



# Internal Management Directive

Subject: Temporary Open-Burning Response Guidance		IMD Number:	
Sets forth criteria for open burning complaint staff to use in deciding whether to respond to complaints and potential violations of open-burning residential, non-residential, and commercial, industrial, construction or demolition waste rules.		AQ-00-018	
Effective Date:	March 1, 2012	Pages	3
Revision Date:	December 31, 2012		
Approval: Regional Division Administrators signatures	<i>Signature on file.</i>		

## **Disclaimer**

This IMD is not final agency action and does not create any rights, duties, obligations, or defenses, implied or otherwise, in any third parties. This directive should not be construed as rule, although some of it describes existing state laws. The recommendations contained in this directive should not be construed as a requirement of rule or statute. DEQ anticipates revising this document from time to time as conditions warrant.

This document is an internal management directive that is intended only as direction to DEQ staff. DEQ may take action that varies from this directive. This internal management direction does not establish policy or legal interpretations that may be relied upon by permittees or other third parties.

## **Document Development**

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## **Intent/Purpose/Statement of Need**

This internal management directive represents the Department of Environmental Quality's current directions to air quality complaint response staff as to whether to respond to open burning complaints and potential violations. This directive is issued on a temporary basis to free up time within the agency so that breakthrough work can be conducted on permitting, inspections, and pollution reduction. The intent is to reduce the amount of time spent on lower-priority open burn complaints and potential violations.

## **Applicability**

This directive applies to air quality open burning complaint responders who need to determine how to respond to open burning complaints and violations. This IMD applies to the following open burning sources in any area of the state by OAR 340-264-0060(3) and OAR 340-264-0080:

- Residential open burning of prohibited materials
- Non-residential open burning of prohibited materials
- Failing to comply with requirements for open-burning of commercial, industrial, construction or demolition waste

This IMD governs which potential violations will be investigated and documented. This IMD is in effect for open burning complaints and violations from the effective date through December 31, 2012 unless this IMD is withdrawn prior to December 31, 2012.

## **Directive to Air Quality Open Burn Complaint Responders:**

1. **Unless you receive prior permission from your manager, do not investigate, verify or follow up<sup>1</sup> on Low-Priority complaints or referrals from residents, fire departments, or other agencies except to return complainant's communication. Low-Priority complaints include:**
  - a. *Residential open burns of any size without prohibited materials.*
  - b. *Open burns with less than 2 tires or one cubic yard of prohibited materials.*
  - c. *Potential violations of open-burning requirements for commercial, industrial, construction or demolition waste unless the amount of waste exceeds 10 cubic yards or the potential violator has received at least two prior warnings (WL, EEO, or PEN) in the past 60 months.*
  - d. *Any open burn about which the size of the burn is not known.*
  - e. *Violations of the restrictions on burning any amount of yard debris.*

### **Communication to Complainants**

Complaint responders will need to return the call, email or letter of the complainant to inform the complainant that we will be sending a letter to the alleged open burner and that otherwise, *"our response efforts are limited to open burns where prohibited materials with more than 2 tires or one cubic yard of prohibited materials were ignited."* We will show compassion and understanding for the complainant's situation, offering options to reduce their exposure to smoke. Complaint responders will try to limit the time spent on the response. If the complainant requests it, the regional air quality manager can speak with the complainant. If the complainant or referring agent inquires as to why these burns are low priority, staff may explain that:

*"The Legislature and Governor have asked state agencies to be more transparent about the work we do, to be more efficient, and to measure the outcomes of our work. This requires assessing and improving our work processes, eliminating unnecessary steps, and measuring our work output. In order to free up time to do this work, we are temporarily reducing or stopping work in some areas, including our open burning program. In the end, DEQ will be better able to focus on the environment and serve Oregonians."*

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<sup>1</sup> Staff may send educational letters of "Alleged Pollution Violation" if warranted and if time allows.

2. **Do not send WLs or PENs for any potential open burn violations that DEQ has not documented through its own onsite investigation or verified through other means.** If DEQ has not investigated and documented the violations ourselves, or has not verified the information in a referral from another agency, we will not pursue formal enforcement but may send an Educational Letter of Alleged Pollution Violation.
3. **For violations that have been investigated or verified and documented, apply the Enforcement Guidance, and evaluate whether the proper response is a WL, EEO, or PEN and referral.**

## **Background:**

The Legislature and Governor have asked state agencies to be more transparent about the work we do, to be more efficient, and to measure the outcomes of our work. This requires assessing and improving our work processes, eliminating unnecessary steps, and measuring our work output. In order to free up time to do this work, we are temporarily reducing or stopping work in some areas, including our open burning program. In the end, DEQ will be better able to focus on the environment and serve Oregonians.

The open burning program was identified during the DEQ Managers' October 2011 conference as one of numerous programs that could be reduced or temporarily stopped in order to free up time for work on the breakthrough efforts.

This reduction in the level of response to complaints is meant to help shave off time from complaints responders, while still protecting the environment and public health by allowing response for egregious burns in every case.

While staff who will be reducing their time in open burning response are not necessarily the ones working on the breakthrough teams, their reduced workload will allow management to shift work around either within their local workgroup, or if necessary, between regions, to help accommodate those who are working on breakthroughs.

## **Definitions:**

**Residential open-burning:** For purposes of this guidance, residential open burning means the open burn occurred at a dwelling of four or fewer family living units; the open burn was conducted by, or at the direction of, a household member and the prohibited materials were generated in or around the dwelling.

**Prohibited material:** Wet garbage, plastic, asbestos, 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.

**Egregious act:** Examples of factors that might make the burning especially egregious include: its proximity to sensitive receptors (e.g., homes, schools, hospitals, etc.); meteorological conditions that aggravated the effects of the burn; involvement of materials with a high potential for serious environmental harm (e.g., PVC, flooring, carpeting, vinyl, wire insulation, counter tops, polyvinylidene chloride, other synthetic materials containing chlorine, hazardous chemicals and compounds, fiberglass, or asbestos); and large quantities of total material burned (prohibited and non-prohibited material).

## **Internal Contacts**

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