 West.]~~

(25) ~~[(13)]~~ "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state ~~[and] or any agency thereof, [and] or the federal government [and] or any agency thereof.~~

(26) ~~[(14)]~~ "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

~~[(15)] "Regional Authority" means the Lane Regional Air Pollution~~

Authority.]

~~[(16) "Special-Control-Area" means an area within the Willamette~~

~~Valley Open-Burning-Control-Area which includes:~~

~~(a) Any area in or within three (3) miles of the boundary~~

~~of any city of more than 1,000 but less than 45,000~~

~~population;~~

~~(b) Any area in or within six (6) miles of the boundary~~

~~of any city of 45,000 or more population;~~

~~(c) Any area between areas established by this rule where~~

~~the boundaries are separated by three (3) miles or less;~~

~~(d) Whenever two or more cities have a common boundary,~~

~~the total population of these cities will determine the~~

~~control area classification and the municipal boundaries~~

~~of each of the cities shall be used to determine the limit~~

~~of the control area.]~~

(27) "Slash" means forest debris or woody vegetation to be burned

under the Oregon Smoke Management Plan administered by the Oregon

Department of Forestry pursuant to ORS 477.515. The burning of

such slash is related to the management of forest land and does

not include the burning of any other material created by land

clearing.

(28) "Ventilation index" means a number calculated by the

Department relating to the ability of the atmosphere to disperse

pollutants. The ventilation index is the product of the measured

or estimated meteorological mixing depth in hundreds of feet

and the measured or estimated average wind speed through the

mixed layer in knots.

(29) [~~417~~] "Waste" [means] includes any useless or discarded materials.

Each waste is categorized in these rules as one and only one of the following types:

- (a) Agricultural,
- (b) Commercial,
- (c) Construction,
- (d) Demolition,
- (e) Domestic,
- (f) Industrial, or
- (g) Slash.

(30) "Yard debris" means wood, needle or leaf materials from trees, shrubs or plants from the real property appurtenant to a dwelling of not more than four (4) family living units so long as such debris remains on the property of origin. Once yard debris is removed from the property of origin it becomes commercial waste. Yard debris is included in the definition of domestic waste.

### **Exemptions, [Exceptions] Statewide**

**340-23-035** The [~~provisions of these~~] rules in this Division 23 shall not apply to:

- (1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate, provided that no [waste] materials which may emit dense smoke or noxious odors as prohibited in section [~~340-23-040(7)~~] 340-23-042(2) are burned. [~~included as any part of the fuel used for such fires.~~]

- (2) The operation of any barbecue equipment. [~~not-used-for-commercial-or-fund-raising-purposes,-nor-to-any-barbeque-equipment-used-for-commercial-or-fund-raising-purposes-for-no-more-than-two-periods-in-any-calendar-year,-each-such-period-not-to-exceed-two-consecutive-weeks,-in-any-single-area.~~]
- (3) Fires set or [~~allowed~~] permitted by any public agency when such fire is set or [~~allowed-to-be-set~~] permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or a hazard to public health or safety or instruction of employees in the methods of fire fighting, [~~or-for-prevention-or-elimination-of-a-fire-hazard,-and~~] which [~~are-necessary~~] in the opinion of the [~~public~~] agency is necessary. [~~responsible-for-such-fires~~].
- (4) Agricultural open burning conducted east of the crest of the Cascade Mountains including all of Hood River and Klamath Counties.
- (5) [~~4~~] Agricultural open burning [as-a-part-of-agricultural-operations-which-is-regulated-in-part-by] in the Willamette Valley between the crests of the Cascade and Coast Ranges so long as it is in compliance with OAR Chapter 340, Division 26, Agricultural Operations.
- (6) [~~5~~] Open burning on forest land permitted under the forest practices Smoke Management Plan filed with the Secretary of State pursuant to ORS 477.515.
- (7) [~~6~~] Fires set pursuant to permit for the purpose of instruction of employees of private industrial concerns in methods of fire fighting, or for civil defense instruction.

## General Requirements [and Prohibitions] Statewide

340-23-040

This rule applies to all open burning within the purview of these rules whether authorized, permitted or prohibited by the rules in this Division 23, (unless expressly limited therein), or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction.

- ~~(1) No person shall cause or allow to be initiated or maintained any open burning which is prohibited by any rule of the Commission.~~
- ~~(2) Open burning in violation of any rule of the Commission shall be promptly extinguished by the person in attendance or person responsible when notified to extinguish the fire by either the Department, or by any other appropriate public official.~~
- ~~(3) Any person who owns or controls, including the tenant of, property on which open burning occurs or who has caused or allowed such open burning to be initiated or maintained shall be considered the person responsible for the open burning.~~
- ~~(4) Open fires allowed by these rules shall be constantly attended by a responsible person until extinguished.~~
- ~~(5) (a) All combustible material to be open burned shall be dried to the extent practicable to prevent emissions of excessive smoke.~~
- ~~(b) All combustible material to be open burned shall be stacked or windrowed in such a manner as to eliminate dirt, rocks, and other non-combustible material, and to promote efficient burning. Equipment and tools shall be available to~~

~~periodically restack the burning material to insure that combustion is essentially complete and that smoldering fires are prevented.~~

~~(6) (a) Open burning which creates any of the following is prohibited:~~

- ~~(A) a private nuisance;~~
- ~~(B) a public nuisance;~~
- ~~(C) a hazard to public safety.~~

~~(b) If subsection (a) hereof is violated, the person or persons responsible for the open burning under these rules shall immediately abate the nuisance or hazard.~~

~~(c) This section applies equally to otherwise authorized and unauthorized open burning.~~

~~(7) Open burning of any waste materials which normally emit dense smoke, noxious odors, or which may tend to create a public nuisance such as, but not limited to, household garbage, plastics, wire insulation, auto bodies, asphalt, waste petroleum products, rubber products, animal remains, and animal or vegetable wastes resulting from the handling, preparation, cooking, or service of food is prohibited.~~

~~(8) If the Department determines that open burning allowed by these rules may cause or is causing a public nuisance, the Department may require that the burning be terminated or that auxiliary combustion equipment or combustion promoting materials to be used to insure complete combustion and elimination of the nuisance. Auxiliary combustion equipment required under this subsection may include, but is not limited to, fans or air curtain incinerators. Combustion promoting materials may~~

~~include, but are not limited to, propane, diesel oil, or jellied diesel.~~

~~(9) No open burning shall be initiated in any part of the state on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed in that part of the state because of adverse meteorological or air quality conditions.~~

~~(10) No open burning shall be initiated in any area of the state in which an air pollution alert, warning, or emergency has been declared pursuant to OAR Chapter 340, Sections 340-27-010 and 340-27-025(2), and is then in effect. Any open burning in progress at the time of such declaration shall be promptly extinguished by the person in attendance or person responsible when notified of the declaration by either the Department or any other appropriate public official.~~

~~(11) Open burning authorized by these rules does not exempt or excuse any person from liability for, consequences, damages, or injuries resulting from such burning, nor does it exempt any person from complying with applicable laws, ordinances, or regulations of other governmental agencies having jurisdiction.~~

~~(12) Forced air pit incineration may be approved as an alternative to open burning prohibited by these rules, provided that the following conditions shall be met:~~

~~(a) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department or Regional Authority that no feasible or practicable alternative to forced air pit incineration~~



exists.

~~(b)-The-foreed-air-pit-incineration-facility-shall-be  
designed,-installed,-and-operated-in-such-a-manner-that  
visible-emissions-do-not-exceed-forty-percent-(40%)-opacity  
for-more-than-three-(3)-minutes-out-of-any-one-(1)-hour  
of-operation-following-the-initial-thirty-(30)-minute  
startup-period.~~

~~(c)-The-person-requesting-approval-of-a-foreed-air-pit  
incineration-facility-shall-obtain-an-Air-Contaminant  
Discharge-Permit,-if-required-therefor,-and-the-person-shall  
be-granted-an-approval-of-the-facility-only-after-a-Notice  
of-Construction-and-Application-for-Approval-is-submitted  
pursuant-to-OAR-Chapter-340,-Rules-340-20-020-through  
340-20-030.]~~

- (1) All Open burning shall be constantly attended by a responsible person or an expressly authorized agent until extinguished.
- (2) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, shall be considered a responsible person for the open burning. Any person who causes or allows open burning to be initiated or maintained shall also be considered a responsible person.
- (3) It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the Commission or of any permit issued by the Department unless

the Department has given written approval to such responsible person to use auxiliary combustion equipment or combustion promoting materials to minimize smoke production and the responsible person complies with the requirements in the written approval. However, nothing in this section shall be construed to authorize any violation of OAR 340-23-042(1) or (2).

(4) To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall, except where inappropriate to agricultural open burning:

(a) Assure that all combustible material is dried to the extent practicable. This action shall include covering the combustible material when practicable to protect the material from deposition of moisture in any form, including precipitation or dew. However, nothing in this section shall be construed to authorize any violation of OAR 340-23-042(1) or (2).

(b) Loosely stack or windrow the combustible material in such a manner as to eliminate dirt, rocks and other non-combustible material and promote an adequate air supply to the burning pile, and provide the necessary tools and equipment for the purpose.

(c) Periodically restack or feed the burning pile and insure that combustion is essentially completed and smoldering fires are prevented and provide the necessary tools and equipment for the purpose.

(5) Open burning in compliance with the rules in this Division 23 does not exempt any person from any civil or criminal

liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

**General Prohibitions Statewide**

[This is a new Rule which follows OAR 340-23-040.]

**340-23-042** This Rule applies to all open burning within the purview of these rules whether authorized, permitted or prohibited by the rules in this Division 23, (unless expressly limited therein), or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction.

- (1) No person shall cause or allow to be initiated or maintained any open burning which creates any of the following:
  - (a) A private nuisance;
  - (b) A public nuisance;
  - (c) A hazard to public safety.
  
- (2) No person shall cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors.
  
- (3) No person shall cause or allow to be initiated or maintained any open burning of any material in any part of the state on

any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions pursuant to OAR 340-23-043.

- (4) No fire permit issuing agency shall issue any fire permit which purports to authorize any open burning of any material at any location on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions. However, the failure of any fire permit issuing agency to comply shall not excuse any person from complying with this section.
- (5) No person shall cause or allow to be initiated or maintained any open burning authorized by the rules in this Division 23 during hours other than specified by the Department.
- (6) No person shall cause or allow to be initiated or maintained any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to OAR 340-61-005 through 340-61-085.

### **Open Burning Schedule**

[This is a new rule which follows OAR 340-23-042. It contains provisions which are new to this Division 23.]

**340-23-043** Pursuant to ORS 468.450, 476.380, 477.520 and 478.960 the following open burning schedule shall be administered by the Department.

- (1) Mandatory Prohibition Based on Adverse Air Quality Conditions.

(a) The Department shall notify the State Fire Marshall that all open burning shall be prohibited in all or a specified part of the state for the times and locations which the Department has declared:

(A) A particulate or sulfur dioxide alert pursuant to OAR 340-27-010(2) (a), (b) or (c);

(B) A particulate or sulfur dioxide warning pursuant to OAR 340-27-010(3) (a), (b), or (c); or

(C) An emergency for any air contaminant pursuant to OAR 340-27-010(4).

(b) All open burning shall be prohibited until the Department notifies the State Fire Marshall that the episode and prohibition have been declared to have terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions.

(a) The Department may notify the State Fire Marshall that all or specified types of open burning shall be prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that part of the state:

(A) An Air Stagnation Advisory issued by the National Weather Service;

(B) The daily maximum ventilation index calculated by the Department for the Willamette Valley Open Burning Control Area is less than 200;

(C) The daily maximum ventilation index calculated by the Department for the Rogue Basin or Umpqua Basin open

burning control area is less than 200.

(D) The daily maximum ventilation index calculated by the Department for any area outside the Willamette Valley, Rogue Basin and Umpqua Basin open burning control areas is less than 150; or

(E) Any other relevant factor.

(b) All open burning so prohibited or limited shall be prohibited or limited until the Department notifies the State Fire Marshal that the prohibition or limitation has been terminated.

(c) In making the determination of whether or not to prohibit or limit open burning pursuant to this section the Department shall consider:

(A) The policy of the state set forth in ORS 468.280;

(B) The relevant criteria set forth in ORS 468.295(2);

(C) The extent and types of materials available to be open burned;

(D) In the case of Agricultural open burning, the recommendations received from any local agricultural smoke management organization; and

(E) Any other relevant factor.

(d) In making the determination of whether or not to prohibit or limit any open burning pursuant to this section the Department shall give first priority to the burning of perennial grass seed crop used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning and

fourth priority to all other burning.

(3) Unless and until prohibited or limited pursuant to sections (1) or (2) of this rule, open burning shall be allowed during a day, so long as it is not prohibited by, and is conducted consistent with the other rules in this Division 23 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

### County Listing of Specific Open Burning Rules

[Requirements-and-Prohibitions-by-Area]

#### **340-23-045**

Except as otherwise provided, in addition to the general requirements and prohibitions listed in OAR 340-23-040 and 340-23-042, specific prohibitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning are listed in separate rules for each county. The following list identifies the Rule where prohibitions of specific types of open burning applicable to a given county may be found.

<u>County</u>	<u>OAR Rule Number</u>	<u>County</u>	<u>OAR Rule Number</u>
<u>Baker</u>	<u>340-23-050</u>	<u>Lake</u>	<u>340-23-050</u>
<u>Benton</u>	<u>340-23-052</u>	<u>Lane</u>	<u>340-23-057</u>
<u>Clackamas</u>	<u>340-23-053</u>	<u>Lincoln</u>	<u>340-23-050</u>
<u>Clatsop</u>	<u>340-23-050</u>	<u>Linn</u>	<u>340-23-052</u>
<u>Columbia</u>	<u>340-23-056</u>	<u>Malheur</u>	<u>340-23-050</u>
<u>Coos</u>	<u>340-23-060</u>	<u>Marion</u>	<u>340-23-052</u>
<u>Crook</u>	<u>340-23-050</u>	<u>Morrow</u>	<u>340-23-050</u>
<u>Curry</u>	<u>340-23-050</u>	<u>Multnomah</u>	<u>340-23-054</u>
<u>Deschutes</u>	<u>340-23-050</u>	<u>Polk</u>	<u>340-23-052</u>
<u>Douglas</u>	<u>340-23-060</u>	<u>Sherman</u>	<u>340-23-050</u>
<u>Gilliam</u>	<u>340-23-050</u>	<u>Tillamook</u>	<u>340-23-050</u>
<u>Grant</u>	<u>340-23-050</u>	<u>Umatilla</u>	<u>340-23-050</u>
<u>Harney</u>	<u>340-23-050</u>	<u>Union</u>	<u>340-23-050</u>
<u>Hood River</u>	<u>340-23-050</u>	<u>Wallowa</u>	<u>340-23-050</u>
<u>Jackson</u>	<u>340-23-060</u>	<u>Wasco</u>	<u>340-23-050</u>
<u>Jefferson</u>	<u>340-23-050</u>	<u>Washington</u>	<u>340-23-055</u>
<u>Josephine</u>	<u>340-23-060</u>	<u>Wheeler</u>	<u>340-23-050</u>
<u>Klamath</u>	<u>340-23-050</u>	<u>Yamhill</u>	<u>340-23-052</u>

~~[(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, Rules 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 section.~~

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

~~(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:~~

~~(A) In Columbia County~~

~~(B) In the Timber and Tri-City Rural Fire Protection Districts 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- or 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 of 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 Rule 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.]~~

[Records and Reports]

### 340-23-050

~~[As required by ORS 478.960(7), fire permit issuing agencies shall maintain records of open burning permits and the conditions thereof, and shall submit such records or summaries thereof to the Commission as may be required. Forms for any reports required under this rule shall be provided by the Department.]~~

Open burning prohibitions for the counties of Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler:

(1) Industrial open burning is prohibited except as provided in

OAR 340-23-070.

(2) Agricultural open burning

(a) In Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood

River, Jefferson, Klamath, Lake, Malheur, Morrow,

Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler

Counties, agricultural open burning is exempted from

regulation under these rules.

(b) In Clatsop, Curry, Lincoln and Tillamook Counties  
agricultural open burning is allowed subject to OAR  
340-23-040 and 340-23-042 and the requirements and  
prohibitions of local jurisdictions and the State Fire  
Marshal.

(3) Commercial open burning is allowed subject to OAR 340-23-040 and  
340-23-042 and the requirements and prohibitions of local  
jurisdictions and the State Fire Marshal, except that all  
commercial open burning is prohibited in or within three (3)  
miles of the corporate city limits of the following cities  
unless authorized pursuant to OAR 340-23-070:

(a) In Baker County, the city of:

(A) Baker

(b) In Clatsop County, the cities of:

(A) Astoria

(B) Seaside

(c) In Crook County, the city of:

(A) Prineville

(d) In Deschutes County, the cities of:

(A) Bend

(B) Redmond

(e) In Hood River County, the city of:

(A) Hood River

(f) In Klamath County, the city of:

(A) Klamath Falls

(g) In Lincoln County, the cities of:

(A) Lincoln City

(B) Newport

(h) In Malheur County, the city of:

(A) Ontario

(i) In Umatilla County, the cities of:

(A) Hermiston

(B) Milton Freewater

(C) Pendleton

(j) In Union County, the city of:

(A) La Grande

(k) In Wasco County, the city of:

(A) The Dalles

(4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042, except that Construction and Demolition open burning is prohibited in or within three (3) miles of the corporate city limits of the following cities unless authorized pursuant to OAR 340-23-070:

(a) In Baker County, the city of:

(A) Baker

(b) In Clatsop County, the cities of:

(A) Astoria

(c) In Crook County, the city of:

(A) Prineville

(d) In Deschutes County, the cities of:

(A) Bend

(B) Redmond

(e) In Hood River County, the city of:

(A) Hood River

(f) In Klamath County, the city of:

(A) Klamath Falls

(g) In Malheur County, the city of:

(A) Ontario

(h) In Umatilla County, the cities of:

(A) Hermiston

(B) Milton Freewater

(C) Pendleton

(i) In Union County, the city of:

(A) La Grande

(j) In Wasco County, the city of:

(A) The Dalles

(5) Domestic open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042.

340-23-052 Open burning prohibitions for Benton, Linn, Marion,

Polk, and Yamhill counties which form a part of the Willamette Valley open burning control area described in OAR 340-23-080.

(1) Industrial open burning is prohibited except as provided in OAR 340-23-070.

(2) Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030 (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited except as provided in OAR

340-23-070.

(4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042, except that unless authorized pursuant to 340-23-070, Construction and Demolition open burning is prohibited within special control areas including the following:

(a) Areas in or within six (6) miles of the corporate city limit of Salem in Marion and Polk Counties.

(b) Areas in or within three (3) miles of the corporate city limit of:

(A) In Benton County, the cities of:

(i) Corvallis

(ii) Philomath

(B) In Linn County, the cities of:

(i) Albany

(ii) Brownsville

(iii) Harrisburg

(iv) Lebanon

(v) Mill City

(vi) Sweet Home

(C) In Marion County, the cities of:

(i) Aumsville

(ii) Hubbard

(iii) Gervais

(iv) Jefferson

(v) Mill City



(vi) Mt. Angel

(vii) Silverton

(viii) Stayton

(ix) Sublimity

(x) Turner

(xi) Woodburn

(D) In Polk County, the cities of:

(i) Dallas

(ii) Independence

(iii) Monmouth

(E) In Yamhill County, the cities of:

(i) Amity

(ii) Carlton

(iii) Dayton

(iv) Dundee

(v) Lafayette

(vi) McMinnville

(vii) Newberg

(viii) Sheridan

(ix) Willamina

(5) Domestic open burning

(a) As generally depicted in Figure 1 of OAR 340-23-080, domestic open burning is prohibited in the special control areas named in Section (4) of this Rule except that open burning of yard debris is allowed beginning March first and ending June fifteenth inclusive, and beginning October first and ending December fifteenth, inclusive, subject to

OAR 34023-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(b) Domestic open burning is allowed outside of special control areas named in Section (4) of this rule subject to OAR 34023-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(c) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by the Department pursuant to OAR 340-23-043.

**340-23-053 Open burning prohibitions for Clackamas County.**

(1) Industrial open burning is prohibited except as provided in OAR 340-23-070.

(2) Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited except as may be provided by OAR 340-23-070.

(4) Construction and Demolition open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal except that unless authorized pursuant to OAR 340-23-070,

Construction and Demolition open burning is prohibited within special control areas including the following:

(a) Areas in or within six (6) miles of the corporate city

limits of:

(A) Gladstone,

(B) Happy Valley,

(C) Lake Oswego,

(D) Milwaukie,

(E) Oregon City,

(F) Portland,

(G) Rivergrove,

(H) West Linn.

(b) Areas in or within three (3) miles of the corporate city

limits of:

(A) Canby,

(B) Estacada,

(C) Gresham,

(D) Molalla,

(E) Sandy,

(F) Wilsonville.

(5) Domestic open burning

(a) As generally depicted in Figure 1 of OAR 340-23-080

domestic open burning is prohibited within the following fire districts except that open burning of yard debris is allowed between March first and June fifteenth inclusive and between October first and December fifteenth inclusive, subject to OAR 340-23-040 and 340-23-042 and the

requirements and prohibitions of local jurisdictions and the

State Fire Marshal:

- (A) Beaver Creek RFPD #55,
- (B) Boring RFPD #59,
- (C) Canby,
- (D) Canby RFPD #62,
- (E) Clackamas Co. RFPD #1,
- (F) Clackamas Co. RFPD #54,
- (G) Clackamas RFPD #71,
- (H) Glenmorrie RFPD #66,
- (I) Gladstone,
- (J) Happy Valley RFPD #65,
- (K) Lake Grove RFPD #57,
- (L) Lake Oswego,
- (M) Milwaukie,
- (N) Oregon City,
- (O) Oak Lodge,
- (P) Portland,
- (Q) Riverdale RFPD #60,
- (R) Rosemont RFPD #67,
- (S) Sandy RFPD #72,
- (T) Tualatin RFPD #64,
- (U) West Linn.

- (b) Domestic open burning is allowed in all other areas of  
Clackamas County subject to OAR 340-23-040 and 340-23-042  
and the requirements and prohibitions of local jurisdictions  
and the State Fire Marshal.

(c) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-23-043.

340-23-054 Open burning prohibitions for Multnomah County.

(1) Industrial open burning is prohibited except as provided in OAR 340-23-070.

(2) Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited except as provided in OAR 340-23-070.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-23-070, is prohibited west of the Sandy River but is allowed east of the Sandy River subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning.

(a) As generally depicted in Figure 1 of OAR 340-23-080, domestic open burning is prohibited west of the Sandy River except, that open burning of yard debris is allowed from March first to June fifteenth inclusive and from October first to December fifteenth inclusive, subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(b) Domestic open burning is allowed east of the Sandy River subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(c) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-23-043.

**340-23-055 Open burning prohibitions for Washington County.**

(1) Industrial open burning is prohibited except as provided in OAR 340-23-070.

(2) Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited except as may be provided by OAR 340-23-070.

(4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-23-070, is prohibited in all incorporated areas and areas within rural fire protection districts. Construction and demolition open burning is allowed in all other areas subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshall.

(5) Domestic open burning

- (a) As generally depicted in Figure 1 of OAR 340-23-080 domestic open burning is prohibited in all municipal and rural fire protection districts of Washington Co. excluding the Tri-Cities RFPD, except that open burning of yard debris is allowed between March first and June fifteenth inclusive and between October first and December fifteenth inclusive subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (b) Domestic open burning is allowed in the Tri-Cities RFPD and in all unincorporated areas of Washington County outside of municipal or rural fire protection districts subject and to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (c) No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-23-043.

340-23-056 Open burning prohibitions for Columbia County

- (1) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-070.
- (2) Agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(3) Commercial open burning is prohibited unless authorized pursuant to OAR 340-23-070.

(4) Construction and demolition open burning

(a) Unless authorized pursuant to OAR 340-23-070, Construction and Demolition open burning is prohibited in and within three (3) miles of the city limits of:

(A) Clatskanie,

(B) Rainier,

(C) St. Helens,

(D) Scappoose,

(E) Vernonia.

(b) Construction and Demolition open burning is allowed in all other parts of Columbia County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(5) Domestic open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

340-23-057 Open burning prohibitions for Lane County. That portion of Lane County east of Range 7 West, Willamette Meridian, forms a part of the Willamette Valley open burning control area as generally described in OAR 340-23-080(5) and depicted in Figure 2.

(1) The rules and regulations of the Lane Regional Air Pollution authority shall apply to all open burning in Lane County provided such rules are no less stringent than the provisions of these rules except that the Lane Regional Air Pollution Authority may



not regulate agricultural open burning.

- (2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-070.
- (3) Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030 (Agricultural Operations), and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (4) Commercial open burning, unless authorized pursuant to OAR 340-23-070, is prohibited in Lane County east of Range 7 West Willamette Meridian and in or within three (3) miles of the city limit of Florence on the coast. Commercial open burning is allowed in the remaining areas of Lane County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Construction and Demolition open burning unless authorized pursuant to OAR 340-23-070 is prohibited within all fire districts and other areas specified in this section but is allowed elsewhere in Lane County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Areas where open burning of construction and demolition waste is prohibited include:

  - (a) Bailey-Spencer RFPD,
  - (b) Coburg RFPD,
  - (c) Cottage Grove,
  - (d) Creswell RFPD,
  - (e) Crow Valley RFPD,
  - (f) Dexter RFPD except that portion east of the Willamette Meridian,
  - (g) Elmira-Noti RFPD except that portion west of the line

between Range 6 West and Range 7 West,

- (h) Eugene Fire District,
- (i) Eugene RFPD No. 1,
- (j) Goshen RFPD,
- (k) Junction City Fire District,
- (l) Junction City RFPD,
- (m) Lane RFPD No. 1,
- (n) Lowell RFPD,
- (o) Marcola RFPD,
- (p) McKenzie RFPD except that portion east of the Willamette  
Meridian,
- (q) Monroe RFPD that portion within Lane County,
- (r) Oakridge RFPD,
- (s) Pleasant Hill RFPD,
- (t) South Lane RFPD,
- (u) Springfield Fire Department and those areas protected by the  
Springfield Fire Department,
- (v) That portion of Western Lane Forest Protection District  
north of Section 11, TWP. 19 South, RGE 4 West and bordering  
the city of Eugene and/or Crow Valley, Eugene #1, Goshen and  
Creswell RFPDs,
- (w) Willakenzie RFPD,
- (x) Zumwalt RFPD,
- (y) Those unprotected areas which are surrounded by or are  
bordered on all sides by any of the above listed fire  
protection districts or by Eastern Lane Forest Protection  
District.

(6) Domestic open burning.

- (a) Domestic open burning outside the fire districts listed in Section (5) of this Rule is allowed subject to OAR 340-23-040 and 340-34-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (b) Domestic open burning is prohibited within all fire districts listed in Section (5) of this Rule except that open burning of yard debris is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (c) Refer to Lane Regional Air Pollution Authority open burning rules for specific seasons and hours for domestic open burning.

340-23-060 Open burning prohibitions for Coos, Douglas, Jackson and Josephine Counties.

(1) Open burning control areas

- (a) The Coos Bay open burning control area as generally described in OAR 340-23-080 and depicted in Figure 3 is located in Coos County.
- (b) The Umpqua Basin open burning control area as generally described in of OAR 340-23-080, and depicted in Figure 4, is located in Douglas County.
- (c) The Rogue Basin open burning control area as generally described in OAR 340-23-080 and depicted in Figure 5, is located in Jackson and Josephine Counties.

- (2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-070.
- (3) Agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (4) Commercial open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and in or within three (3) miles of the corporate city limits of Coquille and Reedsport unless authorized pursuant to OAR 340-23-070. Commercial open burning is allowed in all other areas of these counties subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Construction and Demolition open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas unless authorized pursuant to OAR 340-23-070. Construction and Demolition open burning is allowed in other areas of these counties subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (6) Domestic open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

340-23-070 Letter Permits

- (1) Open Burning of commercial, industrial, construction or demolition waste on a singly occurring or infrequent basis which is otherwise prohibited, may be permitted by a letter permit issued by the Department in accordance with this rule and subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. OAR 340-14-025 and 340-20-140 through 340-20-185 shall not apply.
- (2) A letter permit may only be issued on the basis of a written application for disposal of material by burning which has been approved by the Department. Each application for a letter permit shall contain the following items:
- (a) The quantity and type of material proposed to be burned,
  - (b) A listing of all alternative disposal methods and potential costs which have been identified or investigated,
  - (c) The expected amount of time which will be required to complete the burning,
  - (d) The methods proposed to be used to insure complete and efficient combustion of the material,
  - (e) The location of the proposed burning site,
  - (f) A diagram showing the proposed burning site and the structures and facilities inhabited or used in the vicinity including distances thereto,
  - (g) The expected frequency of the need to dispose of similar materials by burning in the future.

(h) Any other information which the applicant considers relevant or which the Department may require.

(3) Upon receipt of a written application the Department may approve the application if it is satisfied that:

(a) The applicant has demonstrated that all reasonable alternatives have been explored and no practicable alternative method for disposal of the materials exists;

and

(b) The proposed burning will not cause or contribute to significant degradation of air quality.

(4) The Department also may deny an application for a letter permit or revoke or suspend an issued letter permit on any of the following grounds:

(a) Any material misstatement or omission in the application;

(b) Any actual or projected violation of any statute, rule, regulation, order, permit, ordinance, judgement or decree.

(5) In making its determination under section (3) above, the Department may consider:

(a) The conditions of the airshed of the proposed burning.

(b) The other air pollution sources in the vicinity of the proposed burning.

(c) The availability of other methods of disposal, and special circumstances or conditions which may impose a hardship on an applicant.

(d) The frequency of the need to dispose of similar materials in the past and expected in the future;

- (e) the applicant's prior violations, if any;
  - (f) The projected effect upon persons and property in the vicinity; and
  - (g) Any other relevant factor.
- (6) Each letter permit issued by the Department pursuant to section (2) of this Rule shall contain at least the following elements:
- (a) The location at which the burning is permitted to take place.
  - (b) The number of actual calendar days on which burning is permitted to take place, not to exceed seven (7).
  - (c) The period during which the permit is valid, not to exceed a period of thirty (30) consecutive days. The actual period in the permit shall be specific to the needs of the applicant.
  - (d) Equipment and methods required to be used by the applicant to insure that the burning is accomplished in the most efficient manner over the shortest period of time to minimize smoke production.
  - (e) The limitations, if any, based on meteorological conditions required before burning may occur.
  - (f) Reporting requirements for both starting the fire each day and completion of the requested burning.
  - (g) A statement that OAR 340-23-040 and OAR 340-23-042 are fully applicable to all burning under the permit.

- (h) Such other conditions as the Department considers to be desirable.
- (7) Regardless of the conditions contained in any letter permit, each letter permit shall be valid for not more than thirty (30) consecutive calendar days of which a maximum of seven (7) can be used for burning. The Department may issue specific letter permits for shorter periods.
- (8) Letter permits shall not be renewable. Any requests to conduct additional burning shall require a new application and a new permit.
- (9) For locations within Clackamas, Columbia, Multnomah and Washington Counties, letter permits may be issued only for the purpose of disposal of:
- (a) material resulting from emergency occurrences including, but not limited to floods, storms or oil spills.
- (b) Material originating as yard debris which has been collected and stored by governmental jurisdictions provided that no other reasonable means of disposal are available.
- (10) Failure to conduct open burning according to the conditions, limitations, or terms of a letter permit, or any open burning in excess of that permitted by the letter permit shall be violation of the permit and shall be cause for assessment of civil penalties for each violation 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.



## Forced Air Pit Incinerators

340-23-072 Forced air pit incineration may be approved as an alternative to open burning prohibited by these rules, provided that the following conditions shall be met:

- (1) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department that no feasible or practicable alternative to forced-air pit incineration exists.
- (2) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed forty percent (40%) opacity for more than three (3) minutes out of any one (1) hour of operation following the initial thirty (30) minute startup period.
- (3) The person requesting approval of a forced-air pit incineration facility shall be granted an approval of the facility only after a Notice of Construction and Application for Approval is submitted pursuant to OAR 340-20-020 through 340-20-030.
- (4) A forced-air pit permit for operation of a forced air pit incineration facility shall be required and shall be based on the same conditions and requirements stipulated for letter permits in OAR 340-23-070, which is included here by reference, except that the term of the permit shall not be limited to thirty (30) days and the operation of the facility shall not be limited to seven (7) days, but both the term of the permit and the operation limit of the facility shall be specified in the permit and shall be appropriate to the purpose of the facility.

## Records and Reports

### 340-23-075

As required by ORS 476.380(4) and 478.960(7), fire permit issuing agencies shall maintain records of open burning permits and the conditions thereof, and shall submit such records or summaries thereof to the Commission as may be required. Forms for any reports required under this section shall be provided by the Department.

## Open Burning Control Areas

### 340-23-080

Generally areas around the more densely populated locations in the state and valleys or basins which restrict atmospheric ventilation are designated open burning control areas. The practice of open burning may be more restrictive in open burning control areas than in other areas of the state. The specific open burning restrictions associated with these Open Burning Control Areas are listed in OAR 340-23-050 through OAR 340-23-060 by county. The general locations of Open Burning Control Areas are depicted in Figure 2 through 5 of this rule. The Open Burning Control Areas of the state are defined as follows:

- (1) All areas in or within three miles of the incorporated city limit of all cities with a population of 4,000 or more.
- (2) The Coos Bay Open Burning Control Area is located in Coos County with boundaries as generally depicted in Figure 3 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, at the intersection of the north boundary of T25S, R13W, and the coast

line of the Pacific Ocean; thence east to the NE corner of T25S, R12W; thence south to the SE corner of T26S, R12W; thence west to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean; thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13W, the point of beginning.

(3) The Rogue Basin Open Burning Control Area is located in

Jackson and Josephine Counties with boundaries as generally depicted in Figure 4 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove at the NE corner of T34S, R1W, Willamette Meridian; thence South along the Willamette Meridian to the SW corner of T37S, R1W; thence East to the NE corner of T38S, R1E; thence South to the SE corner of T38S, R1E; thence East to the NE corner of T39S, R2E; thence South to the SE corner of T39S, R2E; thence West to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence West to the SW corner of T38S, R2W; thence North to the SW corner of T36S, R2W; thence West to the SW corner of T36S, R4W; thence South to the SE corner of T37S, R5W; thence West to the SW corner of T37S, R6W; thence North to the NW corner of T36S, R6W; thence East to the SW corner of T35S, R1W; thence North to the NW corner of T34S, R1W; thence East to the point of beginning.

(4) The Umpqua Basin Open Burning Control Area is located in

Douglas County with boundaries as generally depicted in Figure 5 of this rule. The area is enclosed by a line beginning at

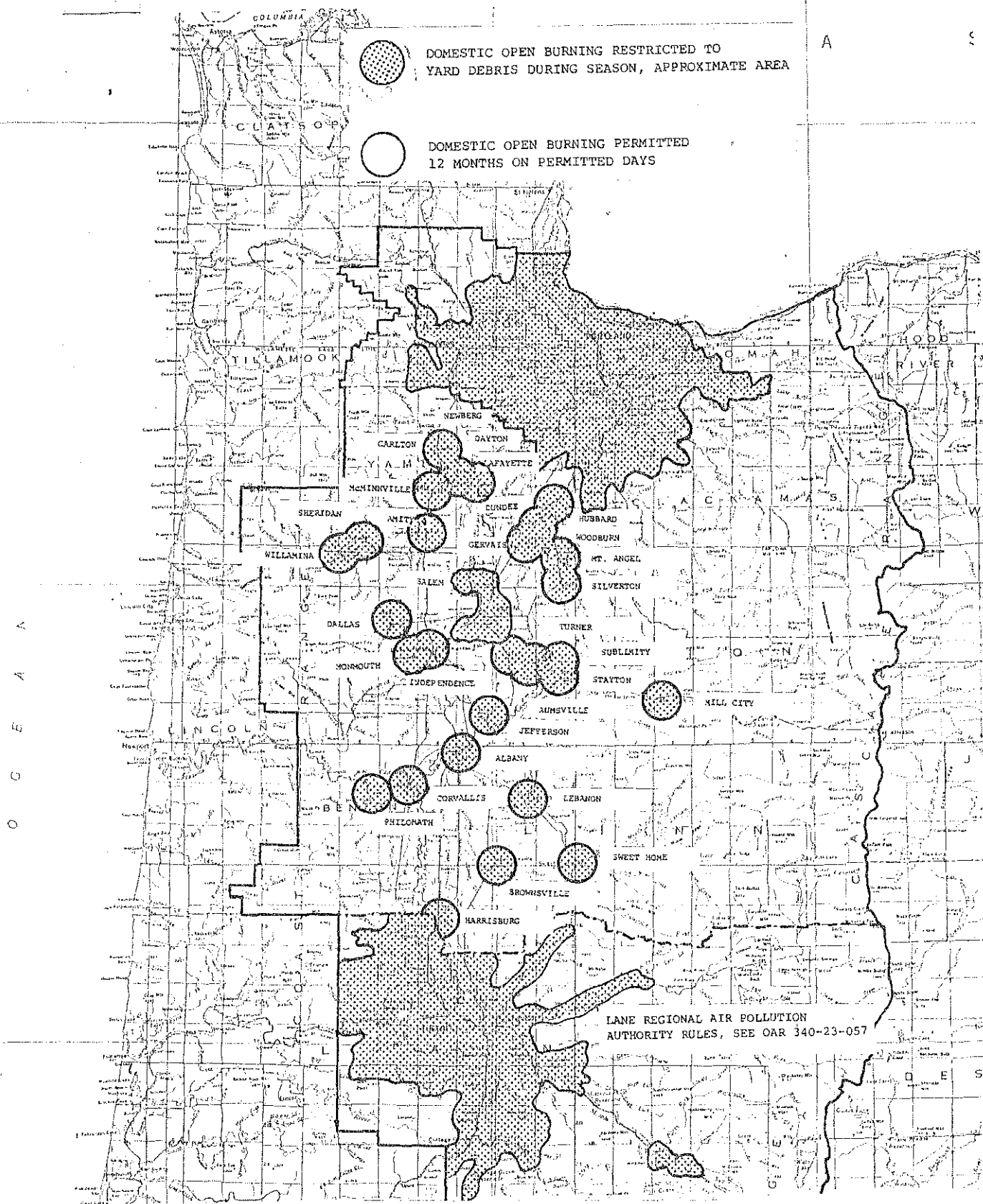
a point approximately 4 miles ENE of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian; thence South to the SE corner of T25S, R5W; thence East to the NE corner of T26S, R4W; thence South to the SE corner of T27S, R4W; thence West to the SE corner of T27S, R5W; thence South to the SE corner of T30S, R5W; thence West to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence West to the SW corner of T28S, R7W thence North to the NW corner of T27S, R7W; thence East to the NE corner of T27S, R7W; thence North to the NW corner of T26, R6W; thence East to the NE corner of T26S, R6W; thence North to the NW corner of T25S, R5W; thence East to the point of beginning.

- (5) The boundaries of the Willamette Valley Open Burning Control Area are generally depicted in Figure 2 of this rule. The area includes all of Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill counties and that portion of Lane County east of Range 7 West.
- (6) Special control areas are established around cities within the Willamette Valley Open Burning control area. The boundaries of these special control areas are determined as follows:
- (a) Any area in or within three (3) miles of the boundary of any city of more than 1,000 but less than 45,000 population.
  - (b) Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.
  - (c) Any area between areas established by this rule where

the boundaries are separated by three (3) miles or less.

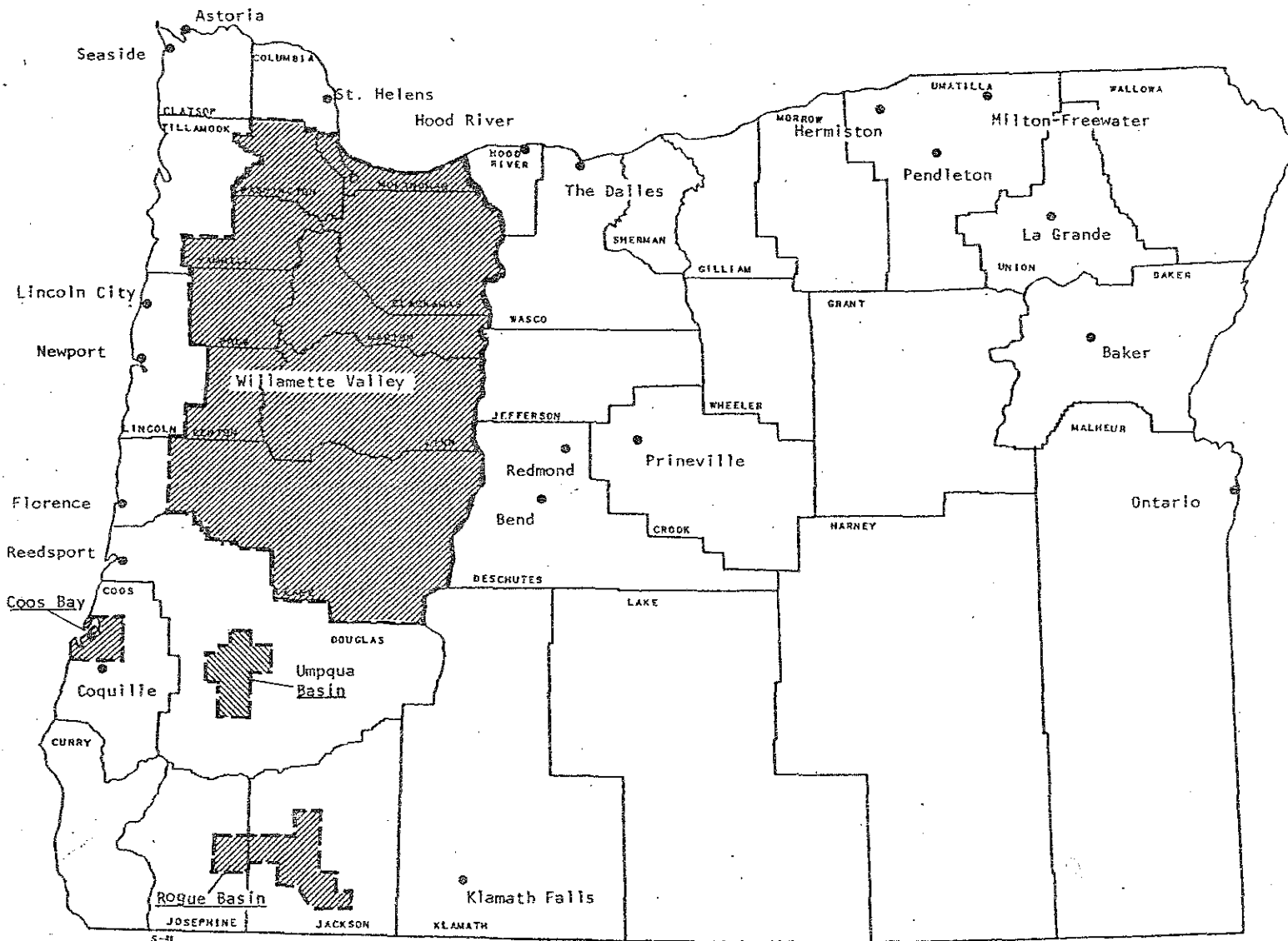
(d) Whenever two or more cities have a common boundary, the total population of these cities will determine the applicability of subsection (a) or (b) of this section and the municipal boundaries of each of the cities shall be used to determine the limit of the special control area.

# WILLAMETTE VALLEY OPEN BURNING CONTROL AREA



340-23-080  
FIGURE 1

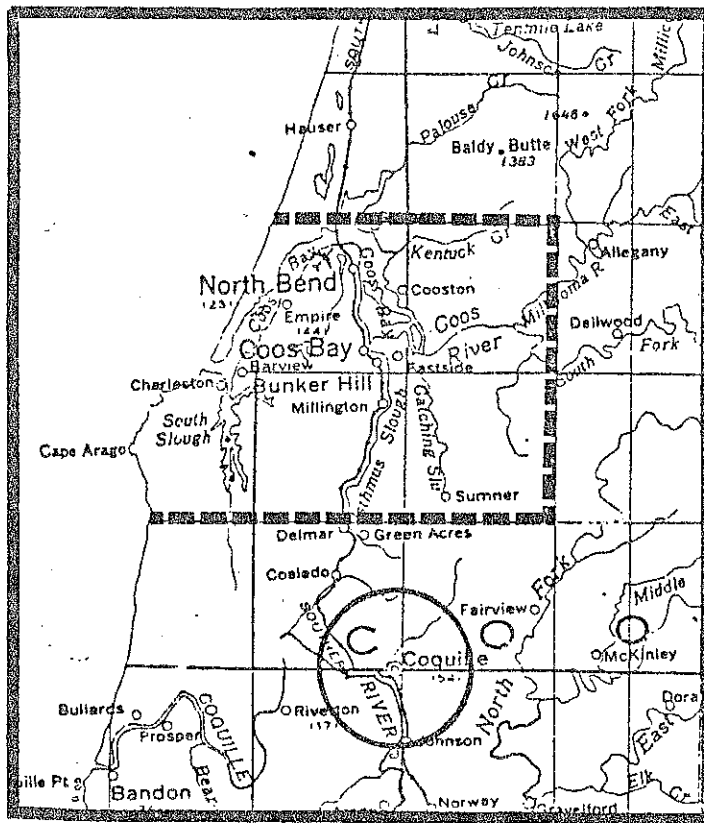
# OPEN BURNING CONTROL AREAS



▨ OPEN BURNING CONTROL AREAS

● CITIES EXCEEDING POPULATION OF 4,000

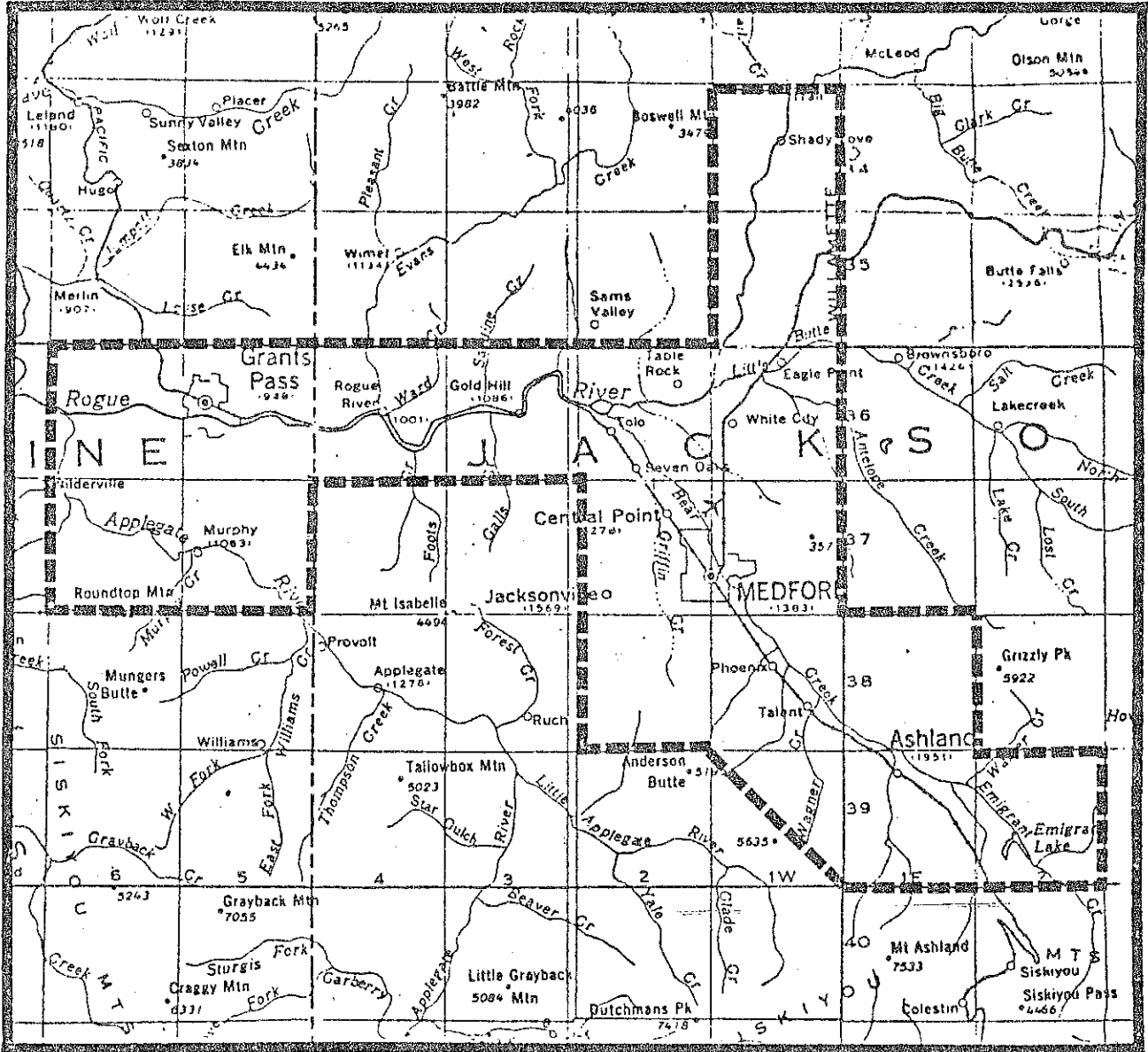
COOS BAY OPEN BURNING CONTROL AREA  
(Coquille Control Area Shown As Circle)



340-23-080  
FIGURE 3



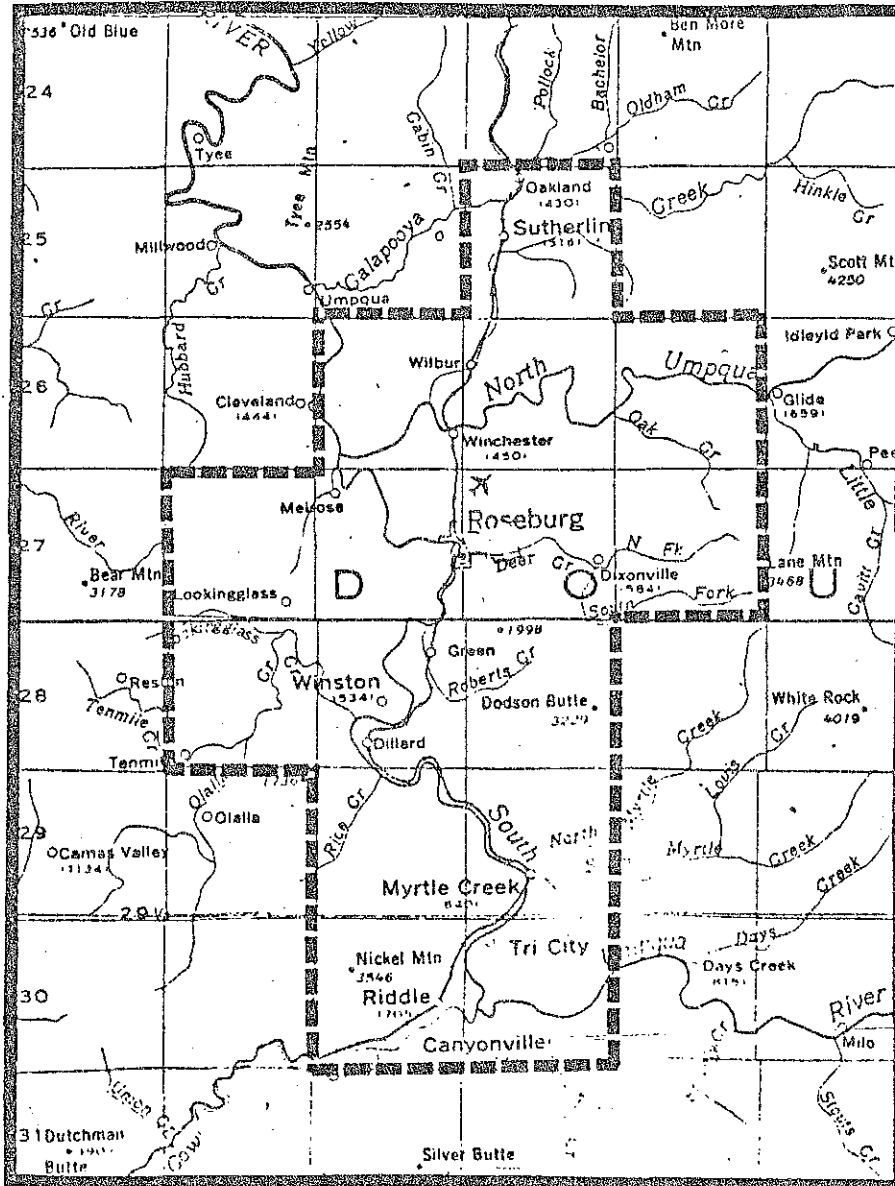
ROGUE BASIN OPEN BURNING CONTROL AREA



340-23-080

FIGURE 4

UMPQUA BASIN OPEN BURNING CONTROL AREA



340-23-080  
FIGURE 5