



Chapter 173-425 WAC

Open (Outdoor) Burning Rule Revisions

Concise Explanatory Statement

February 29, 2000
Publication No. 00- 02-004
Related to Administrative Order # 97-39

 Printed on Recycled Paper

Chapter 173-425 WAC

Open (Outdoor) Burning Rule Revisions

Concise Explanatory Statement

Prepared by:

Washington State Department of Ecology
Air Quality Program
PO Box 47600
Olympia, WA 98504-7600

Staff Contact:
Bruce Smith (360) 407-6889

February 29, 2000



Printed on Recycled Paper

For additional copies of this document, contact:

Department of Ecology
Publications Distribution Center
PO Box 47600
Olympia, WA 98504-7600
Telephone: (360) 407-7472

The Department of Ecology is an equal opportunity agency and does not discriminate on the basis of race, creed, color, disability, age, religion, national origin, sex, marital status, disabled veteran's status, Vietnam Era veteran's status or sexual orientation.

For more information or if you have special accommodation needs, please contact Air Quality Program at (360) 407-6841.

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. ECOLOGY'S AUTHORITY AND REASONS FOR ADOPTING RULE REVISIONS....	2
III. PUBLIC INVOLVEMENT SUMMARY	3
IV. SUMMARY OF COMMENTS AND ECOLOGY'S RESPONSE	6
V. DIFFERENCES BETWEEN THE PROPOSED RULE AND ADOPTED RULE	77

APPENDIX A: Primary Changes to the Outdoor Burning Provisions in Chapter 70.94 RCW That Need to be Reflected in Chapter 173-425 WAC

APPENDIX B: Governor Gary Locke's Executive Order 97-02 on Regulatory Improvement

APPENDIX C: Ecology's Original Proposed Rule

APPENDIX D: Concerns and Solutions Suggested by People Who Commented on Ecology's Original Proposal to Revise Its Open Burning Rules

APPENDIX E: Oral Comments

APPENDIX F: Written Comments

APPENDIX G: List of People Who Provided Oral or Written Comment

APPENDIX H: Previous Response Letters From Ecology

I. INTRODUCTION

In October of 1997, the Department of Ecology decided that it needed to revise its rules on open burning in Chapter 173-425 Washington Administrative Code (WAC) to make them consistent with the outdoor burning provisions in Chapter 70.94 Revised Code of Washington (RCW). It documented this decision by filing a Preproposal Statement of Inquiry (CR-101) with the state Code Reviser. Ecology made this decision because the RCW had been changed several times since 1992 when the agency's open burning rules were last revised, and numerous inconsistencies and issues of interpretation were noted. (Please see Appendix A for a list of the primary changes to the RCW that need to be reflected in Chapter 173-425 WAC.)

Shortly thereafter, and after preparing and getting management approval of a rule development plan, Ecology appointed an Outdoor Burning Advisory Committee to study the issues and recommend any necessary revisions. After meeting for about nine months, the Outdoor Burning Advisory Committee completed a draft rule in October of 1998, and Ecology held five public workshops around the state to obtain public comments on the draft. In January of 1999, Ecology presented the comments to the committee, and the committee considered the comments and revised its recommendation. Ecology then asked the state's air pollution control agencies if they were in agreement with the committee recommendation and discovered there were still some issues that needed to be resolved. Finally, in March of 1999, after negotiating some further revisions with all of the advisory committee members, Ecology filed its proposed rule revisions with the state Code Reviser as a Proposed Rule Making (CR-102). It then proceeded to obtain public comment on the revisions, both orally (in eight public hearings) and in writing.

After considering the comments received, Ecology decided that some changes to the proposed rule revisions were necessary to address the concerns of various people, including numerous rural home owners with large amounts of vegetative debris and some county solid waste management officials. (These people were concerned that the criteria for identifying areas with a reasonable alternative to burning would cause many rural areas to be declared no-burn areas for residential burning, and people would have to find other, more costly, ways to dispose of their debris. They also pointed out that this could potentially overload existing solid waste management facilities.) Therefore, Ecology negotiated some alternative rule revisions with its advisory committee members and others, and concluded that the preferred changes were substantive enough to require additional public hearings. This decision was documented by filing a new Proposed Rule Making (Supplemental CR-102) with the Code Reviser. Then, four additional hearings were held to obtain public comment on the revised proposed rule.

This Concise Explanatory Statement (CES) summarizes Ecology's authority and reasons for adopting revisions to its open burning rules and the agency's efforts to involve the public in the rule-making process. It also presents and summarizes all of the comments received on both rule proposals, and provides Ecology's response to those comments. Then it identifies all of the differences between the original proposed rule and the adopted rule that were made in response to comments, and presents Ecology's reasons for making, or not making, any suggested changes to the proposed rule.

II. ECOLOGY’S AUTHORITY AND REASONS FOR ADOPTING RULE REVISIONS

Authority

Ecology’s authority for adopting rules pertaining to outdoor burning is found in RCW 70.94.700 and 755. RCW 70.94.700 states that “The department of natural resources and the department of ecology may adopt rules and regulations necessary to implement their respective responsibilities under the provisions of RCW 70.94.650 through 700.” RCW 70.94.755 states that “Each activated air pollution control authority and the department of ecology in those areas outside the jurisdictional boundaries of an activated air pollution control authority, shall establish, through regulations, ordinances, or policy, a program implementing the limited burning policy authorized by RCW 70.94.740 through 70.94.765.”

Reasons for Adopting Rule Revisions

Ecology’s reasons for pursuing and adopting these rule revisions are to make Chapter 173-425 WAC consistent with, and effective in implementing, all of the provisions of Chapter 70.94 RCW pertaining to outdoor burning (except agricultural and silvicultural burning, which are addressed in other rules administered by the departments of Ecology and Natural Resources, respectively). These provisions include, but are not limited to, “the limited burning policy” authorized by RCW 70.94.740 through 70.94.765 and all of the changes to the policy that have been made by the legislature since 1992. (The primary changes are noted in Appendix A.) The limited burning policy requires Ecology and other agencies to (1) reduce outdoor burning to the greatest extent practical, especially by prohibiting it in certain circumstances; (2) establish a permit program for limited burning, one that requires permits for most types of burning (where not prohibited); and (3) foster and encourage development of reasonable alternatives to burning.

As with other rules adopted by the department, Ecology has also sought to review and revise the open burning rule to make sure it meets all of the review criteria specified in Governor’s Executive Order 97-02 on regulatory improvement (see Appendix B). These criteria include need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness.

III. PUBLIC INVOLVEMENT SUMMARY

As initially proposed in its rule development plan, Ecology has involved the public in this effort to revise the agency's open burning rule in many ways. These include a variety of mass mailings to people on an ever-expanding outdoor burning mailing list; public Outdoor Burning Advisory Committee meetings; press releases; newspaper advertisements; publication in the Washington State Register; public workshops and hearings; comment periods; group presentations; Internet website postings; and various interpersonal exchanges by phone, mail, email, and fax. As a result, many people became involved in the process. This is indicated by the number of people on Ecology's outdoor burning mailing list (currently 471), the number of people who participated at Ecology's Outdoor Burning Advisory Committee meetings (18 members and a variety of attendees), the number of people who attended the public workshops and hearings (195), and the number (and variety) of people who officially commented on the two rule proposals (100).

On March 23, 1999, Ecology filed its proposed revisions to the open (outdoor) burning rules in chapter 173-425 WAC with the state Code Reviser as a Proposed Rule Making (CR-102). The Code Reviser published the proposed rules in the Washington State Register on April 7, 1999. (A copy is provided in Appendix C.) This filing established a 44-day public comment period ending May 21, 1999. The department then proceeded to hold eight public hearings on the proposed rule revisions on April 27 and May 5, 6, 7, 10, 11, 12, and 13 in Yakima, Wenatchee, Spokane, Kennewick, Silverdale, Mount Vernon, Vancouver, and Olympia, respectively. The agency also made a public presentation about the proposed rule revisions before each hearing.

After the hearings, Ecology considered all of the comments received (a summary of concerns and suggested solutions is provided in Appendix D), and it decided to revise the proposed rule in response to certain comments, especially those expressing concern over the proposed criteria for identifying areas with a reasonable alternative to certain types of burning, where such burning would then be prohibited. After consulting with the state's air pollution control officers and all Outdoor Burning Advisory Committee members, Ecology filed its revised set of revisions to chapter 173-425 WAC (known as a Supplemental CR-102) with the Code Reviser on September 1, 1999, and the Code Reviser published the revised proposed rules in the state register on September 15, 1999. This, and a subsequent "continuance" filing to add an additional hearing, established a public comment period ending October 22, 1999. The department then proceeded to hold four public hearings on the new proposed rule revisions on October 7, 12, 13, and 14 in Olympia, Mount Vernon, Moses Lake, and Vancouver, respectively, and Ecology made a public presentation about the proposed rule revisions before each hearing.

Ecology then considered all of the oral and written comments received during and after both sets of hearings (which are presented in Appendices E and F, and are indexed in Appendix G), and while preparing the agency's response, it considered various additional changes that could be made to the rule to address remaining concerns. It then discussed these possible changes with the members of Ecology's Outdoor Burning Advisory Committee and the state's air pollution control officers. As a result, Ecology staff have recommended adoption of Ecology's second rule proposal with a few additional changes (which should not be considered substantive because they only clarify provisions in the rule). These additional changes are highlighted (shown with shading) in

the total list of changes to Ecology’s original proposed rule presented in Section IV, and this combination of recommended changes to the existing rule are referred to as the “adopted” or “final” rule in this CES.

Public Hearings

As previously mentioned, two sets of public hearings were held on the proposed rule revisions. Prior to each hearing, staff presented the proposed rule revisions and answered questions from people in attendance.

The first set of hearings was held between April 27, 1999 and May 13, 1999 at the following times and locations. Notices of the hearings were sent to the following newspapers: Yakima Herald Republic, The Wenatchee World, Spokane Spokesman Review, Tri-Cities Herald, Seattle Times, The (Tacoma) News Tribune, Skagit Valley Herald, The Bellingham Herald, The (Vancouver) Columbian, The (Olympia) Olympian, and The Daily Journal of Commerce. Notice of the hearings was also published in the April 7, 1999, Washington State Register.

April 27, 1999	Yakima Valley Regional Library Auditorium 102 N. 3rd Street Yakima, WA 7:00 p.m.
May 5, 1999	Cascade Natural Gas 614 N. Mission Street Wenatchee, WA 7:00 p.m.
May 6, 1999	Spokane Regional Health District 1101 W. College Avenue, Suite 104 Spokane, WA 7:00 p.m.
May 7, 1999	Benton County Public Utility District 2721 West 10th Avenue Kennewick, WA 7:00 p.m.
May 10, 1999	Silverdale Community Center 9729 Silverdale NW Silverdale, WA 7:00 p.m.

- May 11, 1999 Northwest Air Pollution Authority
1600 South Second Street
Mount Vernon, WA
7:00 p.m.
- May 12, 1999 Clark County Public Utility District
8600 Northeast 117th Avenue
Vancouver, WA
7:00 p.m.
- May 13, 1999 Department of Ecology Auditorium
300 Desmond Drive
Olympia, WA
7:00 p.m.

The second set of hearings was held between October 7, 1999 and October 14, 1999 at the following times and locations. Notices of these hearings were sent to the following newspapers: Yakima Herald Republic, The Wenatchee World, Spokane Spokesman Review, Columbia Basin Herald, The (Tacoma) News Tribune, Skagit Valley Herald, The Bellingham Herald, The (Vancouver) Columbian, The (Olympia) Olympian, and The Daily Journal of Commerce. Notice of the hearings was also published in the September 15, 1999, Washington State Register.

- October 7, 1999 Department of Ecology Auditorium
300 Desmond Drive
Olympia, WA
7:00 p.m.
- October 12, 1999 Northwest Air Pollution Authority
1600 South Second Street
Mount Vernon, WA
7:00 p.m.
- October 13, 1999 Big Bend Community College Auditorium
7662 Chanute Street
Moses Lake, WA
7:00 p.m.
- October 14, 1999 Clark College North Conference Room
1800 E. McLoughlin Boulevard
Vancouver, WA
7:00 p.m.

IV. SUMMARY OF COMMENTS AND ECOLOGY'S RESPONSE

A summary of concerns and solutions suggested by people in different interest groups who commented on Ecology's first proposal to revise its open burning rule was provided to people who attended the second set of hearings. It is presented in Appendix D. The following table presents a summary of all oral and written comments on both proposals made by people in those same interest groups during both comment periods, along with Ecology's response to those comments. The different interest groups in order of appearance (in both tables) are: people who would like to preserve their ability to burn, people who would like to protect themselves from the effects of burning, people representing agencies that deal with outdoor burning, and people involved in providing alternatives to burning. In the table, the first column identifies the subject of the comment (whether it's a general comment on the entire rule or a comment that relates to a particular section or subsection of the rule), the second column provides Ecology's summary of the comment, the third column identifies the actual oral or written comment or comments being responded to (which are presented in their entirety in Appendices E and F, respectively), and the fourth column shows Ecology's response.

Comments by People in Different Interest Groups and Ecology's Response

Comments by people who would like to preserve their ability to burn.			
Subject of Comment	Ecology's Summary of Comment	Source	Ecology's Response
The entire rule.	All major air quality problems from burning have already been addressed. We no longer need a Department of Ecology to enforce outdoor burning laws. Restrictions that require common sense burning are okay and have already been addressed. The rules are ridiculous. Ecology is, or may be, way over-stepping its authority.	Oral comment 2A. (Penny Cavin)	As stated in section one, Ecology has been directed by the legislature to develop regulations or policy to implement the outdoor burning provisions of the state Clean Air Act, and those provisions prohibit or restrict burning in certain areas and are based on common sense.
	This legislation is unorganized. The legislature makes legislation, but they've got no way to listen to people.	Oral comment 11A. (Denzil Stam)	The new rule clarifies various provisions of the legislation that have confused people.
	Various editorials in the Seattle Times indicate that EPA's new standards for particulate matter and ozone are being challenged, and another article says that the National Forest Service will be allowed unlimited burning on its land and complete exemption from Clean Air Act regulations if a bill in the House of Representatives becomes law. Although you have to follow whatever the national people call for, you can influence what the national EPA does, and I hope you'll say that there has been comment at these hearings to indicate that people question the need for all of this. Also, as the other gentleman said you could leave the rules the way they are. I would say, if it ain't broke, don't fix it.	Oral comment 13A. (Maxine Keesling)	The state's existing outdoor burning laws are not mandated by federal laws or regulations, and although we do occasionally attempt to influence the EPA and inform them of public sentiment about things like outdoor burning, in this case, we are simply trying to fix Ecology's existing open burning rules by making them consistent with state law.
	The changes to the rules are like all rules. There probably was some abuse back in time, so they thought it would be a good idea to control burning. Now you're getting to the point where you don't want any burning and that's absolutely ridiculous.	Oral comment 14D. (J. E. Simmons)	We are only revising the rule to implement requirements of the state Clean Air Act, some of which have changed in recent years.
	There's a lot of anger and resentment among folks where I live about the creeping control into our lives of government bureaucracy, and there's a lot more anger among those that	Oral comment 19A. (Gordon Paddock)	Ecology is only revising the rule to implement the outdoor burning requirements of the state

	<p>burn on a regular basis than those who complain. Part of the problem is we have contradictions and double standards, and this creates distrust in government, and distrust, resentment and anger towards public servants. For example, we've had the technology for about 40 years to get 50 miles per gallon, but it's been suppressed by the oil companies, or whatever, and we ignore that and attack the little guy, us individuals who drive sport utility vehicles with high gas consumption and high emissions.</p>		<p>Clean Air Act, which (like all requirements of the Act) are designed to secure and maintain levels of air quality that protect human health and safety, including even the most sensitive members of the population, so even though we understand and have made changes to address your concern, we can not act solely on behalf of those who are most angry.</p>
	<p>They're trying to regulate this burning – yet up here in the Columbia River Gorge, SD&S Lumber is going to burn up to 10 tons of rubber tires. That infuriates me.</p>	<p>Oral comment 35B. (Ralph Craig)</p>	<p>We understand your concern. However, (unlike outdoor burning) the tire burn is only proposed to occur on a test basis in a well-designed wood-fired boiler equipped with air pollution controls.</p>
	<p>When laws become unreasonable, decent people will stop following the law and become law breakers. Please don't continue with this rule-making, especially in light of Representative Pennington's intent to rewrite the law. This rule-making is untimely, unnecessary, and should stop here.</p>	<p>Oral comment 36A. (Rebecca Francis)</p>	<p>Ecology does not believe that the requirements of the state Clean Air Act are unreasonable, but, as shown on page 79 of this CES, we have further modified the criteria in the rule for identifying areas with a reasonable alternative to burning to address the concerns of Representative Pennington's constituents, including yourself. We also have to adopt the rule by 3/13/00 to avoid going through the whole rule-adoption process again.</p>
	<p>I came here looking for answers, and have not gotten any satisfaction. I've heard a lot of "could be". Like most things by this administration – it's ambiguous. I now susp-</p>	<p>Oral comment 37A. (Ken Pritchard)</p>	<p>It's difficult in a hearing to provide definitive answers for people until the particulars of their</p>

	<p>ect that I could move somewhere on my property and burn, if I could find the right story. It bothers me that the people that are making these laws haven't got a clue as to what they're causing us to do.</p>		<p>situation are known. We, therefore, encourage people to ask us how the rule would apply in their particular situation.</p>
	<p>If we look at the model of the government over here and citizens over here, I feel like the folks who work in government are servants working on solutions to problems, and the land-owner is a good steward. But I'm concerned that now the government is the enforcer, and I'm not sure what the citizen is any more. Help me out.</p>	<p>Oral comment 38D. (Mark Breakey)</p>	<p>If everyone acted in the best interest of society, we wouldn't need laws, and government could focus exclusively on providing services (roads, schools, etc.) but not everyone acts that way, so government has always had an enforcer role.</p>
	<p>Who do you people think you are? What is your mandate? Who are you saving us from? I'm a responsible citizen. What nonsense is this? I want to know who gives you the authority to make these decisions. I have no intentions of complying with your rules whatsoever. The day you ride up on your horse, to tell me pollution is bad I might listen. Please let me know who specifically decided to amend this w.a.c.?</p>	<p>Written comment 2A. (Dennis Anderson)</p>	<p>As stated in section one, Ecology has been directed by the legislature to develop rules/policy to implement the outdoor burning provisions of the state Clean Air Act, and Deputy Director, Dan Silver, specifically authorized the amendments for the reasons stated. Air pollution from burning can be detrimental to the health, safety, and welfare of people, especially those susceptible to its health effects, and the Act indicates that it intends to protect even the most sensitive members of the population.</p>
	<p>Your proposed rule changes seem to say this is the "new" law. Do you have any published data to support such costly and draconian rules? If you affect 10,000 households each month [in Clark County] at \$6.02, can I or the community expect \$60,000 a month in benefit? Some how I doubt there is any need to keep passing rules to laws, except to make the department self perpetuating and get a bigger budget.</p>	<p>Written comment 4A. (Dr. Gregory Barcus)</p>	<p>Some provisions in the rule reflect requirements in the state Clean Air Act, and others interpret or implement those requirements so people will know whether they apply to them or their property, and if so, when and how. A cost/benefit analysis</p>

			has also been prepared, which shows that the benefits of the rule outweigh its costs.
	The next time you are going to have a public hearing, I hope you will publicize it a little more. My e-mail address is dkasten@cbnn.net , will you please notify me?	Written comment 19B. (Donna Kasten)	We're sorry you didn't hear of our late-April and early-May hearings in eastern Washington. Notice of our October hearings was sent to all major newspapers and yourself.
	The proposed rules unnecessarily restrict tumbleweed burning which is a quick process that produces no visible smoke. Allowing property owners to burn tumbleweeds as needed, and without regulatory burdens, saves transportation costs and associated pollution, and saves scarce landfill space. I urge you to rewrite the proposed rule to remove the restrictions on tumbleweed burning.	Written comment 22A. (Steve Krogsrud)	Please see our response to your more detailed written comments below [written comment 22B under WAC 173-425-040 (5) and written comment 22C under WAC 173-425-060 (2)].
	Why this CLEAN AIR ACT by the Department of Ecology, when cars, airplanes and cigarette smokers polluting the air, cannot be stopped?	Written comment 24C. (Zella Lutterloh)	The Clean Air Act was passed by the legislature, and all of the pollution sources you mention are controlled through various laws.
	I feel that certain outspoken members of my medical profession have exaggerated the need for strict burn control as a health issue. To me the real basic health problem is those inconspicuous exhaust emissions in urban areas rather than that relatively benign smoke of vegetative burning. Burning should be restricted to certain days depending upon atmospheric conditions. However, strict or total burn restriction appears not only to be totally impractical but grossly unfair.	Written comment 32B and 33C. (Ray Rose)	The health effects of fine particle pollution are now fairly well known (and they're devastating for certain people), and outdoor burning is a major source of such pollution in many areas of the state. Therefore, the legislature has appropriately decided to prohibit or restrict burning in certain situations.
	The low turnout at the recent Kennewick public hearing was very unfortunate. A small inconspicuous announcement in the Tri-City Herald failed to give the time of the meeting. Upon calling both the Tri-City Herald and Ecology, I could not get this information. I only hope that future meetings	Written comment 33A. (Ray Rose)	We regret any problem you had getting this information about the Kennewick hearing. The newspaper and our own office should have been able to locate

	are better publicized, for there really is considerable interest in this matter.		the notice we sent them that contained this information.
	Burning is a natural way to recycle vegetation on a building site. Why would the state want to mess up nature's own recycling system? Even though Ecology says thousands of people die from smoke inhalation every year, I doubt it. My question is prove it's outdoor burning that is killing these people. Also, has the state taken into account all of the fuel, extra traffic, machinery, and other resources, labor, and talent needed to transport and process the waste into already scarce landfills? It is in the best interest of the public to allow reasonable burning and not ban it or over regulate it, because if you over regulate it, more people will just ignore the regulations. After all, tree and grass pollen effect more people than outdoor burning ever will.	Written comment 38B.	The outdoor burning rule does not apply to naturally occurring fires, and the estimates of people affected by human-caused particulate emissions come from the U.S. Environmental Protection Agency. We've also calculated the costs and benefits of the rule (which only implements state law), and they show that the costs caused by burning exceed those caused by the rule.
	We have the right as taxpayers to demand a hearing in southwest Washington so we can give our input and hear the ruling first hand.	Written comment 41C. (Nadine and Duane Ayers)	We chose to add a hearing in Vancouver in response to comments from people like yourself.
	How, when and where was the air quality testing done?	Written comment 45A. (Ed Brann)	The state Clean Air Act doesn't require that a specific air quality problem be proven before the outdoor burning requirements of the law can be implemented.
	The fire department issuing burning permits and advising the public when and if burning is allowed should be sufficient. Just common sense in this matter would help the quality of the air that we and all living matter breathe.	Written comment 45B. (Ed Brann)	Please see our response to oral comment 2A, above.
	Clark County Pomona Grange #1 would like to emphasize the statement by Rep. John Pennington that the issue of outdoor burning will be brought back on the House floor for further debate. If WAC 173-425 is implemented at this time, it will be a waste of valuable government time and expense as it is most likely to be recinded.	Written comment 51B. (James Courtney)	Ecology has followed the outdoor burning debate in the legislature this session, and it has decided to adopt further revisions to the proposed rule to address people's concerns. It will also pursue further revisions as needed to implement any newly adopted changes in the law.

	<p>On October 13th a representative of Clark County Pomona Grange #1 attended the public hearing at Clark College, where an overwhelming majority of the fifty people in attendance was against the proposed changes to the RCW and WAC. If you are listening to your constituents at all, you will at least postpone this change until the next legislative session.</p>	<p>Written comment 51C. (James Courtney)</p>	<p>Ecology is not proposing any changes to the RCW, and those who attended the hearing only opposed certain aspects of the WAC. Also, please see our response to your written comment 51B, above.</p>
	<p>The proposed outdoor burning rules will be contrary to the “growth management plan” instituted by the legislature in 1990 and implemented in Clark County. Much of our 165 acres was zoned as 20 acre ag/rural resource or 20 acre rural estates, and we’ve dedicated it to farm (cultivated or tree). It does not produce enough income to pay its current expenses, but it does comply with the goal of open space/limited development. Maintaining the tree farm/pasture portions of the property produces large quantities of woody material that must be gotten rid of each year to limit fire hazards, maintain pasture, and enable weed control, and adding the cost of disposal would break the bank. If Ecology’s goal is to force the sale of the remaining large tracts in Clark County into the smallest allowable increments, this is a good way to achieve it.</p>	<p>Written comment 62A. (Don Kemper)</p>	<p>Ecology’s not trying to force the sale of the remaining large tracts in Clark County into smaller increments, and we don’t believe the outdoor burning rule will have such an effect. Also, the rule doesn’t apply to agricultural burning or silvicultural burning.</p>
	<p>Thank you for allowing me the opportunity to comment on the proposed changes to WAC 173-425, Open Burning. Upon review of the document, I find that the comments I made in May are still applicable. Rather than rephrase my comments, I am simply attaching the letter I sent to you at that time. The bottom line is that burning the number of tumbleweeds that the average property owner has to deal with each year does not adversely impact air quality, and is in fact the environmentally preferable method of disposal.</p>	<p>Written comment 64A. (Steve Krogsrud)</p>	<p>Please see our responses to your previous written comments 22A above, and 22B and 22C under WAC 173-425-040(5) and 060 (2), respectively, below.</p>
	<p>We would like to attend a public hearing but notice that the closest location is 80 miles from our residence. We would like to submit the content of this letter for review at the public hearing and/or review committees. We are also requesting a copy of the proposed rule revision and revised Small</p>	<p>Written comment 65A. (Ernie and Kay Langevin)</p>	<p>We regret being unable to provide a second hearing in a location near you. However, your letter has been made a part of the official record as written</p>

	Business Impact Statement documents. We would also appreciate keeping updated regarding this issue.		comment 65. We trust you've also received the documents requested.
	I realize the concern about people breathing in particulate matter, but it has to be negligible when you compare it to using your fireplace or barbeque. Most people do not stand around willingly breathing smoke unless it is cigarette smoke.	Written comment 80D. (Amy Schock)	People typically avoid breathing smoke, especially asthmatics and others who are sensitive to it, and fireplaces carry smoke away from those who use them, but most smoke particles remain airborne for weeks, and when inhaled they travel deep into the lungs causing irritation and coughing and they can be trapped in the lung for years where they contribute to structural and chemical changes in the lungs, chronic lung diseases, and cancer.
	As to the conduct of the meeting on [October] 14 th , I found it completely unsatisfactory that you spent over an hour talking before the meeting ever opened even to questions from the floor. I left shortly after nine, as I live some distance out of Vancouver, and at that time, over two hours after the posted starting time of the meeting, neither I nor anyone else had yet had an opportunity to offer comments on the record. So much for allowing public comment. Scheduling one meeting in SW Washington for public comment and then using the bulk of it to talk yourself, I found extremely unproductive. And, though this may well not have been your intent, it suggests to me a contempt for the public on your part that I find highly disturbing.	Written comment 82B. (Carolyn Schultz-Rathbun)	We're sorry you did not have a chance to testify before leaving, however, we're glad to see that you provided comments in writing. The hearing actually lasted until no one else chose to speak. We also could've concluded our presentation sooner if everyone had held their questions until after the presentation as requested (and there were a lot of questions after our presentation). It was certainly not our intent to limit public input.
	What you really needed to say – giving a summary of the revised proposed rules – could have been said in 10 – 15 minutes. We didn't need to know your agency's timeline and the legislative history and so on. Those issues and the	Written comment 82C. (Carolyn Schultz-Rathbun)	Again, we're sorry, but (as stated at the beginning of the meeting) it was necessary to present the whole rule (not just the revi-

	<p>many others you covered are not unimportant, but when time was limited, the opportunity for public comment should have taken precedence. After all, those of us who came to the meeting did so because we were aware of the issue and had already educated ourselves in varying degrees.</p>		<p>sions to our previous proposal) because many people did not attend the previous hearings, and we were aware of many misperceptions about the rule and what the legislative changes required.</p>
	<p>The really frustrating thing was that you ate up the available time with a support of your agency’s position which was for the most part so vague as to be useless. For example, you put up an overhead transparency listing pounds of particulate matter introduced into the air by burning a ton of organic material, and by transporting a ton of material on a paved road and gravel road. However, no unit of distance was given for the last two figures, making them meaningless. The map transparency showing what areas of SW Washington fall under what aspects of the proposed regulation was so small as to be useless. And so on, and on.</p>	<p>Written comment 82D. (Carolyn Schultz-Rathbun)</p>	<p>Ecology believes it was necessary to inform people of the environmental impacts of burning compared to recycling or land-fill disposal, and we’re sorry if we failed to explain that the unit of distance was a thirty mile round trip. We’re also sorry if you found the prohibited area maps useless. Some people remarked that they were very useful in a general way.</p>
	<p>I am concerned about the new burning rules being imposed by the Dept. of Ecology. I have 2 acres of trees that concern me. Also, my son has an apiary and has a need to burn a diseased hive occasionally. It seems like common sense should come into this so that people can still dispose of diseased limbs, etc. too. A permit system by the local fire station should be considered.</p>	<p>Written comment 84A. (Julia Spellman)</p>	<p>“Other outdoor burning”, as defined in WAC 173-425-030 (15), can be allowed by permit in areas where residential and land clearing burning are prohibited. Also, please see our response to written comment 11A, below.</p>
<p>WAC 173-425-020 Applicability.</p>	<p>We have 5 acres in the middle of virgin desert and abundant debris needing burning. We believe the rules should apply to homeowners <u>with ½ acre or less</u>.</p>	<p>Written comments 23B and 65C. (Ernie and Kay Langevin)</p>	<p>Ecology does not have the authority in state law to exempt parcels from the rule on the basis of size.</p>
	<p>County road crews and irrigation ditch crews should be exempt from any pollution control fires. They must perform their work in a timely, efficient manner without fear of being fined.</p>	<p>Written comments 23D and 65E. (Ernie and Kay Langevin)</p>	<p>The rules must apply equally to governmental and private entities, and agricultural burning is addressed in Chapter 173-430 WAC.</p>

<p>WAC 173-425-040 Areas where certain types of outdoor burning are prohibited.</p>	<p>I have a lot of opposition and do not see any need for this total burning ban I see coming. If they get to the point that I cannot burn, I will not pay what it costs to use an alternative because I can't afford to, and you don't have the right to tell me what is economical. I'll just let everything go wild or call somebody in to cut it for firewood and level the whole place.</p>	<p>Oral comment 14A. (J. E. Simmons)</p>	<p>Please see our response to oral comment 14D, above. Also, residential burning is allowed in rural areas until a reasonable alternative to burning exists, and we've changed the criteria in WAC 173-425-040(5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude any properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.</p>
	<p>The statement was made that there is lots of landfill [capacity] for the additional waste, but Skagit County is already paying a fortune to haul its waste to eastern Washington, and this produces a lot of pollution from petroleum fumes that are worse than wood burning fumes.</p>	<p>Oral comment 14B. (J. E. Simmons)</p>	<p>Because it pays so much, and has a tipping fee that is above the median for the state, Skagit County has been identified as a county that may not have a reasonable alternative to burning.</p>
	<p>People should be allowed to burn under certain circumstances. Small backyard fires for burning yard debris should be allowed. People should use common sense. Burning is an effective way to get rid of pests. Places that accept limbs and yard debris are too expensive. When people can't burn and don't wish to pay the high fees, the alternatives are illegal dumping or letting things pile up (which is a fire hazard and an eye sore). I do not feel outdoor burning is a major source of air pollution. I'm sure there are many other big offenders to our air quality.</p>	<p>Written comment 11A. (Teresa Edmiston)</p>	<p>Ecology is obliged to require the prohibitions on outdoor burning specified in the state Clean Air Act, including the prohibition for areas with a reasonable alternative to burning. However, as shown on page 79 of this CES, we have further modified the criteria for identifying such areas in response to your comments.</p>
	<p>Please consider whether taking away the right to burn will cause more littering by people who can't afford to legally dump their refuse, and also consider using some of the policies of Oregon where littering is against the law and they</p>	<p>Written comment 19A. (Donna Kasten)</p>	<p>Please see our response to written comment 11A above. Littering is also against the law in Washington, and we suspect</p>

	enforce the law.		that more enforcement will be needed as burn bans occur.
	After the year 2000, we anticipate that residents will dump yard waste on remote roadsides or in other neighbors yards.	Written comments 23G and 65H. (Ernie and Kay Langevin)	Please see our response to written comments 11A and 19A, above.
	Burning kills bugs, slugs and mildew and is a sanitary way to get the brush taken care of. It's also the cheapest.	Written comment 24B. (Zella Lutterloh)	Outdoor burning <u>is</u> effective in the ways you describe, and it's cheap because people who burn only pay part of the cost involved in dealing with the problems they cause (through their taxes). Other costs are paid by people who suffer health effects and smoke and fire damage.
	Everyday we hear of government agencies making rules that add thousands of dollars to the cost of affordable housing with no benefit to the home buyer. The burn ban effecting new construction could cost the home buyer \$5000 more at the start of his loan, and may cost him four times that over the life of the loan, and these costs are born by society when both parents have to work to support the big house payment and taxes, and end up raising children that sometimes take a toll on society. Has the state figured out these new costs of the rule? I'm for reasonable regulations that work and do not shift costs to other areas of society.	Written comment 38A. (Michael Svardh)	Ecology is obliged to prohibit land clearing burning in those areas prescribed in state law, and it has only extended this prohibition to areas with a population density of 1,000 people/sq. mi., as allowed by statute. The costs of this extended prohibition are reflected in our cost/benefit analysis, which also shows the costs that are shifted to society by people who burn.
	A Battle Ground Reflector article mentioned that the law may be waived for those having tree farms or stands of numerous trees. We have more than 130 trees on our two and one half acre property. Is that enough to allow us the waiver to burn? How do we get the waiver approved?	Written comment 41B. (Nadine and Duane Ayers)	The rule does not apply to agricultural burning or silvicultural burning which are regulated under WAC 173-430 and WAC 332-24, respectively. Please contact the Southwest Air Pollution Control Authority to find out if either of these other rules apply instead.

	<p>At a recent Clean Water Act meeting we were told that land should be kept as close to nature as possible to help reduce runoff and maintain high water standards. We dispose of excessive growth by burning approximately once a month. If burning is banned in our area, we will be forced to remove and destroy our vegetation permanently. The legislature is creating laws that are in conflict with each other.</p>	<p>Written comment 41C. (Nadine and Duane Ayers)</p>	<p>Keeping the land as close to nature as possible does not mean removing excess growth, which holds moisture and reduces runoff.</p>
	<p>I am writing to protest any burn ban in areas where the minimum building sites are 5 acres or larger. Do you have any idea how much burnable vegetation accumulates during a year? Well it's a lot, and homeowners shouldn't be prevented from burning it. If you are so concerned about our air quality, why don't you force the emission testing of large semi-trucks and buses. We're regulated and taxed too much already and we aren't going to take it any more. Case in point (I 695).</p>	<p>Written comment 59A. (Donald Griffin)</p>	<p>Ecology does not have the authority in state law to exempt parcels from the required prohibitions on the basis of size. In the case of the prohibition in areas with a reasonable alternative to burning though, we have modified the criteria for identifying such areas, so local air authorities can consider the capacity of any recycling facilities to handle the amount of refuse and decide on a reasonable distance for recycling. Also, we do require emission tests on heavy duty gas and diesel trucks and mass transit buses.</p>
	<p>Will exceptions be made for non-native invasive plant species such as blackberries and scotch broom? I have a booklet from our utility (written by one the area cooperative extensions) which states that because these plants can grow from even small cuttings, they should be burned.</p>	<p>Written comment 80A. (Amy Schock)</p>	<p>We assume you mean an exception to the prohibitions in WAC 173-425-040. Here, the provisions of WAC 173-425-040(1) - (4) only apply to residential and land clearing burning, so it will depend on whether the local air pollution control agency considers a particular burn to be one of those types, or a weed abatement fire that could be allowed. Also, if the agency finds that a</p>

			reasonable alternative exists for weed abatement fires under 040 (5), then a variance may be required to grant an exception.
	It is my experience that people know when to burn and not to burn. I do not see huge piles of burning brush every day. I see small piles every once in a while. We have almost 5 acres and two-thirds of it's forest. We have a chipper/shredder and we use it. We also would like to have the freedom to burn responsibly when necessary. Thank you for taking the time to read my letter. I appreciate the difficulty of having to balance everyone's concerns for the good of all.	Written comment 80E. (Amy Schock)	Regardless of whether people know when to burn (and many still burn during stagnant air conditions), Ecology is obliged to require the prohibitions on outdoor burning specified in the state Clean Air Act, including the prohibition for areas with a reasonable alternative to burning. However, as shown on page 79 of this CES, we have further modified the criteria for identifying such areas in response to comments from people like yourself.
WAC 173-425-040(1) Nonattainment areas.	In the year since I purchased my house, which from my understanding sits in a no-burn area, I've burned yard debris 4 to 5 times and paid multiple people \$300 to take debris away. If I can't burn, I don't know what I'll do, because I can't afford the cost of removing this fire hazard (about \$600/year).	Written comment 48A. (Cheryl Butzlaf)	If you're in the Vancouver carbon monoxide nonattainment area, there's little Ecology can do to allow burning. However, as shown on page 79, we have modified the criteria in the rule for identifying areas with a reasonable alternative, so burning can be allowed on properties lying beyond a reasonable distance from an alternative.
WAC 173-425-040(2) Urban growth areas.	Using urban growth area boundaries is confusing and excessive. Don't prohibit burning outside city limits.	Oral comment 2C. (Penny Cavin)	Ecology has no choice but to prohibit residential and land clearing burning in the urban growth areas of the state as required by the state Clean Air Act.

	There's a lot of other pollution in the March's Point area [part of the Anacortes urban growth area], and they're worried about a little bonfire. Does that make sense?	Oral comment 11B. (Denzil Stam)	Please see our response to oral comment 2C, above.
	I reached seven of my ten neighbors in the March's point area this afternoon, and they wanted me to present this signed statement expressing our concern that the spirit of the law isn't being maintained in this area, and we're caught in a political cross-fire, but perhaps the grey areas will protect us.	Oral comment 12A. (Robert Evans)	Please see our response to oral comment 2C, above. If the City of Anacortes had made March's Point a separate urban growth area, burning could have been allowed there until 12/31/2006.
	I believe the system we've got is doing all right. I've burned in Anacortes, and the fire truck comes and checks what is to be burned, and I burn it, and there were no complaints - never has been. I live on March Point, how many does it hurt, five or six people in that whole big area. For 30 years we've had no complaints about my burning. Anyway, I am opposed to this burn ban and everything. It's just a money-maker for somebody. It might be the grinder, I don't know.	Oral comment 27A. (Denzil Stam)	Please see our response to oral comments 2C and 12A, above, and written comments 5A, 12A, 21A, and 28A, below.
	Please exempt our March's Point rural residential area from the deadline for prohibiting residential and land clearing burning, or extend the deadline.	Written comments 5A, 12A, 21A, 28A, and 39A. (Dave Bost) (Robert Evans) (Robert Evans, et. al.) (Don Monks) (Robert Watcher)	Ecology cannot exempt or extend the deadline for March's Point because RCW 70.94.743 prohibits outdoor burning in all urban growth areas (except any for cities having a population of less than 5,000) by December 31, 2000.
	I have two and a half lots in Sedro Woolley, and like many elderly folks who enjoy their city lots, it's a great problem to dispose of the great quantity of vegetation because I have no pickup truck, and the city has no designated place for brush. Last year, I paid a man \$20.00 a pickup load to haul my brush to a designated place in La Conner. With rotting foliage, old boards, and you name it around our property, what are we to do? The desk job government folks should come down alleys and see the real world!!	Written comment 24A. (Zella Lutterloh)	Please see our response to oral comment 2C on this subject, above.
	March's Pont is an industrial area with residences shrinking not expanding. The price/acre is so high that the only econ-	Written comment 28B. (Don Monks)	Please see our response to oral comments 2C and 12A, and

	omical value is to industry. The burning here by residences is not of plastic - cans - garbage, but tree limbs - leaves - etc. Please reconsider and exempt March's Point.		written comments 5A, 12A, 21A, and 28A on this subject, above.
	We are under the assumption that we are outside the Battle Ground urban growth area. How do we find out if our assumption is correct?	Written comment 41A. (Nadine and Duane Ayers)	You should contact the people responsible for growth management in Clark County at (360) 397-2375, extension 4997.
	I think the burning ban issue has gotten out of control and has caused undue hardship regarding the disposal of brush. I live on a ¾ acre piece of land in E. Wenatchee, and I have shrubs and trees that I've pruned and burned every year for 17 years. It usually amounts to 2-3 pick up loads (including leaves), and disposal would cost about \$100/year. I think the government hasn't been creative enough in dealing with the problem. Instead of banning burning, why not just confine it to certain days of the week? Another restriction could be that there be some breeze but not too much. Let the local fire department provide notice which conditions are appropriate on a daily basis.	Written comment 52A. (John D'Amour)	Ecology has no choice but to prohibit residential and land clearing burning in the urban growth areas of the state by the deadlines required in the state Clean Air Act. However, many communities are sensitive to the cost issue and are striving to provide reasonable alternatives to burning.
	Wenatchee as far as I know has never had a pollution problem from burning. Why should population size alone dictate burning bans? Why not look into other factors? Also, any air pollution will probably come from the orchards in town or just outside the limits. The small amount of burning that occurs within the city limits is just a drop in the bucket. I would like to repeal the burning ban completely or look at creative measures of having restricted burning for each locality the burning ban affects.	Written comment 52B. (John D'Amour)	The state Clean Air Act established deadlines for prohibiting outdoor burning in urban growth areas based on population size, so that's the factor we're obliged to use. We only have the option to allow burning under certain restrictions in areas where it is <u>not</u> prohibited.
	I have 2 ½ acres in Battle Ground. I feel it would be a great disservice to stop outdoor burning in Clark County for the following reasons: (1) it helps our wooded areas grow healthy, (2) it helps keep the fire hazard down, (3) it helps keep refuse off the road, and (4) healthy trees process more carbon dioxide into oxygen for us to breathe. Also, with my wooded area groomed, families of deer forage in my yard and forest. Please do not take my right as a land/home	Written comment 54A. (Maria and David Ebert)	This regulation does not apply to silvicultural burning, including forest health burning, and we have no choice but to prohibit residential and land clearing burning in the urban growth areas of the state by the deadlines specified in the state Clean

	owner away.		Air Act.
WAC 173-425-040(4) High density areas.	The proposed rule uses census blocks to identify areas of “high density” where outdoor burning must be prohibited. How does that work for us?	Written comment 20A. (Maxine Keesling)	Please see our letter response dated May 6, 1999 in Appendix H.
WAC 173-425-040(5) Areas with a reasonable alternative to burning.	I would like to express indignation that \$28,000 to dispose of 1.5 acres worth of clearing could be considered reasonable, and it will contribute to unaffordable housing, when our governments are trying to provide affordable housing.	Oral comment 13B. (Maxine Keesling)	Under the revised criteria in the rule, this parcel wouldn’t have a reasonable alternative unless it is served by a service or facility that is located within a reasonable distance and will accept the type and volume of refuse at a cost that is less than the median of all county tipping fees in the state for disposal of municipal solid waste (which is currently about \$72/ ton).
	The criteria for selecting areas outside an urban growth boundary with a reasonable alternative to burning [impose] an unreasonable and unnecessary burden on those affected by it and should be changed. It is based on an assumption that distance from a recycling center is a fair criteria, when the main problem is the sheer volume of debris from large properties to be handled, loaded, and transported. In many cases, a truck is not economically available, and the affected areas are outside urban growth boundaries, where the owners generally have large lots with a lot of debris, sometimes because the Growth Management Act prevents them from subdividing their property.	Oral comment 16A and written comment 9A. (Len Dozier)	The criteria for selecting areas with a reasonable alternative have been changed to allow the local air authority to consider whether any recycling center is located within a reasonable distance and whether it can handle the type and volume of organic refuse at a cost that is less than median of all county tipping fees in the state for disposal of municipal solid waste.
	I propose that the three criteria [for identifying areas with a reasonable alternative to burning] be deleted and replaced with a simple criterion that the owner is permitted to burn when the size of his property is at least one acre and is located outside an urban growth boundary.	Oral comment 16B and written comment 9B. (Len Dozier)	Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited, and the RCW does not allow us to exclude areas on the basis of parcel size.
	I’d like to state my opposition to burn bans in the unincorp-	Oral comment 18A.	Please see our response to oral

	<p>orated area of North Clark County outside any urban growth boundary. It's very difficult when you're trying to clear brush. A lot of areas are inaccessible to vehicles. I have to stack things up and burn it there. The 15 mile limit assumes you can load things up and haul it away. If you are going to have burn bans, base them on lot size. (An acre would probably be reasonable.)</p>	<p>(Gregory Bronson)</p>	<p>comment 16B and written comment 9B, above. Also, the 15-mile criteria has been dropped, and you may want to ask your local air authority if the type of burning you do will be prohibited. It doesn't sound like residential burning, and it may be silvicultural burning.</p>
	<p>I have great concern over the limitations on people who live out in the country on acreage and our ability to burn brush.</p>	<p>Oral comment 19E. (Gordon Paddock)</p>	<p>Ecology is sympathetic to your concern, so we've changed the criteria in WAC 173-425-040 (5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude any properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.</p>
	<p>I am violently opposed to the burn ban for rural forested lots. To allow underbrush and dead branches to accumulate on the ground at my house is a significant fire danger, and it looks like hell. Loading and hauling these branches and brush to a recycling and composting facility is out of the question for many of us. Personally, I would have to buy a pickup dump truck or rent one every time we have a wind storm. We live on a five acre wooded parcel, and after a typical windstorm, I get one to thirty yards of brush and branches to dispose of. If I leave it on the ground, and it catches fire, are you going to pay for the half million dollar houses around me? We need to apply some common sense in establishing the rules for outdoor burning.</p>	<p>Oral comment 29A and written comment 63A. (Gunars Kilpe)</p>	<p>The revised rule doesn't prohibit silvicultural burning, and it doesn't prohibit storm or flood debris burning or residential burning unless a reasonable alternative to such burning exists in the area. Also, as shown on page 79 of this CES, the proposed rule has been revised to prevent a composting facility from being considered a reasonable alternative unless it is located within a reasonable distance as determined by the air pollution control agency.</p>

	<p>[Representative Pennington] restated to me tonight that he will do his best to get a bill through the next legislature to nullify the interpretation by the Department of Ecology on this reasonably economical alternative, which is the basis for banning burning in the nonurban portions of Clark County. He also authorized me to say that he supports my testimony.</p>	<p>Oral comment 31A. (Len Dozier)</p>	<p>As shown on page 79 of this CES, Ecology has further modified the criteria in the rule for identifying areas with a reasonable alternative to burning to address the concerns of Representative Pennington’s constituents, including yourself.</p>
	<p>Delete section 040(5) because: (1) no air quality violation in nonurban areas has ever been due to outdoor burning, so there is no urgency, (2) the wording of the RCW on which this section is based will probably be changed in the next legislative session if [Representative Pennington] is successful, (3) the median statewide price for recycling in not stated and could be exorbitant, and it does not include the cost of transportation (in Clark County, a pickup load of very low density prunings costs \$15 based on volume not weight, and this, plus the cost of transportation, is equivalent to a large additional tax on nonurban citizens, most of whom are not allowed to subdivide their land by the Growth Management Act), and (4) the physical work of moving large amounts of debris to a recycling center or public pickup point is beyond the capability of many citizens who do not own a truck or other vehicle to carry this debris, (5) DOE’s attachment states that burning on “unimproved” parts of property may be “silvicultural burning”, and therefore allowed, but this may not be true for most citizens since they are not trying to maintain a forest or tree farm as required, and (6) the phase-in approach and local management would only delay the imposition these expensive and unnecessary controls on some portion of the nonurban area but does not eliminate the above objections.</p>	<p>Oral comment 31B and written comments 42B, 46B, 53B, 57B, 60B, 61B, 76B, 77B, and 87B. (Len Dozier) (Nadine and Duane Ayers) (Darlene and Ed Brann) (Rebecca Francis) (Jane Hansen) (Rebecca and Mark Portukalian) (Andrew Portukalian) (Bill Young)</p>	<p>Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited, and the RCW does not allow us to postpone these prohibitions until an air quality violation caused by outdoor burning occurs. (Nor would it be appropriate to postpone them in or near any areas with an air quality problem caused by <u>other</u> sources if burning could exacerbate the problem.) Also, Ecology needs to adopt the rules by 3/13/00 to avoid going through the whole rule-adoption process again, but we are sympathetic to your concerns, so we’ve changed the criteria in WAC 173-425-040(5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude any properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.</p>

	<p>This statewide burn ban is another one-size-fits-all mandate that disregards, and is counter-productive to, sound regional environmental decisions, and it's not just about air, but the environment in general. Many rural property owners have attempted to create and maintain forested acreages that offer an ever-diminishing sanctuary, natural habitat, for wildlife. The pollution caused by a cavalcade of trucks and trailers travelling 30 to 40 miles or more round trip to commercial recyclers does not balance out in favor of environmental concerns. It does benefit the petroleum and trucking industries, along with commercial recyclers whose recycling machine is not pollution free.</p>	<p>Oral comment 32A. (Jim Hansen)</p>	<p>The rule doesn't impose a statewide burn ban, but it prohibits certain types of burning by certain deadlines in urban areas, as required by the state Clean Air Act. We've also removed the 15-mile criteria for identifying areas with a reasonable alternative to burning (where certain types of burning must also be prohibited) and replaced it with criteria that allow the local air pollution control agency to decide what constitutes a reasonable distance.</p>
	<p>I am opposed to the burn ban for a couple of reasons indicated by others earlier. I'm surrounded by trees that encroach on our property, and we try to maintain our property in a fashionable manner, which increases its value and our taxes (so burning benefits the county). I feel we are overtaxed as is, and any regulation is another form of taxation, which I truly resent. I am not going to haul my debris to the recycling center. I will continue to burn [at midnight if I have to] to maintain my property.</p>	<p>Oral comment 34A. (Grant Kelly)</p>	<p>Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited, but we're sympathetic to your concern, so we've further modified the criteria for identifying such areas. (Please see the changes on page 79 of this CES).</p>
	<p>You talk about your barrels. I'm talking about four 10-foot diameter, 10-foot high piles of wood that I must burn every year. I don't have a truck that can carry this or a chipper that can chip it, and I have absolutely no intention of doing it. I guess I could take it to the back of my property and hide it, but I don't know how you ever conceived the idea. When I prune my trees it takes three days to simply drag them into piles. Can you imagine what it would take to cut them up into 4-foot sections and burn them in a barrel. Soon they're going to say I've got to have it hauled. It's a burden I can't afford.</p>	<p>Oral comment 37B. (Ken Pritchard)</p>	<p>Ecology understands the problem for people with a substantial amount of organic material to dispose of, so (as shown on page 79 of this CES) we've further modified the criteria in the rule for identifying areas with a reasonable alternative to burning. They now allow local air authorities to decide whether any alternative service or facili-</p>

			ty is located within a reasonable distance and can handle the type and volume of organic refuse at a cost that is less than median of all county tipping fees in the state for disposal of municipal solid waste. Also, the rule does not allow people to use a common burn barrel for burning.
	I'm concerned about the ratchetting effect of government with a solution in search of a problem. If one area has a problem, and they come up with a good solution and share it with other agencies, and everyone sees the science in it, I like that. If we've got a real high density, and a whole bunch of people are burning, and some of my elderly or asthmatic neighbors are having significant problems, then I don't want to do that.	Oral comment 38A. (Mark Breakey)	Ecology believes outdoor burning is a proven problem for various reasons, including a potentially significant health effect on people with respiratory or cardiovascular conditions, who may live in rural as well as urban areas. We are pleased to see that you don't want to cause your elderly or asthmatic neighbors such problems.
	It's good to encourage alternative disposal methods, some we haven't even heard of yet. Will the government use the least constrictive means to achieve these goals? Obviously burn bans will completely eliminate the problem, but I think there are going to be other problems. Perhaps we are going to see increased fuel loads, and then, as a volunteer fireman, am I going to be the volunteer para-police? Do I have to go out and deal with all these legal issues.	Oral comment 38B. (Mark Breakey)	The state Clean Air Act requires that outdoor burning be prohibited when a reasonable alternative to burning is found to exist, and increased fuel loads won't occur if people use an alternative. (The rule doesn't require people to use an alternative, but fire districts can require that fire hazards be removed.) Also, fire districts don't have to enforce the rules unless they issue burn permits or otherwise agree to.
	The one thing that bothers me about this whole government imposition is that you're trying to eliminate burning wherever alternatives to burning are available, even if the air	Oral comment 39A. (Keith Mathison)	Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burn-

	<p>quality is good. It's not based on air quality, and I would like to see it totally based on air quality. Why in the world couldn't we burn? It's the natural thing, that people actually like to do. It's fun going out, burning piles, and maybe, when it gets down far enough, have a little wiener roast.</p>		<p>ing, where burning must then be prohibited, and the RCW does not allow us to postpone these prohibitions until an air quality problem is proven.</p>
	<p>I grew up on a small city lot. Then I get to the country (and I pinch myself every day thinking how wonderful it is), but I also came to a big realization how the forest encroaches on my 2 ½ acre lot. I create a burn pile big enough to fill my two car garage every year, and I wouldn't want to take it to a recycling center. I also bought a chipper and used it once because I figured out it's impossible to chip a two-car garage full of branches.</p>	<p>Oral comment 39B. (Keith Mathison)</p>	<p>Please see our response to oral comment 37B.</p>
	<p>I like to fish a little bit, and every year I get the book of fishing regulations, and every year it gets a little thicker, so I don't even know when I throw my pole in the water whether I am legal. It sounds like you are [also] creating a huge bureaucracy over something rather simple. Just simply, when the air quality is bad, put something in the paper that says you can't burn today.</p>	<p>Oral comment 39C. (Keith Mathison)</p>	<p>We understand your concern about the complexities in the law, and if every community had adequate air quality monitoring, your alternative approach would probably work; however, the Clean Air Act requires that burning be prohibited in certain areas as specified in the rule.</p>
	<p>We moved out to the country from Oregon because we were tired of 1,000 square foot lots. We bought 7 acres and kept the natural vegetation. The people from the fire control tell us to maintain the vegetation so it doesn't become a fire hazard. The people from water control tell us to maintain the vegetation to keep water quality. We cannot burn, we cannot afford to haul, we do not have equipment to grind or haul, and I am sure there are many other senior citizens in the same boat.</p>	<p>Oral comment 40A. (Nadine Ayers)</p>	<p>The fire hazard risk may actually be reduced when people stop burning because debris burning is the biggest cause of fires according to Dept. of Natural Resources statistics. Also, please see our response to oral comment 37B, above.</p>
	<p>People who own acreage with trees should be able to continue open burning. I own ten acres with about 100 major trees, and each year we get one or two major storms and a half dozen "normal ones", and I collect between one and two dump-truck loads of limbs, some as large as 30 feet</p>	<p>Written comment 15A. (Bob Grasso)</p>	<p>Ecology is obliged to prohibit burning in certain areas specified in the state Clean Air Act, including urban growth areas and areas with a reasonable alt-</p>

	long and weighing 200 pounds. I salvage the firewood and burn the small limbs and foliage in a legal, safe, and considerate manner.		ernative to burning. However, as shown on page 79 of this CES, we have further modified the criteria in the rule for identifying areas with a reasonable alternative to burning in response to comments from people like yourself.
	Hauling to the dump and chipping are the alternatives, and the costs in dollars and time are unattractive to me. I have no use for a huge pile of chips each year, and hauling and spreading them would require too much labor and time for the benefits gained. This kind of material does not compost well; it takes forever to biodegrade.	Written comment 15B. (Bob Grasso)	You may also be able to find a reasonably-priced chipping service that will take the chips to a composting facility, where decomposition is much faster. Also, please see our response to written comment 45C, below.
	To use "the median of all county tipping fees in the state for disposal of solid waste" as a criteria for ascertaining reasonable cost of organic refuse disposal is confusing, especially since King County charges by the ton for organic refuse disposal and Pacific Topsoil in Kenmore charges by the cubic yard. Is the hauling alternative "reasonably economical" and also environmentally preferable in my case, or in situations where people might have to hire a truck and driver?	Written comment 20B. (Maxine Keesling)	Please see our letter response dated May 6, 1999 in Appendix H. We have also modified the criteria for determining if a reasonable alternative exists, but the median tipping fee is still used, so we may have to develop methods for converting per cubic yard charges to per ton charges. We have also verified that hauling produces far less pollution than burning.
	This section prohibits tumbleweed burning where a reasonable alternative to burning exists. The fact is there is no better alternative to burning, and this decision should not be made by the local air authority. Burning by the property owner is the most efficient and environmentally sound method of disposal for the following reasons: (See written comment 22B.)	Written comment 22B. (Steve Krogsrud)	This prohibition is based on RCW 70.94.745(6), which applies to all types of organic refuse burning, and local air authorities <u>will</u> decide if a reasonable alternative exists. The revised criteria for making these decisions also make it less likely that a local air authority will decide

			that a reasonable alternative exists for tumbleweed burning.
	Certain types of waste (such as tumbleweeds) defy any effective type of disposal other than burning. Can you relate to a farmer clearing endless heaps of tumbleweed from fence-lines and irrigation ditches and packing it off on a pickup truck to a landfill? Please, let's be reasonable!	Written comment 32A and 33B. (Ray Rose)	Please see our response to written comment 22B, above. Also, the burning of tumbleweeds at an agricultural operation is regulated under chapter 173-430 WAC or RCW 70.94.745(7).
	I feel that these requirements to keep us from burning yard debris are unnecessary and overly burdensome for owners of large lots and acreage. The amount of smoke from wood debris fires is minimal, and I don't believe you have data to show that this restriction will significantly improve our air quality. Please spend your time with more significant ways to protect our environment which will not cost government time and money and citizens undue restrictions.	Written comment 40A. (Joanie Williams)	Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited, but we are sympathetic to your concern, so we have changed the criteria in WAC 173-425-040(5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.
	The proposed new regulation will ban burning outside urban growth boundaries (a) where there is a county recycling service or (b) any service that will dispose of organic refuse at no more than a state-wide median cost. In Clark County this means that H & H Recyclers would result in a burn ban which could begin by January 1, 2001 in some non-urban areas that can now burn, and would extend to most of the county in phases. Ecology claims the existing law forces them to proceed with this even though Rep. John Pennington says they are misinterpreting the legislative intent of RCW 70.94.745(6). He has stated that he will introduce a bill next session that will nullify the interpretation by DOE.	Written comments 42A, 46A, 53A, 57A, 60A, 61A, 76A, 77A, and 87A. (Len Dozier) (Nadine and Duane Ayers) (Darlene and Ed Brann) (Rebecca Francis) (Jane Hansen) (Rebecca and Mark	The prohibition in areas with a reasonable alternative does not extend to additional areas in phases unless the agency making the alternatives determination concludes that additional area is being served by an existing or new facility. As shown on page 79 of this CES, Ecology has also modified the criteria in the rule for making these determinations to address various

		Portukalian) (Andrew Portukalian) (Bill Young)	concerns expressed by Representative Pennington's constituents.
	We are blueberry farmers in the unincorporated area of Battle Ground, and we want to protest the Department of Ecology's seeking to establish a new rule against burning organic refuse in outlying areas. We burn only two times a year and follow the guidelines. The fire may not produce much smoke, except for just a few hours. We do not have an air pollution problem in our area due to burning at any time of the year. This new rule would create an economic hardship on us as well as a lot of other people with acreage. Please stop this new rule.	Written comment 44A (transcribed from a voice mail message). (Mrs. Ralph Bovey)	The new rule does not apply to agricultural burning, and burning can contribute to air quality problems caused by other emission sources. Also, as shown on page 79 of this CES, Ecology has modified WAC 173-425-040 (5) to address concerns expressed by people like yourself.
	There should be a ban on burning in densely populated areas, but here in rural areas it becomes a must to dispose of natural vegetation after a winter storm. We may have three to four tons of debris after each storm.	Written comment 45C. (Ed Brann)	Ecology is sympathetic to your concern, so we've changed the criteria in WAC 173-425-040 (5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude any properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.
	The price of gas, labor, time to transport to a recycling company becomes enormous. After burning the ashes can be put back into the soil.	Written comment 45D. (Ed Brann)	Burning is expensive too, if you consider the labor and time involved in preparing and tending a fire (or the costs to society as shown in our cost/benefit analysis). You may also be able to find a recycling service that will haul the material (or the chips from it) to a composting facility for a reasonable price, thereby giving you more time to do oth-

			er things. Also, please see our response to written comment 45C, above.
	As a home owner and tax payer, we are definitely against the ban on outdoor burning mentioned in the attached "Fireline" article. We would appreciate your department looking this matter over.	Written comment 47A. (Ed and Darlene Brann)	We assume you are referring to the ban that's required by law in areas with a reasonable alternative to burning. Please see our response to written comment 40A, above.
	We own a little over 2 acres, and the burn ban will cause a hardship on us. Every year we have to burn at least twice to control blackberries (we don't want to spray and cause contamination to the ground) and fallen branches.	Written comment 49A. (Alberta Carlson)	Please see our response to written comment 45C, above.
	We always get our permit and abide by the rules, and don't burn when it's dry. There should be a huge penalty for people who don't follow the rules. Maybe anyone that has one or more acres could burn on certain months or weeks of the year.	Written comment 49B. (Alberta Carlson)	Maximum criminal and civil penalties are set forth in RCW 70.94.430 and 431, respectively, and we are not authorized to allow burning if a reasonable alternative to burning exists, regardless of parcel size.
	People with trees will need to pay someone to haul their material if they can't haul it themselves, unless there is a pickup service, and they may dump their debris on other people's property. Or will they clear cut and disfigure all the mountains and hills?	Written comment 49C. (Alberta Carlson)	Thank you for making this observation for the record. We agree it would be regrettable if people choose to illegally dump their material or clear cut their property. Also, please see our response to written comment 50A, below.
	My home on acreage in the foothills east of Battleground was built in an abandoned orchard that, along with the natural state of the rest of the property, requires yearly pruning, and I generally burn the prunings twice a year. The only alternative is to transport the cuttings to H & H Recyclers, which has limited capacity, and with my truck it would take approximately twenty ten-mile trips. Wouldn't the air quality suffer as a result of the added fuel consumed, especially a	Written comment 50A. (Mathew Cole)	Ecology is sympathetic to your concern, so we've changed the criteria in WAC 173-425-040 (5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service or facility and exclude any properties beyond a

	considering the possibility that thousands of other property owners would be faced with the same situation?		reasonable distance from there when they identify areas with a reasonable alternative to burning.
	Let me offer some possible alternatives to a total burn ban: Why can't H & H Recyclers offer a service to pick up people's cuttings or chip them on site? Limit the total amount that can be burned and/or the frequency of burning through a permit process. Offer incentives or purchasing subsidies for chipping machines for property owners. (Frankly, I would rather chip my cuttings than burn them because its faster and I don't need to wait for the cuttings to dry out. The problem is the machines are very expensive.	Written comment 50B. (Mathew Cole)	Ecology believes that some companies will offer a pick-up or on-site chipping service, and some jurisdictions may offer incentives or purchasing subsidies. However, the rule can't allow limited burning if a reasonable alternative to burning exists.
	If the rules are applied in my area, I will be forced to consider eliminating my tree and brush cutting, which is not an option from an appearance and fire prevention standpoint. I would therefore consider cutting everything down and do a lot of burning before the rules take effect. But the way I see it, the whole point of this is for good air quality. Don't we still need trees to provide clean air?	Written comment 50C. (Mathew Cole)	Yes, trees are needed for clean air. Please see our response to written comment 50A, above.
	Clark County Pomona Grange #1 has voted to oppose the proposed ban on outdoor burning. Our discussion included many of the reasons in the attached letter [written comment 53].	Written comment 51A. (James Courtney)	Please see our responses to written comments 53A and B, above, and written comment 56A, which follows.
	As residents of unincorporated Clark County, we agree with Fire District's position on outdoor burning. It is an effective tool to efficiently rid acreage of natural vegetation debris and can actually improve fire safety by reducing the amount of fuel available to burn during fire weather. There are rules currently in place that take into account safety and smoke management. I also wonder if outdoor burning causes more air pollution than all those cars will cause transporting their debris many miles to the recycling center.	Written comment 56A. (Darlene Estlow)	Most fire districts also realize that other methods for disposing of vegetative debris are equally effective and possibly even safer than burning, and we have no choice but to prohibit burning in any areas with a reasonable alternative to burning. However, we have changed the criteria in WAC 173-425-040(5) to allow each local air pollution control agency to consider the capacity

			of any alternative disposal service or facility and exclude any properties beyond a reasonable distance from there when they identify such areas.
	<p>I am opposed to the change that would require residents in the Hockinson area to stop the open burning which is currently allowed with the proper fire permit. My one and one-half acre hillside property with a rather heavy mix of cedar, alder, cascara, wild hazelnut, blackberries, salal, and other assorted plants is located within the 15-mile limit of a transfer station. When I purchase the property nine years ago, it was heavily covered with slash from logging, and I spent three years getting it to where I thought it was safe. Other people will need to be able to do the same thing. Also, because this is hillside property, I have clearings where I burn, and it would be impossible to get this material to an area accessible by truck, so I would have to pay someone to get the stuff to the street, which would probably involve using mechanized equipment that would use fuel and cause damage to the land and lead to erosion. I do not own a truck, so the regulation would require me to rent a truck or pay for the material to be transported, which would again use fuel and probably contribute as much harmful pollution as open burning would have done. Please leave things as they are.</p>	<p>Written comment 58A. (Donald Frederick)</p>	<p>This rule does not apply to silvicultural burning, which includes any burning to abate or prevent a forest fire hazard or relating to a silvicultural operation such as logging, and the required prohibitions will probably only affect people who wish to burn material originating near a residence or coming from land clearing projects as defined in WAC 173-425-030(9). Also, the 15-mile limit has been dropped in favor of criteria that will allow a local air authority to determine a reasonable distance for recycling, and we have shown that there is more pollution from burning vegetative material than from recycling it.</p>
	<p>I live in northern Clark County on 2.5 acres. Most of my acreage is in pasture, surrounded by trees. Even with this little forest, there is enough brush, etc. generated each year that a relatively large pile needs disposed. I strongly object to the notion that I'm to load and haul this material to a private party for disposal in addition to paying them. What happened to common sense? Why take away the one tool that can help manage debris that accumulates? If you implement these regulations, most of this material will be left on properties, which will create a larger fire hazard. The solution is to allow burning with whatever pile size and</p>	<p>Written comment 66A. (Walter Langlitz)</p>	<p>Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited, but we are sympathetic to your concern, so we have changed the criteria in WAC 173-425-040(5) to allow each local air pollution control agency to consider the capacity of any alternative disposal service</p>

	<p>weather restrictions are necessary. The fire district supports controlled burning. Why do we need regulation and additional expense from the state. Please add my name to the list of persons opposed to banning outdoor burning.</p>		<p>or facility and exclude properties beyond a reasonable distance from there when they identify areas with a reasonable alternative to burning.</p>
	<p>The idea of a total ban on rural burning in Clark County or elsewhere in the state is crazy. Such regulations should be based on a real need and should consider the impact on citizens who are trying to survive in marginal resource management situations. How can you possibly justify telling a tree farmer he can't burn his brush and slash and leave it to be a major source of fuel for a forest fire? Very few tree farmers or other rural land owners can afford to collect and ship such material to burn centers. It makes imminent sense to ban burning under fire danger situations and when burning would contribute to air quality problems. Out here in rural Clark County, however, sensible people wait for the rainy season when burning can't possibly cause any air quality problems. Silly rules like the total ban makes the public see government as the enemy. Get real and base your regulations on real needs and establish sensible options to address those needs!</p>	<p>Written comment 67A. (James Malinowski)</p>	<p>Neither the RCW nor the rule imposes a total ban on rural burning in Clark County or elsewhere in the state (only certain types of burning are affected by the prohibitions, and even the original proposal didn't prohibit those types of burning in all of rural Clark County). Also, the rule doesn't apply to burning on tree farms, which is regulated under WAC 173-430, but we're obliged to prohibit burning in areas with a reasonable alternative to burning. In this regard, please see our response to written comment 66A, above.</p>
	<p>A recent article in the local newspaper suggested that outdoor burning will be banned in rural Clark County. An editorial in the same paper echoes my view on your proposed plan. What's next, fireplaces, woodstoves, pellet stoves? We the people of rural Clark County (at least those I've spoken to) oppose this rule. From an economic standpoint, it is more cost effective to dispose of our yard debris by fire than to haul away. Consider the time involved, the burning of fossil fuels to haul such debris, and the fact that much of the refuse ends up being burned anyway. Many people do not have a vehicle to haul with. This contributes to the river of taxes that already exist. Prove to me that yard waste burning is a major player in our so-called air pollution problem, and I may change my mind. The problems created by such a</p>	<p>Written comment 68A. (Steven McCarty)</p>	<p>Please see our response to written comments 67A and 24B, above. Also, outdoor burning is prohibited at solid waste collection facilities, except as allowed under section 050(5) of the rule, and any other burning of such material would have to occur in a permitted wood-fired boiler where the material would be used as fuel and adequate air pollution control equipment would be required. Finally, as we stated in the hearings on our</p>

	ban outweigh the benefit. You are putting the cart before the horse. Open your eyes to the plight of rural people.		proposed rule, outdoor burning <u>is</u> a health problem for sensitive individuals even in situations where no violations of air quality standards have occurred.
	In regards to the burning ban, we have a 30-acre farm with fruit trees, shade trees, berries, and shrubs to prune, and we need to burn once a year. Also, we adjoin the railroad for about 7/8 of a mile, and a lot of their brush and trees fall and lean over the fence, which I have to cut off every year. I now have a pile to burn. It would be a hardship if I couldn't burn.	Written comment 69A. (Frank Messner)	The rule does not apply to agricultural burning, which is regulated under WAC 173-430, and we've modified the rule to allow local air pollution control agencies to exclude more properties when they identify areas where burning must be prohibited under WAC 173-425-040(5).
	I've been reading that you are going to ban all burning in a year. I've got 5 acres out here in Battle Ground, and we use about 2 of it. We leave the rest natural for the bunnies, etc., and we only burn what needs to be burned every year. If you're going to ban all burning, then I guess I'm going to get a cat in here and level everything and put in a parking lot or something. You guys are too much big government. There is no problem of pollution in our area.	Written comment 70A. (David Meyer)	Neither the RCW nor the rule imposes a total ban on burning in Clark County (only certain types of burning are affected by the prohibitions, and even the original proposal didn't prohibit those types of burning in all of rural Clark County). However, we're obliged to prohibit burning in areas with a reasonable alternative to burning. In this regard, please see our response to written comment 66A, above.
	Please allow some outdoor burning in all areas (even urban) throughout the state. Allow flexibility. How about 5-6 days per year? Perhaps three in the spring and three in the fall? Some burning of natural vegetation is as natural as planting seeds to grow new plants. It also allows a parent like me to educate my children on fire. Having a bonfire with the family, clearing vegetation and roasting wieners and marshmallows is one of the most enjoyable and simple pleasures of life. Please don't be arbitrary and take this simple and basic	Written comment 71A. (Steve Nieman)	Ecology is obliged to prohibit residential and land clearing burning in those areas prescribed in state law (which include urban growth areas) <u>and</u> various types of burning in any area with a reasonable alternative to burning. In this latter regard, please see our response to writ-

	freedom away from the citizenry.		ten comment 66A, above. Also, there <u>is</u> flexibility in other areas where burning is allowed.
	We think the plan to ban open burning next year is absurd!! We are retired and have five acres in rural Battle Ground and would be affected by this silly government intrusion. Each year we have numerous branches, leaves, etc. to clean up and usually have 2 to 3 fires in our field to take care of the mess. To force us to figure a way to transport this stuff several miles and then have to pay to get rid of it is insane. This foolish, needless law is going to encourage people to dump the stuff in Salmon Creek (which runs through our property) and add to numerous “jams” which continue to erode our bank. We hope someone will wake up and realize that this an unneeded and unwanted intrusion in our lives. The air quality here is fine and doesn’t need your help.	Written comment 73A. (Jim Orander)	Please see our response to written comment 71A, above.
	The problem is not us small farmers burning brush, it’s the failure of the State to control growth and destruction of our rural areas. We have been burning on-site-produced vegetation for years, and a total burn ban would put an unbearable financial burden on my home farm and would take away a valuable resource from me (and my right to burn) without compensation. The idea of me processing the waste and trucking it to a disposal site with equipment I don’t have is absurd, and it shows how out of touch our State government is. Curbside disposal is also so outside reality it is almost funny. I hope that a rational idea can be implemented. If you or the State government have any working way to dispose of tons of vegetation, I am interested.	Written comment 78A. (Kenneth Pritchard)	The rule does not apply to agricultural burning which is regulated under WAC 173-430, and it doesn’t impose a total burn ban. However, Ecology is obliged to prohibit certain types of burning in areas with a reasonable alternative to burning. In this latter regard, please see our response to written comment 66A, above.
	Why should people have to pay to dump yard waste? Don’t the recycling businesses shred it up and turn it into compost for sale? I can understand charging to have them come out to your property and take it away, but not the other way around.	Written comment 80B. (Amy Schock)	Some recycling facilities allow free disposal, but others (especially private facilities) seem to charge a fee because they offer a service, which in some cases may cost more than their sales receipts.

	<p>Changing the method of determining areas affected from the blanket, statewide 15-mile radius rule to regional determination is a significant improvement. Thank you for your response to public input on this aspect of the issue. The new wording is still objectionable to me, however, because the determination is, in my understanding, to be made in Southwest Washington by SWAPCA (a large, unaccountable, relatively unresponsive appointed bureaucracy), rather than elected representatives. I would like to see the determination made by city councils (in incorporated areas) and county commissioners (in unincorporated areas).</p>	<p>Written comment 82A. (Carolyn Schultz-Rathbun)</p>	<p>We're glad our change to the 15 mile radius criteria was responsive to your concern. You may also be pleased to learn that in SW Washington, the determinations referred to would be made by the SWAPCA board, which includes a commissioner from each county in SW Washington, and an elected official or appointed representative from each of the major cities.</p>
	<p>As a land owner in rural Clark Co., I wish to oppose to the proposed ban on outdoor burning, which would be extremely inconvenient and costly to us with acreage that has to be constantly cleaned of tree branches and other natural debris. We normally burn once or twice a year. We don't oppose some restrictions, such as certain dates or size (within reason), but an absolute ban is wrong. This is another example of why people are losing faith in government and becoming cynical and apathetic. Government employees are supposed to represent us, not decide what is good or bad for us, as if we are incapable of rational thought. I request you adopt a plan allowing for at least some limited burning in rural areas of the county.</p>	<p>Written comment 83A. (William Seaback)</p>	<p>Ecology is obliged to prohibit residential and land clearing burning in certain areas by the deadlines specified in the state Clean Air Act, and we're obliged to prohibit these and other types of burning in areas having a reasonable alternative to burning. However, as shown on page 79 of this CES, we have modified the criteria for identifying such areas in response to comments from people like yourself.</p>
	<p>I live on one acre in the country. There are several fir trees on my place. I'm 76 years old. I try to keep branches picked up and burned when I get enough ahead so the place looks nice. I do not own a pick-up nor do I have enough money to rent one. Nor do I have enough money to pay all the dump fees. I wish law makers would stop using gas and polluting the air to get together to tell us we can't burn a few branches and make our place look nice.</p>	<p>Written comment 88A. (Vi Zimmerman)</p>	<p>Please see our response to written comment 83A, above.</p>
<p>WAC 173-425-050(1) Prohibited materials.</p>	<p>I'm angry because there is a double standard when it comes to burning prohibited materials. If defense department con-</p>	<p>Oral comment 19B. (Gordon Paddock)</p>	<p>Neither the statute nor the rule creates a double standard when</p>

	tractors can cause two thirds of the ozone depleting emissions in the country, and fire fighters can burn numerous buildings containing prohibited materials for training purposes (and they should be able to), then individuals should not be prohibited from burning toxic or ozone-depleting substances.		it comes to burning prohibited materials. The only exceptions to the prohibition are for public health and safety purposes, and they apply equally to governmental and private entities.
	I do not agree with the prohibition on burning “clean wood scraps” from construction debris. We burn clean / untreated wood scraps in a steel barrel to reduce debris, comply with L & I regulations, and warm our employees. The rates at the solid waste transfer station are \$74/ton, and all material goes to the central landfill in Okanogan, which is rapidly filling, in part because people are using it to dispose of clean wood scraps. Construction of another landfill will result in higher rates, which many people will not pay, and illegal dumping will result.	Written comment 7A. (Paul Christen)	Our existing rules prohibit the burning of construction debris for a variety of reasons, in part because it’s seldom limited to clean wood scraps, and even clean wood scraps produce toxic emissions. In addition, contractors have a variety of alternatives for disposing of clean wood scraps, complying with L & I regulations, and warming their employees, and unlike people who might incur health costs caused by the burning of wood scraps, contractors can recover any incurred costs.
	Others in [Clark] county burn trash along with their tree slash. This is a problem of education. I do not recall having ever been sent guidelines for open burning. I would provide everyone who qualifies for burning privileges, a legal form that would explain the rules, explain why only certain materials can be burned, explain why other materials should not be burned, and require them to sign and submit the form agreeing to the rules or have their privileges revoked and pay a fine. The idea is to educate and persuade people to do the right thing. Most will. When a violation is reported to the proper county official, a call would be made to the offender, and that would probably be all it takes.	Written comment 15C. (Bob Grasso)	The legal form you describe is similar to the permit forms used by many jurisdictions, except for the fact they don’t always explain why prohibited materials shouldn’t be burned. (The agencies often have public education brochures for that purpose.) In many cases, the phone call approach you describe for enforcement is also used, but it doesn’t always achieve compliance.
WAC 173-425-050(2)	Please make it possible for monitored municipal burn piles	Written comment	WAC 173-425-050(2) will all-

Hauled material.	to exist by special permit [for various reasons stated in written comment 25A].	25A. (Mayor and Town Council, Town of Uniontown)	allow “burn dumps” for certain types of burning if all necessary approvals are obtained, but only for material hauled from areas where outdoor burning of the material is allowed under WAC 173-425-040. Such areas <u>could</u> include areas where a municipality has prohibited that type of burning before required to by statute.
WAC 173-425-050(4) Unlawful outdoor burning.	When somebody is called to put out a fire, they should determine whether the person who called in the complaint is really affected, or if they’re just a problem person.	Oral comment 13C. (Maxine Keesling)	We understand that most enforcing agencies try to determine how a complainant is affected, and they deal cautiously with dubious complaints and chronic complainants.
	Escaped fires were mentioned as a problem, but they are already addressed in criminal statutes. Now you going to heap more administrative rules on top of criminal law, when we are already frustrated over duplicate laws, regulations, etc.	Oral comment 19D. (Gordon Paddock)	Escaped fires caused by outdoor burning <u>are</u> a problem, and only some of these fires are subject to criminal statutes. The state Clean Air Act makes it unlawful for any person to cause or allow an <u>emission</u> [of smoke or other air contaminant] that is, or is likely to be, injurious to human health, plant or animal life, or property, etc.
WAC 173-425-050(5) Burning in outdoor containers.	Cities should be allowed to decide whether to allow burn barrels both within the city limits and beyond.	Oral comment 2B. (Penny Cavin)	The “Burning in outdoor containers” provision of the rule simply reflects an existing requirement in the Uniform Fire Code.
	Everybody I know has a burn barrel, and we use them on a regular basis, although they may be illegal. The barrel contains the fire, and those of us that burn responsibly, vent the	Oral comment 19C. (Gordon Paddock)	Please see our response to oral comment 2B on this subject, above.

	barrel so it breathes, and stuff doesn't sit there and smolder. I recommend that the burn barrels [provision] not be adopted even though burn barrels may be prohibited under the fire code.		
	Delete this section because it is unnecessary to regulate the design of a burn barrels since they produce no more smoke than open fires on the ground.	Oral comment 31D and written comments 42D, 46D, 53D, 57D, 60D, 61D, 76D, 77D, and 87D. (Len Dozier, et. al.)	Please see our response to oral comment 2B on this subject, above.
	I like the model of the septic system. If they fail, you get a sewer. I would love to hear more about how much of a problem my burn barrel really is in this whole scheme of air quality, and I'm really curious about the burn barrel versus the concrete structure. Is this the least restrictive means? It sounds like, if I can't put it in a burn barrel and I haven't constructed a concrete structure, I can have a small pile on the ground. I'm not sure if it meant that.	Oral comment 38C. (Mark Breakey)	Burn barrels are a problem for a variety of reasons, especially when they give people a false sense of security and an escaped fire occurs, when the material burned is allowed to smolder, and when they are used to burn garbage or other prohibited materials (and they commonly are). [A November 1997 U.S. EPA report (EPA-600/R-97-134A) found that a single household that burns its trash in barrels produces more toxic pollutants than a well-operated full scale municipal waste combustion facility serving tens of thousands of households.] Also, the construction standards are no more restrictive than those already in the Uniform Fire Code, and small burn piles are okay.
	By this ordinance you will require that all burning take place in a container made of concrete or masonry with a permanently attached spark arrestor. This does not meet our needs "in the field" [for construction debris burning].	Written comment 7B. (Paul Christen)	The rule does not require the use of a container for burning, and construction debris burning is prohibited.

	Small controlled fires in burning barrels should be allowed.	Written comment 11B. (Teresa Edmiston)	Please see our response to oral comment 2B on this subject, above.
	Senior citizens can't afford to hire someone to remove branches and leaves from their yards. They need the opportunity to use a burn barrel. Shredders are very dangerous!	Written comments 23H and 65I. (Ernie and Kay Langevin)	People who are allowed to burn will be able to burn in piles or outdoor containers that meet the standards specified in the rule.
	Please completely ban burning of household waste. There is no need for burning barrels or any incinerator, regardless of construction features. I suspect this is where most of the complaints you noted are coming from.	Written comment 66B. (Walter Langlitz)	RCW 70.94.775(1) and the old and newly adopted rule prohibit fires containing certain materials including garbage, and "outdoor burning" includes burning in outdoor containers, so we are only able to regulate their construction features.
	Could a simpler (yet safer) alternative to the burn barrel be made from some stacked up cinderblocks with a grate on top? The blocks could be moved from time to time, allowing for the easy removal and burial of the ashes.	Written comment 80C. (Amy Schock)	Ecology believes this would be allowed by the outdoor container construction standards specified in this section of the rule.
WAC 173-425-060(1) Permit program.	If a permit is necessary, I'd recommend the written permit option as opposed to a general permit where you're restricted to eight days.	Oral comment 18B. (Gregory Bronson)	Many permitting agencies will probably use written, electronic, or verbal permits, instead of a general permit in order to allow more burn days.
WAC 173-425-060(2) Types of burning that require a permit.	Change "(a) residential burning (except in the nonurban areas of any county with an unincorporated population of less than fifty thousand)" to "(a) residential burning (except in the nonurban areas of any county)" so a permit won't be required for residential burning in any rural areas.	Oral comment 13D. (Maxine Keesling)	The state Clean Air Act requires a permit for residential burning in the nonurban areas of any county with an unincorporated population greater than 50,000.
	One of the reasons for banning burning was that it costs too much to issue permits. I'd suggest they do away with issuing permits. It would save money, and you could keep burning.	Oral comment 18C. (Gregory Bronson)	Ecology is obliged to ban burning and require permits where required to do so by the state Clean Air Act.
	WAC 173-425-050(2)(d) states that a permit is required for tumbleweed burning, but permits should not be required. A permitting process for this type of burning is an unnecessary	Written comment 22C. (Steve Krogsrud)	The rule exempts tumbleweed burning from permits in all counties, except those with

	burden, both on the property owner and the state.		250,000 or more people, as required by RCW 70.94.745(5).
WAC 173-425-060(2) Types of burning that require a permit. and WAC 173-425-060(5) Establishment of a general permit and requirements for residential burning.	Compare the storm debris or regular outdoor burning pile size of 4 x 4 x 3 feet to the recreational pile size of 3 x 3 x 2 feet, and there is not much difference. Also, tree limbs are longer than 4 feet, so you need to burn them in two and then fold the ends in, so I suppose the burn area could be kept to 4 x 4.	Oral comment 13E. (Maxine Keesling)	The 4 x 4 x 3 foot pile size for residential burning has been specified in Ecology's outdoor burning rule since at least 1992, and the 3 foot in diameter and 2 foot in height pile size for recreational fires is consistent with the Uniform Fire Code definition of a recreational fire.
WAC 173-425-060(5) Establishment of a general permit and requirements for residential burning.	I prune year round and try to keep my yard and orchard mowed and presentable for the neighbors. If I have only two weekends in April and October to burn, where am I supposed to pile all this stuff, and am I supposed to just let it lay there?	Oral comment 14C. (J.E. Simmons)	The April/October burn periods only apply in areas where the permitting agency chooses to use a <u>general</u> permit for residential burning, and we suspect that many agencies will use a written, electronic, or verbal permit. Also, people are encouraged to let vegetative material dry out before burning it so less smoke will be produced.
	The advance choice of two specific weekends in spring and fall is not practical. Weather is not sufficiently predictable that a single dry date can be forecast, and it's even more difficult for a forecast to include adequate time for drying beforehand. The choice of the time for burning should be left to the owner as long as it's not during a time of high fire danger.	Oral comment 16C and written comment 9C. (Len Dozier)	The general permit option is intended for use in areas where administration of a more rigorous permit system will be difficult, and we suspect most agencies will use a different permit option. Also, alternative dates can be substituted if the prescribed days are unsuitable.
	A 4 x 4 x 3 foot fire is totally inadequate as a maximum size for burn piles on very large property of several acres. It should be 10 x 10.	Oral comment 16D and written comment 9D. (Len Dozier)	The 4 x 4 x 3 foot pile size has been specified in Ecology's open burning rule since at least 1992. Larger pile sizes may be

			allowed for land clearing burning and silvicultural burning, as defined in WAC 173-425-030 (9) and (23), respectively.
	A 10 x 10 foot [pile] could be deemed unreasonable for those of us that have done much brush burning.	Oral comment 19E. (Gordon Paddock)	Please see our response to oral comment 16D and written comment 9D, above.
	Delete the restriction of burning to four particular weekends per year, and in paragraph (c)(x) change the allowed fire size from 4 x 4 feet to 10 x 10 feet, for the following reasons: there is no valid air quality reason for restriction to particular weekends, it will result in a greater concentration of smoke than the present random burning pattern, weather forecasting and public announcements are unnecessary additions to the duties of the local air agency, most prunings are much longer than 4 feet, it's an unnecessary imposition to require citizens to cut their prunings, and it serves no air quality purpose and could be classified as capricious harassment of anyone who could still burn after the new regulation is in force.	Oral comment 31C and written comments 42C, 46C, 53C, 57C, 60C, 61C, 76C, 77C, and 87C. (Len Dozier) (Nadine and Duane Ayers), (Darlene and Ed Brann), (Rebecca Francis), (Jane Hansen), (Rebecca and Mark Portukalian), (Andrew Portukalian), (Bill Young)	Please see our responses to oral comment 14C, oral comment 16C and written comment 9C, and oral comment 16D and written comment 9D, above.
	I live in the national scenic area of the Columbia River Gorge, and I think your two weeks in the spring and two weeks in the fall is lousy way of looking at it. We have lots of east wind, heavy snows, heavy ice, and I spent two years back to back - six months - doing nothing but cutting limbs. Two weeks, I couldn't burn enough. I live on 100 acres, and I know this is going to be another big burden that is laid on the farmers, and I resent that. I'm in a no growth area (not a house within a quarter of a mile from me on the east side), and anybody that lives up there only burns when the west wind blows, and its usually northwest, and it blows over the Washougal River and up in the national forest. I am not bothering anybody.	Oral comment 35A. (Ralph Craig)	Please see our response to oral comment 14C, above. Also, these rules do not apply to agricultural burning.
	I've come to believe that it would be better to allow burning for three months in the spring and three months in the fall, like the Woodinville fire district does, rather than two week-	Written comment 20C. (Maxine Keesling)	The Woodinville Fire and Life Safety District outdoor burn instructions you provided appear

	ends in each period, because the smoke would be spread out instead of concentrated. You could call them to see if they get many smoke complaints, but I doubt it's significant.		to be a written permit (instead of a general permit, which currently can only allow burning on seven days per year.)
	The existing rules do not provide an adequate number of days to burn, and there must be more burning allowed on weekends. Last weekend Saturday's weather was clear, no wind, but a "No Burn Day". Sunday clouds were abundant, it was very windy, and a "Burn Day!". Obviously, it should have been a "No Burn Day" leaving only 2 burn days this spring! This is not an isolated example but a common occurrence.	Written comments 23A and 65B. (Ernie and Kay Langevin)	Under the new rules, permitting agencies that use the adopted general permit can allow residential burning on two weekends in both April and October, and they can substitute days if burning conditions on the specified days are unsuitable. However, they will probably continue to restrict burning on stagnant air days. They can also allow more burn days if they use a different form of permit, and local air authorities can adopt a general permit with a different set of eight days.
	The present system doesn't allow a homeowner enough early morning notice of the day's burn status. The homeowner should <u>not</u> need to take a day off from work and wait until 9:00 a.m. and then find out it's "NOT A BURN DAY". We recommend using the Battelle weather station for accurate weather conditions, basing the burn day decision on their data, and posting the decision for the public by 6:00 a.m.	Written comments 23C and 65D. (Ernie and Kay Langevin)	These details of implementation are the responsibility of the permitting agency. We would recommend you contact the Benton Clean Air Authority and/or your fire district about these concerns.
	People should be allowed to burn until mid-June and start again in October to prevent fire hazards.	Written comments 23E and 65F. (Ernie and Kay Langevin)	The Department of Natural Resources fire danger season can extend from April to October. Please see our response to your written comment 23A above.
	Perhaps the best solution is to disband the pollution board as it certainly is truly a tremendous waste of county money.	Written comments 23F and 65G. (Ernie and Kay Langevin)	If you are referring to the local air authority, Ecology believes the state's local air authorities provide a vital service in protec-

			ting air quality.
WAC 173-425-070 Variances.	Change this section to permit variances to continue to be managed by local air authorities instead of WDOE because local air authorities have been successfully managing variances, and there is no reason to require the additional delays and complications of remote management by Department of Ecology.	Oral comment 31E and written comments 42E, 46E, 53E, 57E, 60E, 61E, 76E, 77E, and 87E. (Len Dozier, et. al.)	The language in 070 was developed to achieve greater consistency with RCW 70.94.181. We don't expect it to cause major changes in the review process for variances from local regulations.
Comments by people who would like to protect themselves from the effects of burning.			
Subject of Comment	Ecology's Summary of Comment	Source	Ecology's Response
The entire rule.	Strong and quick adoption of clean air standards is needed for all communities, both rural and urban, because air pollution causes children, adults with asthma and other respiratory and cardiac conditions, to suffer.	Oral comment 4A and written comment 14A. (Tom Gash)	If by "clean air standards" you mean the outdoor burning rule, we will certainly pursue adoption as soon as possible.
	Air pollution also causes the people who suffer health effects, and family care givers as well, to miss work, school, and play, and it increases health costs.	Oral comment 4B and written comment 14B. (Tom Gash)	Ecology recognizes these effects and believes they help justify the rule.
	Stopping air pollution will not be easy, and it may cost more for individual citizens, but with education and composting, clean air can happen.	Oral comment 4C and written comment 14C. (Tom Gash)	We agree, and education and composting are key elements of our outdoor burning program.
	People have come to believe in clean, safe water, and it's against the law to dump pollutants into groundwater. How can the air we breathe be any different than the water we drink?	Oral comment 4D and written comment 14D. (Tom Gash)	The air we breathe is certainly as important to our well being, so we try to make our case for clean air in a similar manner.
	People who burn and cause lots of smoke don't understand the pain and suffering that wood causes. They're not trying to hurt those people, but it does hurt them.	Oral comment 4E. (Tom Gash)	Ecology appreciates this insight and information on the effects of burning for the record.
	When I joined the Wenatchee Clean Air Coalition, we hoped to avoid regulation, but now anything that can prevent the burning and suffering would be welcome.	Oral comment 4F. (Tom Gash)	Thank you for informing us of your conversion to an appreciation for regulation.
	We have been inundated by smoke despite our best efforts to prevent it by keeping windows closed, installing air filters, and speaking with our neighbors who continue to burn, and my 11 year-old son has had three upper respiratory in-	Oral comment 5A. (Dave Bugg)	Please see our response to oral comment 4F above.

	fections brought on by burning, so we are convinced that cooperation is not going to work and government needs to step in.		
	I know from personal experience that fire districts get confused, and need to train their staffs, about what rules to implement, especially when it comes to nuisance burning, and it's unfair to expect local agencies to come up with the money, so Ecology needs to supply adequate funding for training.	Oral comment 5B. (Dave Bugg)	Ecology plans to develop guidance for permitting and enforcing agencies, and it may provide grant funds for training, but the state Clean Air Act also allows permitting agencies to charge fees to people who are issued permits at the level necessary to recover the costs of administering and enforcing the permit program.
	I have asthma , and I'm a little concerned that the new rules still seem to allow quite a bit of unrestricted burning.	Oral comment 6A. (Barb Hubbard)	The rules allow burning where it's not prohibited by statute, but all allowed burning is subject to restrictions, including one that prohibits any burning that causes an emission of smoke or any other air contaminant that is detrimental to the health, safety, or welfare of any person.
	I've talked to my neighbors about their burning and how it affects my health and ability to work, and it hasn't done any good. They still continue to burn and inundate my house with smoke.	Oral comment 6B. (Barb Hubbard)	Please see our response to your previous comment 6A, above.
	People are concerned about rising health costs, and by allowing people to burn and pollute the air, we are driving up these costs horrendously because the incidence of asthma is increasing.	Oral comment 6C. (Barb Hubbard)	Thank you for making this point for the record.
	I agree it's a very confusing law. I called the fire department about my neighbor who was burning a huge smokey fire in the middle of his evergreen trees, about 20 feet from his house, and the fire department came out but didn't stop the fire.	Oral comment 6D. (Barb Hubbard)	The new rules clarify provisions of the law, and they should help sort out enforcement responsibilities.

	I would like to see the rules be even a little stricter, and not have so many exemptions.	Oral comment 6E. (Barb Hubbard)	The rules can only be as strict as the law allows, and except for certain permit exemptions specified in the law, the only exemptions in the rule are for agricultural burning and silvi-cultural burning, which are regulated under other rules.
	My thanks to Bruce Smith and Department of Ecology for all of their work on this rule development.	Oral comment 23A. (Debra Jaqua)	Thank you. We also appreciate your contribution in the rule-making process.
	I'm going to put some stuff on the table here for people to scan [rules the same as OAPCA's, an article about "Toxicville", etc.] It's time we get busy with outdoor air pollution because children are getting cancer, etc. from toxic chemicals, in the soil even. I'm a chemically poisoned person with porphyria of the liver. I have heart problems, lung problems, and I had cancer, because of toxic chemicals. But this young girl, Cindy Deering, had her whole immune system go wacky from one spraying by her apartment owner, and she just died, so we need to take serious account of what we're exposed to.	Oral comment 24C. (Leona Vixo)	Thank you for providing this information for the record. We think it's important for people to recognize that some people are especially sensitive to certain pollutants.
	I really appreciate what all the departments are trying to do. The only thing they're not doing is coming together with one simple situation and answer. There's too many divisions. If they'd get their heads together and get the commissioners here to listen to some of these meetings, we'd be a lot better off.	Oral comment 24D. (Leona Vixo)	Ecology believes it's gotten a lot of heads together on the issue of outdoor burning, and many county commissioners have been, and will be, involved as local air authority board members.
	Thank you for the tremendous work you've done in updating the rules for open/outdoor burning. The American Lung Association welcomes the opportunity to comment.	Written comment 1A. (American Lung Association of Washington)	Thank you. We appreciate all of the help we received from the American Lung Association. Ecology extends a special thank you to those current and former Association employees who served on Ecology's Outdoor

			Burning Advisory Committee, including Debbie Lowenthal, Nick Federici, and Chetana Acharya.
	It is true, not everyone is affected to the same degree by the pollution from by-products of outdoor burning. Those most at risk are the elderly, children, people with asthma, and people with chronic heart problems or chronic respiratory problems. These susceptible citizens could reside in rural or urban areas.	Written comment 1B. (American Lung Association of Washington)	Ecology recognizes that certain people, even in rural areas, are at greater risk to the pollution from outdoor burning, and this is especially reflected in the new WAC 173-425-050(4).
	We hope you will continue to strive towards enhancing and preserving our most precious resource, because when you can't breathe, nothing else matters.	Written comment 1D. (American Lung Association of Washington)	Ecology certainly intends to strive for clean air.
	I appreciate the immense amount of work which has gone into formulating the proposed regulation. I also understand political realities.	Written comment 16A. (Patricia Hoffman)	We also appreciate all of your help (as an Outdoor Burning Advisory Committee member) in drafting the proposed rule.
	When I joined the Advisory Committee, I had hoped that our collaborative efforts would result in a health-protective regulation. I am disappointed. While the proposed regulation is well written, it is replete with loopholes. Even the alternatives section, for which I had such high hopes, has been modified. The words "shall not be allowed" have been replaced with "may not be allowed." That makes it an option, not a requirement. Most of my objections to the proposed regulation stem from changes which were made subsequent to January 1999 - after the committee had finished meeting. I urge you to reconsider these changes. I cannot support the regulation in its present form. If it is adopted as is, I ask that Ecology, not portray my participation as either an endorsement or evidence of a 'balanced' process.	Written comment 16B. (Patricia Hoffman)	We're sorry you're disappointed in the rule, and think it's replete with loopholes because of changes like the change from "shall not" to "may not" in the alternatives section, and elsewhere. However, we investigated the implications of this change and were assured by our attorney that, unlike a change from "shall" to "may", there is no substantive difference between "shall not" and "may not".

	<p>I invested a lot of time and energy in this process, as did many of the other committee members. Most of my objections the proposed regulation stem from changes which were made subsequent to January 1999 – after the committee finished meeting. I urge you to reconsider these changes.</p>	<p>Written comment 16L. (Patricia Hoffman)</p>	<p>Ecology has reconsidered the changes that it made to the draft rule recommended by the advisory committee, many of which were recommended by our attorney or regional staff and local air authorities who must implement the rule, and we have concluded that those changes were appropriate.</p>
	<p>I've spent way too much time on the phone these last two weeks trying to understand the current laws and why they are inadequate in protecting my health, and also how the proposed rule revisions will affect the health hazard that I'm dealing with in Olympia's UGA. I've come to conclude that no one has responsibility for this issue, and no one wants it. I do <u>very much</u> appreciate your efforts to help clear up this confusion and to assist in the much-needed dialogue. Thank you.</p>	<p>Written comment 17A. (Debra Jaqua)</p>	<p>Thank you. We certainly think the rules will clarify things (regarding responsibility, etc.) and better implement aspects of the law that are intended to protect public health.</p>
	<p>I'm against any flexibility in the rules for clean air. I have been waiting for many years to once again breathe fresh air in the Wenatchee Valley. Sometimes the burning is so bad it seeps into our home, and then it is impossible to feel healthy. Why are you suggesting any change in rules that took two years to prepare! I am sure it's pressure from various individuals and groups who are not willing to spend time and money to protect the air and water for future generations. Shouldn't Ecology be protecting our health, clean air and water? The small minority will speak up and most of us who appreciate clean air will not. Please don't buckle under to those who wish relaxed air quality rules or no rules at all.</p>	<p>Written comment 43A. (Pamela Cedar-Wall Baker)</p>	<p>Ecology is revising the rules to make them consistent with the outdoor burning provisions of the state Clean Air Act, which have been changed several times since 1992 when our rules were last revised. We also see this rule-making as an opportunity to improve implementation of the law so we can be more effective in protecting people's health.</p>
	<p>I'm opposed to any open-burning. It smells bad. It makes my wife's asthma worse. I live in North Bend, and there are days in fall, winter and spring that are just awful to be outside. It's a shame since I love the outdoors. It seems to me humans should evolve beyond slash and burn technology.</p>	<p>Written comment 81A. (Dave Schuba)</p>	<p>The new rules only prohibit burning as required or allowed by the state Clean Air Act, but [as stated in WAC 173-425-050 (4)] this includes burning that is</p>

			detrimental to the health safety or welfare of any person, that causes damage to property or business, or that causes a nuisance.
WAC 173-425-020 Applicability.	The rule should apply to, and require a permit for “fires for prevention of a fire hazard”.	Written comment 16C. (Patricia Hoffman)	Ecology has concluded that the language in RCW 70.94.660(1) (b) regarding burning permits for “Prevention of a fire hazard”, pertains to burning permits for prevention of a <u>forest</u> fire hazard, and that the term “other actions to protect public health and safety” in RCW 70.94.650(7) would include any burning for prevention of other fire hazards. Therefore, the proposed rule refers to this latter type of burning as “other outdoor burning to protect public health and safety”, and although the RCW indicates that Ecology or a local air authority <u>may</u> issue permits for such burning, the proposed rule would require a permit from Ecology or a local air authority for all “other outdoor burning”, including any to protect public health or safety.
WAC 173-425-030(7) “Impaired air quality”.	Language from the previous definition of “impaired air quality” should be retained.	Written comment 16D. (Patricia Hoffman)	The proposed definition has been retained in the final rule instead, because some of the language in the previous definition appears to conflict with WAC 173-433-140.
WAC 173-425-040	Except as specified in RCW 70.94.743(3), all types of “out-	Written comment 16E.	Ecology has concluded that the

Areas where certain types of burning are prohibited.	door burning” [as defined in RCW 70.94.743(2)] must be prohibited in the circumstances prescribed in WAC 173-425-040(1) through (3), not just residential and land clearing burning.	(Patricia Hoffman)	prohibitions in RCW 70.94.743 only apply to residential, land clearing, and silvicultural burning [except as specified in RCW 70.94.743(3)].
	The phrase “shall not” should be used in WAC 173-425-040(1) through (5), instead of “may not”.	Written comment 16F. (Patricia Hoffman)	Please see our response to written comment 16B under “entire rule” above.
	Please do not permit storm or flood debris burning where land clearing and residential burning are banned. Managing these wastes without burning is not difficult. Such debris can be ground to a mulch product by mobile grinders. Mulch can be used on site or given/sold to other users. Compost facilities exist throughout Western Washington.	Written comment 26B. (Jerry Mingo)	The rules cannot prohibit storm or flood debris burning in areas where residential and land clearing burning are prohibited, according to our interpretation of RCW 70.94.743(1)(c), but they require a permit for such burning, and they prohibit it when a reasonable alternative to burning is found to exist in an area.
WAC 173-425-040(1) Nonattainment areas.	The prohibition on burning in former nonattainment areas is good, but the rule should not allow burning in [those parts of] former nonattainment areas where burning "is not expected to contribute, <i>significantly</i> to exceedances of the standards in the nonattainment area."	Written comment 16G. (Patricia Hoffman)	The rule does not allow burning in those parts of a former nonattainment that are not expected to contribute significantly to exceedances of the standards in the nonattainment area unless the standards have <u>also</u> not been exceeded in those parts.
WAC 173-425-040(2) Urban growth areas.	Air drainage is like water drainage, and it makes no sense to allow smaller communities to dump pollutants into the air that will cause problems for other people.	Oral comment 4G. (Tom Gash)	Please see our response to written comment 1C, below.
	By moving the no-burn deadline for smaller city urban growth areas, we are unduly putting the most susceptible citizens at risk to outdoor burning smoke pollution, which includes various lung irritating pollutants, such as particulates, volatile organic compounds, and carbon monoxide. The Lung Association strongly encourages that the deadline for prohibiting residential and land-clearing burning in	Written comment 1C. (American Lung Association of Washington)	Ecology understands the health risks and other risks associated with outdoor burning, but it is obliged to implement the December 31, 2006 deadline for banning burning in smaller city UGA’s, as adopted by the 1995

	<p>UGA's for small cities remain at December 31, 2000. In addition, these cities could provide green waste pick-up and education on alternatives to burning, such as composting and wood chipping. Children's lungs are most vulnerable between one and three years of age; damage at this age can result in chronic respiratory problems in adulthood. Are we willing to risk permanent damage to our children's lungs for the convenience of burning yard and garden refuse?</p>		<p>legislature. However, we have also required that most types of burning be prohibited when a reasonable alternative to burning is found to exist, and the first determinations are required by December 31, 2000.</p>
	<p>Moving the deadline for prohibiting residential and land clearing burning in the urban growth areas for most small cities is ridiculous! What is the reason? Open burning poses a major threat to human health in small as well as large cities. It's time the state of Washington moved into the 20th century, if not the 21st and recognize that burning is a totally inappropriate and hazardous way to dispose of waste, especially biodegradable waste.</p>	<p>Written comment 10A. (Polly Dubbel)</p>	<p>Please see our response to written comment 1C, above.</p>
	<p>Open burning produces a mixture of toxic gases and microscopic particles which create unhealthy air for anyone who lives, works or plays in a neighborhood where burning takes place. Outdoor burning subjects a person's life and property to unreasonable interferences. I urge you to adopt regulations that will prohibit residential and land-clearing burning in the urban growth areas of Skagit County by December 31, 2000.</p>	<p>Written comment 18A. (Leslie Johnson)</p>	<p>Please see our response to written comment 1C, above.</p>
	<p>I strongly disagree with implementing timeline setback amendments to the Clean Air Act. Please keep the urban growth areas land clearing burning ban 12/31/2000.</p>	<p>Written comment 26A. (Jerry Mingo)</p>	<p>Please see our response to written comment 1C, above.</p>
	<p>I have approached some City Council members and Mayors over the years to get them to pass a city ordinance banning outdoor burning in Anacortes, but to no avail. We have garbage service, recycle materials pickup and yard waste pick-up available to everyone for a very nominal fee. There really is no reason anyone should have to burn anything. I am fully in support of the burn ban. The only thing I would like to see is for it to take effect quicker. I am enclosing a copy of a letter to the Editor of the Anacortes American which</p>	<p>Written comment 34A. (Hamilton Sandvig)</p>	<p>RCW 70.94.743(1)(b) appears to give cities like Anacortes the option to wait until the December 31, 2000 deadline before banning residential and land clearing burning in their urban growth area, <u>unless</u> a reasonable alternative to burning exists.</p>

	really says it all.		
WAC 173-425-040(5) Areas with a reasonable alternative to burning.	This section was good prior to the change from “shall not” to “may not”. It seems to me that Ecology is legally required to use the words “shall not be allowed” since that language comes right out of the statute.	Written comment 16H. (Patricia Hoffman)	Please see our response to written comment 16B under “entire rule” above.
WAC 173-425-050(4) Unlawful outdoor burning.	We’ve put up with long hours of burning right next to our house over the past twelve years, and even though we close our windows and have a special air filter on our furnace, we still can’t breathe. Now I have asthma and bronchitis, and spots on my lungs and scar tissue. Sometimes you can hardly see across the street for all the blue smoke from inconsiderate people burning. Something has to be done.	Oral comment 20B. (Leona Vixo)	The unlawful outdoor burning provision in WAC 173-425-050 (4) of the adopted rule should help people like yourself who suffer health or nuisance effects as a result of other people’s burning.
	If it’s true that residential burning is prohibited if it affects <u>any</u> person’s health, then that would be very helpful in preventing exposure to harmful smoke. In the recent past, both the Sheriff’s Office and Olympic Air Pollution Control Authority have suggested that if I could get more than just my household to complain that more attention might be focused on enforcement.	Oral comment 23B. (Debra Jaqua)	The prohibition you refer to applies to all types of outdoor burning, not just residential burning. Also, some jurisdictions may expect complainants to file a formal complaint alleging harm.
	Please prohibit outdoor burning within 50 feet of a public road. Actually, 100 feet would be better. I see people burning 10-15 feet from the road, which of course creates a heavy smoke nuisance to cars and people walking down the road.	Written comment 27A. (Paul Moeller)	The adopted rule prohibits any burning that causes a nuisance. Also, some fires do not create heavy smoke, and smoke transport depends on the wind conditions.
WAC 173-425-050(5) Burning in outdoor containers.	I would like to express support for the ban on steel burn barrels. The ban supports the Clean Air Washington Act designed to protect air as a resource and public health.	Written comment 8A. (Caprice Consal Volson)	Thank you. This provision is also consistent with a requirement of the Uniform Fire Code.
WAC 173-425-060(1) Permit program.	The language in 173-425-060(l)(b) has been changed from "shall require a permit" to a written permit is required "where feasible." Now this, too, is an option.	Written comment 16I. (Patricia Hoffman)	Actually, this language has been changed to “a written permit should be used, where feasible” because some permitting agencies, like volunteer fire districts, may be unable to administer a written permit system.
	The language in “173-425-060(l)(c) changes a rule burn	Written comment 16J.	The new language allows local

	from seven days per year to no restrictions at all. This puts it under local control which often means no control at all.	(Patricia Hoffman)	air authorities to adopt a general permit for residential burning that is limited to eight days.
WAC 173-425-060(6) Field response and enforcement.	I live out in Olympia off 93rd avenue, and (with all the buck-passing) there doesn't seem to be any kind of control there. OAPCA will probably be helping us, and Fire District 6 has come out a couple of times and required that the fire be put out, but these people are very reluctant to cooperate.	Oral comment 20A. (Leona Vixo)	Please see our response to written comment 17B on this subject below.
	I've lived in the urban growth area of southeast Olympia for almost four years. During that time, I've been kept away from, and made a prisoner in my own home because of nearby residential burning. I never suffered asthma before moving here, but now I have asthma that requires daily medication. Allowing enforcement of air quality requirements of the RCW to be optional for the fire district is detrimental to my health. I would like to see the fire district required to enforce the laws. To my knowledge, we have no enforcement on weekends or at night, when I've experienced nearby residential burning.	Oral comment 22A. (Debra Jaqua)	Please see our response to your more detailed written comments 17B, 17C, and 17D below. You may also be pleased to see that the adopted rules include a section entitled "Unlawful outdoor burning" [WAC 173-425-050 (4)] which indicates that it's unlawful for anyone to cause or allow burning that is detrimental to the health, safety, or welfare of any person, [etc.] or that causes a nuisance.
	I'm still not assured that adequate enforcement exists in the laws to protect the public health [from] the hazards of residential burning, especially after hours and on weekends.	Oral comment 23C. (Debra Jaqua)	Please see our response to your more detailed written comment 17D below.

	<p>Before moving to the urban growth area of SE Olympia, in Fire District #6, I had never had any chronic respiratory problems, but after moving here, I realized I was being affected by open burning in my neighborhood. A year ago, I came down with a very bad chronic cough that was eventually diagnosed as asthma, and now I have to take daily medications to control it. On numerous occasions, I have been prevented from returning to my home, I've had to leave my home, or I've been a prisoner in my own home and could not open windows, all because of neighborhood smoke. I have called Fire District 6, Fire District 3, OAPCA, Thurston County, 911, and Department of Ecology, seeking resolution and relief from this proven smoke hazard in this densely populated urban growth area for me and my family, to no avail. Why? Because there is great confusion among the various governmental entities involved in this issue as to who has and should have jurisdiction, and I've concluded that no agency has been charged with, or wants responsibility for enforcement, and they will duck responsibility and pass the buck as long as they are allowed to do so.</p>	<p>Written comment 17B. (Debra Jaqua)</p>	<p>The "Field response and enforcement" section of the adopted rule [WAC 173-425-060(6)] indicates that the <u>permitting agency</u> will be responsible for field response and enforcement, unless another agency agrees to be responsible, and that local air authorities and Ecology may also perform these activities. It also indicates that the air pollution control agency will be responsible for enforcing any requirements that apply to burning that is prohibited, or exempt from permits, unless another agency agrees to be responsible. (And they will be the permitting agency if no other agency agrees to handle permitting.)</p>
	<p>In the Urban Growth Area of Olympia that lies in Fire District 6, the fire district chooses not to have an open burning program, so they don't have to enforce any regulations pertaining to open burning, OAPCA doesn't work on weekends or evenings when most of the burning takes place, so they can't provide immediate assistance and only record complaints, the OAPCA director chooses not to enforce [impose] the UGA burn ban because he feels that no acceptable alternative to burning exists, 911 doesn't consider smoke important enough to respond to immediately, and Ecology doesn't have enforcement capability, so is unavailable when burning is at its worst.</p>	<p>Written comment 17C. (Debra Jaqua)</p>	<p>Thank you for providing this perspective on enforcement in your area. We understand that enforcement on weekends and evenings is a problem in other areas as well, and permitting agencies need to charge enough for permits to provide adequate enforcement. By 12/31/2000 you should see residential and land clearing burning prohibited in your area.</p>
	<p>Neither the current law nor the proposed rule changes state definitely which agency is responsible for the health of citizens with respect to open burning. The rules leave it up to fire districts to decide whether or not to even have an open</p>	<p>Written comment 17D. (Debra Jaqua)</p>	<p>Ecology and local air authorities know it will be their responsibility to handle permitting and enforcement if another agency</p>

	burning program. Either place all air pollution control agencies in charge, including on weekends and evenings, with adequate funding for enforcement, or do not allow fire districts the option of participating. My right to breathe supercedes anyone's right to burn.		does not agree to do so, because the RCW makes it optional for fire districts unless they agree to. Also, citizens need to insist that permitting agencies charge enough for permits to fund enforcement <u>whenever</u> burning is allowed.
WAC 173-425-070 Variances.	I thought the revised language (from the January draft) was a great improvement.	Written comment 16K. (Patricia Hoffman)	The revised language was developed to achieve greater consistency with RCW 70.94.181.
Comments by people representing agencies that deal with outdoor burning.			
Subject of Comment	Ecology's Summary of Comment	Source	Ecology's Response
The entire rule.	Just about anybody would be in favor of clean air, but it's a complex issue. If we get into what's reasonable, you have to look at historical perspectives – where solutions to problems have created other problems. For instance, chipping increases fuel loading and the risk of more intense wildfires, and recycling causes other pollution.	Oral comment 7A. (Unknown)	We've involved many experts in this effort to ensure the rule doesn't pose major problems, and we've determined that there is less pollution (and probably a lower wildfire risk) from recycling than outdoor burning, which is a major cause of wildfires.
	Ecology is to be commended for crafting amendments which are very consistent with the intent of the Washington Clean Air Act. The statute has been amended numerous times causing confusion as to the legislative intent. The proposed changes will significantly help to clear up this confusion. It is especially helpful to have the bracketed references to the statute in the rule.	Oral comment 8A and written comment 35A. (Matt Holmquist) (Eric Skelton)	A lot of the credit for this rule belongs to our Outdoor Burning Advisory Committee and people like yourself [Eric Skelton] who were kind enough to carefully review our work and make specific helpful suggestions.
	SCAPCA supports the amendments in their entirety. Our specific comments are requests for follow-up activity or clarifications to assist permitting agencies in their implementation of the rule.	Oral comment 8B and written comment 35B. (Matt Holmquist) (Eric Skelton)	Thank you. Please see our responses to your specific comments below.
	Ecology's goal was to revise the WAC to be consistent with the RCW, and I think Ecology has done an excellent job with this.	Oral comment 9A. (Dave Peters)	Thank you. We also appreciate all of your help (as an Outdoor Burning Advisory Committee member representative) in draf-

			ting the proposed rule.
	Ecology had a lot of help from its Outdoor Burning Advisory Committee, which was made up of a lot of different people with a lot of different attitudes about burning, and for more than a year the committee considered a lot of different issues, potential solutions, and impacts, from the viewpoints of all interest groups, before arriving at a solution that everybody could live with.	Oral comment 9B. (Dave Peters)	Thank you for making this point for the record.
	The rule allows the burning of storm or flood debris from a declared emergency, it provides a clear definition for recreational fires (including bonfires), it prohibits burn barrels, which are a concern to the local fire district, it eliminates [land clearing] burning in high population density areas, and it defines what a reasonable alternative is.	Oral comment 9C. (Dave Peters)	Thank you for making this point for the record.
	What we're looking at is a good law because it balances the needs of all of the different interest groups, and I'd like to say on behalf of Kitsap County that we support what Ecology is doing here.	Oral comment 9D. (Dave Peters)	Thank you. Also, please see our response to your subsequent (and more critical) written comment 31A, below.
	I want to thank you for meeting here in Silverdale because it gives people from Kitsap County an opportunity to be present and hear what's going on, and it gives me an opportunity to hear what people in Kitsap County are saying about the regulation.	Oral comment 10A. (Charlotte Garrido)	We were pleased to hold this hearing in Kitsap County where we know the county has been busy developing alternatives to burning.
	This regulation does a lot to improve over when it was first adopted in 1992 according to changes to the Clean Air Act, and it balances the cost to individuals and society, protecting health and well-being, with the costs of using alternatives to burning for wood waste disposal to property owners and construction industries.	Oral comment 10B. (Charlotte Garrido)	Thank you for making this point for the record.
	I'm always open to citizens of Kitsap County who want to inform me of their thoughts about this, because I get a lot of calls from people who have serious troubles with burning near their residences.	Oral comment 10C. (Charlotte Garrido)	Thank you for making this point for the record.
	Current research shows a great deal of concern about small particles that are produced by combustion processes such as outdoor burning, and we get numerous complaints about	Oral comment 15A. (Terry Nyman)	Thank you for making this point for the record.

	open burning. Lots of people in the three counties we serve are affected by open burning, and they call us almost every day, many times a day.		
	I want to thank Ecology for your efforts to make the state open burning rules more readable and understandable, and I want to complement the department on their exhaustive effort to work with all stakeholders, display openness, and make sure everyone gets heard. The agency [NWAPA] supports these changes.	Oral comment 15B. (Terry Nyman)	Thank you. However, a lot of credit belongs to our Outdoor Burning Advisory Committee and people like yourself who were kind enough to review our work and make helpful suggestions.
	I [the executive director of SWAPCA] support the proposed rule, which was developed by a diverse group of individuals with a diverse view on the issue. I believe the rule resolves some of the problems my agency has had with the current rule. I think it's important to get the deadlines that the legislature has proposed into the rules and made known statewide so it's clear to the various communities what issues they have to deal with. I support the proposed rule so we can get these changes on the books and implemented as soon as possible.	Oral comment 17A. (Robert Elliott)	Thank you for making these points for the record.
	The matching of all our rules and regulations need to be in some kind of a packet form, easily understood, to give to the public. Right now I've got a burn ban going on in one of my five districts that surround Cle Elum, and I'm averaging 30 calls a day wanting to know when they can burn. In some rural areas burning is one way we eliminate fire danger, and the easier you make it for people the better, so it's not a problem for the fire types. My office is only open 40 hours a week.	Oral comment 28A. (Derald Gaidos)	Ecology plans to develop some implementation guidance that may help in this regard, and we support the concept of jointly published brochures and dedicated phone lines for recorded messages. We also know that many agencies have difficulty outside normal working hours.
	As chairman of the Board of Directors for the Southwest Air Pollution Control Authority, I want to thank [Ecology] for having the hearing at this location [in Vancouver]. Having 50 people in the audience helps you understand why we believed it was important to have a hearing here.	Oral comment 30A. (Jack Burkman)	We were pleased to add the hearing in Vancouver once we realized that people were still concerned <u>after</u> we revised the rule to address their concerns.

	<p>We do not want unfunded mandates. Telling us to do things with laws and not giving us the money is inappropriate. For instance, you've stated that the rules give local air authorities broad latitude, but the way the rules are written we don't have that latitude, and you've stated that we have to enforce many requirements that will take a large enforcement force. [Examples include the 8 days/year on general permits for residential burning, the burn barrel provisions, and the criteria for identifying areas with a reasonable alternative to burning.]</p>	<p>Oral comment 30D. (Jack Burkman)</p>	<p>The state Clean Air Act allows permitting agencies to charge fees to people who are issued permits at the level necessary to recover the costs of administering and enforcing the permit program. Also, the 8-day restriction only applies where a permitting agency chooses to use a general permit for residential burning, instead of a written, electronic, or verbal permit, and as shown on page 79 of this CES, Ecology has further modified the language in WAC 173-425-040 (5) to give local air authorities even more discretion when they identify areas with a reasonable alternative to burning.</p>
	<p>Clark County's Commissioners request that the Department postpone any regulations in excess of those specifically required by legislation. Further reduction of outdoor burning will have little or no impact on the air quality of our airshed. Specifically, it will not decrease the risk of the county exceeding nonattainment or other air quality standards. We support restrictions on outdoor burning when they provide a benefit to the community as a whole. In questions of fire safety and nuisance, we have determined there is sufficient community benefit to justify prohibiting it inside urban growth boundaries. We have not reached the same conclusion for areas outside the boundaries where fire risks are minimal, and the only justification for expanding the ban appears to be the legislation itself. In this regard, local communities should be given wide latitude to determine how best to deal with air quality issues, and in SW Washington, SWAPCA is the agency that should be given wide latitude.</p>	<p>Oral comment 33A and written comment 86A. (Robert Elliott) (Clark County Board of Commissioners)</p>	<p>Ecology's obliged to adopt rules that implement the <u>policies</u> as well as specific requirements of the state Clean Air Act, and the state's control officers and our Outdoor Burning Advisory Committee recommended that we exercise certain options allowed under the Act, such as the land clearing burning prohibition in areas with a population density of 1,000 people per acre. Also, various benefits can be achieved regardless of whether an area exceeds air quality standards, and the final rule gives local communities more latitude in</p>

			implementing the statute’s ban in areas with a reasonable alternative to burning.
	<p>We commend Ecology’s work in revising its rule on outdoor burning as a model example of public participation in revision of the Washington Administrative Code. As an important first step, Ecology formed an Advisory Committee consisting of representatives from groups representing a wide range of outdoor burning interests. The committee has been instrumental in shaping the revisions while keeping within the requirements of the state Clean Air Act. At today’s hearing, Ecology continues to reach out for public comments. It is significant that Ecology has chosen to hold this hearing in Silverdale, a location that will be greatly affected by the burn ban implemented locally under this rule.</p>	<p>Written comment 13A. (Charlotte Garrido)</p>	<p>Thank you for this expression of support for the record. We also greatly appreciate your help (as an Outdoor Burning Advisory Committee member), and that of Dave Peters, your representative, in drafting the proposed rule. We agree that the committee did an excellent job representing all interest groups, and we were pleased to hold a hearing in Kitsap County per your request.</p>
	<p>The draft [rule] improves the current WAC 173-425 in many respects. It updates and amends a regulation adopted in 1992 and brings it into compliance with the changes made since that time to the state Clean Air Act. It balances the costs to individuals and society for protecting health and well being with the costs or using alternatives to burning for wood waste disposal for property owners and construction industries. It allows for burning of storm or flood debris when a state of emergency has been declared. It clearly defines how to determine if a “reasonable alternative” exists in an area for a particular type of burning. It prohibits burning of any material hauled from an area where burning of such material is prohibited. It prohibits burning in outdoor containers (such as burn barrels) that do not meet certain construction standards consistent with the Uniform Fire Code.</p>	<p>Written comment 13B. (Charlotte Garrido)</p>	<p>Again, thank you for this expression of support for the record.</p>
	<p>The Kitsap County Board of Commissioners supports the draft WAC 173-425 as presented during the public hearing in Silverdale, WA, on May 10, 1999. This draft is consistent with the rule’s intent to establish a limited burning program while protecting public health and well being.</p>	<p>Written comment 13C. (Charlotte Garrido)</p>	<p>Again, thank you for this expression of support.</p>

	<p>We recommend that controversial programs within the rule, which are not mandated by law, be left as optional programs for local air authorities to adopt at their discretion.</p>	<p>Written comment 30B. (Les Ornelas)</p>	<p>The Outdoor Burning Advisory Committee concluded that these provisions should be applied uniformly in similar areas, and Ecology agrees because disparities in application cause confusion and resentment.</p>
	<p>I can appreciate what you've done, and I don't want to show up at the last minute and raise new issues, but I believe conflicts arise when air quality rules overlap with fire and life safety rules. DNR and UFC regulations already cover setbacks, burning containers, and distance from buildings. Is it necessary to enforce them in a law that is trying to maintain air quality?</p>	<p>Written comment 36D. (Jack Smith)</p>	<p>The setback and outdoor container provisions of the rule can also improve air quality, and they were endorsed by the fire chief and fire marshal association representatives on our Outdoor Burning Advisory Committee because they can improve consistency with DNR and UFC regulations.</p>
	<p>The attached comments [from SWAPCA] are submitted in the spirit that opportunities for improvements always exist in a work product. Adoption of these recommendations will help all of us maintain a high credibility with the general public. These recommendations also have the objective of wanting to avoid providing critiques where government has become over zealous in its regulation.</p>	<p>Written comment 55B. (Robert Elliott)</p>	<p>Ecology has further revised the final rule in response to SWAPCA comments. (We agree that credibility is important, and we are only trying to implement the outdoor burning requirements in the state Clean Air Act.)</p>
	<p>During the past year Bruce Smith and an ad hoc committee have worked diligently to revise Chapter 173-425 WAC, and the DOE efforts appear to be drawing to a conclusion. At the same time we have been revising our rules and we have to come to realize that some of the requirements of the statewide rule will not be acceptable in Yakima County. It will not be generally supported by our citizens, and will be very difficult and expensive to administer. We also realize that it is virtually impossible to write one regulation that is appropriate for the entire state at this time. Therefore, we have the following recommendations: (1) Allow activated local air authorities to voluntarily adopt proposed 173-425</p>	<p>Written comment 74A. (Les Ornelas)</p>	<p>At the beginning of this rule development effort, Ecology asked all of the state's control officer's whether Ecology should develop an outdoor burning rule that would apply statewide, and everyone agreed that such a rule would be appropriate to provide a consistent interpretation of the outdoor burning provisions of the state Clean Air Act, which applies statewide. We also und-</p>

	<p>WAC or adopt additional or comparable net effect rules, (2) Allow activated local air authorities to voluntarily adopt or enforce parts of the regulation that originate in other state laws such as the Uniform Building Code and Fire Code, (3) If a local air authority chooses not to adopt or enforce parts of the rule, their program should be evaluated by DOE on the effectiveness of the program in doing things like: [see written comment 74A, subparagraph 3]</p>		<p>erstand that your comment was addressed to the state’s control officers, and after discussing it with them and Ecology staff, you are now more comfortable with the rule.</p>
	<p>Recommendation to STAPCO / LAPCO - I recommend that you endorse these recommendations to DOE on the revision of Chapter 173-425. We deeply appreciate Bruce’s work and regret this call for a change, albeit essential to Yakima’s local control, community supported programs. I realize that this could cause a major change for DOE in adoption of this regulation, but this Authority [YRCAA] is prepared to give any reasonable assistance that would be needed to make the changes.</p>	<p>Written comment 74E. (Les Ornelas)</p>	<p>Please see our response to your written comment 74A, above. Also, Ecology has not received a STAPCO / LAPCO endorsement of YRCAA’s recommendations as requested by the Authority.</p>
<p>WAC 173-425-010 Purpose.</p>	<p>Some consideration should be given to revising the language in this section prior to final rule adoption so it indicates that the legislature intended for the reasonable alternatives prohibition in rural areas to occur at a later date than the urban growth area prohibitions to avoid credibility problems.</p>	<p>Written comment 55F. (Robert Elliott)</p>	<p>Please see our letter response dated November 4, 1999 in Appendix H. Also, Ecology believes that the “reasonable alternatives” prohibition in the state Clean Air Act applies equally in both urban and rural areas, and it even preempts the <u>deadlines</u> for prohibiting burning in urban growth areas (prohibitions that <u>should</u> have occurred upon designation, except in cases where a community chose to develop an alternative before prohibiting burning).</p>
<p>WAC 173-425-020 Applicability.</p>	<p>We are disappointed that this rule and the agricultural burning rule were not combined in a single revision. A common rule for all forms of outdoor burning administered by Ecology could have done a lot to reduce confusion about the re-</p>	<p>Written comment 30A. (Les Ornelas)</p>	<p>Unfortunately, Ecology did not become aware of YRCAA’s interest in seeing the open and agricultural burning rules combin-</p>

	quirements for similar types of burning that are regulated by two different rules.		ed until after our rule development effort was well underway. However, we're also not convinced that combining the rules would have reduced confusion because the RCW requirements for both of these categories of burning are quite different.
WAC 173-425-030(4) "Ecology".	The proposed rule looks pretty good. Nice and clear to read, better definitions, etc. Just one thing – we should refer to ourselves as "Ecology" instead of the "department" because "Ecology" is used and defined in the main rule, WAC 173-400, and its definitions are incorporated by reference in the proposed rule.	Written comment 6A. (Alan Butler)	Your suggested change has been incorporated in the final rule.
WAC 173-425-030(8) "Indian ceremonial fires".	We continue to get comments from the public about the restrictive definition of ceremonial fires in our draft regulation, which is the same as WAC 173-425-030(8) for Native American ceremonial fires. There is a legitimate need for ceremonial fires for flag disposal, social events, and possibly a few other things. I realize that these fires can be permitted as Other outdoor burning or recreational fires, but the public doesn't realize that. A better solution would be to enlarge the definition of ceremonial fires to a least include flag disposal.	Written comment 85A. (Charles Stansel)	RCW 70.94.651(2) contemplates a permit and grants a specific exemption for Indian ceremonial fires from the prohibitions in the Act that do not apply to other ceremonial fires. However, we have specifically included other fires for ceremonial purposes in the definition of "recreational fires", which are exempt from permits in many cases, and the public needs to be informed of this.
WAC 173-425-030(9) "Land clearing burning".	This definition is vague, will create problems on agricultural lands, and should be changed to: "Outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects. It does not include the burning of the lands cleared on an agricultural operation when the intended future use is some form of agricultural operation."	Written comment 30C. (Les Ornelas)	Ecology believes that the language in the adopted definition is more useful because it will distinguish land clearing burning from various types of burning, not just agricultural burning, it does not require a statement of intent, and it will have the same effect as your proposed language.

			ge on any agricultural lands that are cleared for another agricultural use.
	This definition is vague in terms of what is and is not included. We have a lot of orchard removal and burning occurring, and if the intended use of the land is any form of agricultural production, it's agricultural burning. If the orchard is being removed for future home lots or commercial development, it's land clearing burning. Phrases like "used for a different purpose or left unused" confuse this interpretation. We have some orchards being removed for pasture, which could be construed as being left unused. Can you clean up this definition? We believe the stated intentions of the land owner indicate whether the fire is agricultural or outdoor burning.	Written comment 37A. (Charles Stansel)	Please see our response to written comment 30C, above. As noted there, the adopted language allows a determination in situations where the intended use is undisclosed. If the intended use is disclosed as "pasture" (i.e. land used to grow feed for livestock), it should not be construed as being left unused.
WAC 173-425-030(13) "Nonurban areas".	The rule should clarify the definition of "nonurban areas" because the language in RCW 70.94.745 is conflicting.	Oral comment 21A. (Mary Jo Cady)	Ecology does not agree that the language in RCW 70.94.745 is conflicting. Subsection (8) defines "nonurban areas" (but the word "is" should be read "are"), and subsections (2)(a) and (2)(c) describe different types of nonurban areas.
WAC 173-425-030(22) "Residential burning".	Other items such as the "immediately adjacent" or "in close proximity to a human dwelling" [language in the definition of "residential burning"] or the difference between a residential burn, a silvicultural burn, or the ambiguous definition of burning on "unimproved land" need to be clarified so they're easy and straight-forward to administer, or removed so the local air authority can determine what is appropriate.	Oral comment 30E. (Jack Burkman)	We previously offered to interpret the "immediately adjacent and in close proximity" language that's in the statute, and various control officers asked us to leave it for local air authorities to interpret, so that's what we have done.
	SWAPCA supports the decision to delete the 100 feet distance criteria from the definition of residential burning. This will allow more flexibility in decision making at the local level to establish whether a lesser distance in rural areas is appropriate.	Written comment 55E. (Robert Elliott)	As indicated in our response to oral comment 30E, above, we only offered to clarify things by adding such language, but we chose not to, in part, because of

			SWAPCA's concerns.
WAC 173-425-040(1) Nonattainment areas.	SCAPCA appreciates the continued flexibility in defining no-burn area boundaries, relative to nonattainment area boundaries, and assumes that no further authorization of the no-burn boundaries by Ecology in Spokane County will be necessitated by the amendment to the rule.	Written comment 35C. (Eric Skelton)	Ecology believes that such flexibility is needed because nonattainment area boundaries may extend beyond the area where exceedances or violations of air quality standards have occurred. We also believe that no further authorization of your no-burn boundaries by Ecology will be necessitated by the rule.
WAC 173-425-040(2) Urban growth areas.	Using urban growth area boundaries is confusing and excessive. Don't prohibit burning outside city limits.	Oral comment 1A. (Jerry Davis)	Ecology is obliged to prohibit residential and land clearing burning in all urban growth areas of the state as required by the state Clean Air Act.
	SCAPCA intends to retain the December 31, 2000, phaseout date of outdoor burning for all urban growth areas within Spokane County, regardless of population, as provided in our local rule. We assume that no rule change is needed on our part in order to maintain this greater stringency.	Written comment 35D. (Eric Skelton)	Ecology believes that it is within SCAPCA's authority to retain any rule provisions that prohibit outdoor burning in all urban growth areas in the county by December 31, 2000.
	Please include the attached letter in the public record for the next set of hearings on WAC 173-425.	Written comment 75A. (Dave Peters)	The subject letter has been included in the public record as written comment 75B. Please see the following response to that comment.
	I am writing to detail some concerns regarding the burn ban soon to be put into place and complications arising from it for some waterfront residences. We live on medium bank waterfront on Bainbridge Island that is vegetated by alders and low growing shrubs and ground cover. The bank has been quite stable (unlike many others) because we maintain it by topping the trees every four to five years according to suggestions made by the geologist we consulted ten years ago. Also, no tree maintenance company we met with was	Written comment 75B. (Dave Peters from a constituent)	The urban growth area burn ban on Bainbridge Island applies to residential and land clearing burning, and residential burning is burning of yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling. Therefore, the Puget

	able to figure out how the get a shredder down to the work site, so we have burned the debris on the beach at low tide. In light of the upcoming burn ban, we can only think of three undesirable options, so we need some creative problem solving and others will too.		Sound Clean Air Agency should be consulted to determine if the type of burning described would actually be prohibited.
WAC 173-425-040(4) High density areas.	The prohibition on land clearing burning in high density areas appears to be a pointless rule for Yakima County because the only census block groups with populations over 1,000 people per square mile outside of urban growth areas are small portions of the block groups that extend across the urban growth boundary. We encourage you not to adopt a rule that creates another boundary for one type of burning and more confusion for the public, unless it's made optional for local air authorities.	Written comment 30D. (Les Ornelas)	Ecology understands YRCAA's concern, but we also agree with our Outdoor Burning Advisory Committee, which recommended that this provision be applied uniformly to protect people in and adjacent to such areas from the smoke caused by land clearing burning.
	Allow this prohibition to be not adopted or enforced if the general area will have a comparable ban on outdoor burning under the WAC, local rules, or city ordinances. We see this as a very difficult provision to enforce which can be better handled with other rules.	Written comment 74C. (Les Ornelas)	Please see our response to your earlier written comment 30D, above. We're also unclear as to what a "comparable ban" would be and why it would be any easier to enforce.
WAC 173-425-040(5) Areas with a reasonable alternative to burning.	The criteria for determining if an alternative is "reasonably economical" should be based on more than just whether the tipping fee is less than the state average. It should take into consideration whether people in the area can haul the material themselves, whether there is labor around to dispose of it for them if they can't, and whether they can afford to pay somebody to dispose of their material.	Oral comment 21B. (Mary Jo Cady)	The median statewide tipping fee is still in the final rule as a basic measure of ability to pay, even for contract labor, but we further modified the criteria to allow local air authorities to determine whether any disposal service or facility is within a reasonable distance.
	I want to thank you for the changes you've made so far – dropping the fifteen mile limit is a significant step forward.	Oral comment 30B. (Jack Burkman)	Ecology has also further modified WAC 173-425-040 (5) to allow local air authorities to determine whether any disposal service or facility is within a reasonable distance.
	There needs to be an air quality problem before we can	Oral comment 30C.	The state Clean Air Act requires

	<p>justify banning burning in rural areas faster than the 2006 deadline for small city urban growth areas. There may be a law that says, if there is a reasonable alternative we should go faster . We don't have a problem with that. We have a problem with how it may be interpreted. If it's because there is a yard debris service coming to your front door, that's one thing, but if it's because there is a place within 15 miles that will take your debris, that's another extreme. So our request is to defer rule-making on RCW 70.94.745 until 2003 so the legislature can work on this ambiguity.</p>	(Jack Burkman)	<p>that burning be prohibited when a reasonable alternative burning is found to exist, regardless of whether a specific air quality problem has been proven, and this prohibition even applies in urban growth areas where residential and land clearing burning could otherwise be allowed until December 31, 2006. To address your concern, however, we have further modified the language in WAC 173-425-040 (5) to allow local air authorities to determine what a reasonable distance is.</p>
	<p>Basically, 15 miles may be a long distance (or a reasonable distance) on the west side, but over here [in eastern Washington] it's a drop in the bucket. Having to limit it to only 15 miles, is going to "allow" a lot of burning that could and should be prevented, especially at many of the dams that would want to conduct burning, since there usually isn't anything within 15 miles of them, let alone some place to dispose of the woody debris pulled out of the river. If we simply put a cap on the total disposal cost of less than the median statewide tipping fee, we could clearly say "no" when they ask to burn.</p>	Written comment 29A. (Shawn Nolph)	<p>The Outdoor Burning Advisory Committee concluded that we should change from a permit-by-permit process for determining if a reasonable alternative to burning exists to a process for identifying whole areas with a reasonable alternative. We have, however, dropped the 15 mile criteria and adopted criteria that will allow the air pollution control agency to define a reasonable distance around each disposal service and facility.</p>
	<p>The 15 mile radius seemed good in theory as we discussed it in the Outdoor Burning Advisory Committee meetings. However, it does not work practically when applied at the local level. When a 15 mile radius is mapped around each of Kitsap's solid waste collection sites, it's clear that all residential burning would be prohibited in Kitsap County. It</p>	Written comment 31A. (Dave Peters)	<p>After assessing the effect of the "within 15 mile" clause in other parts of the state, Ecology deleted the clause and added language to allow air pollution control agencies to consider the cap-</p>

	would be best to leave the decision of what constitutes the geographical boundaries for availability of an alternative in local hands. I suggest we revise (040)(5)(b) to delete the reference to 15 miles, so it will read: [See written comment 31A.] I strongly encourage Ecology to map out the effects of the “within 15 mile” clause for all areas of the state. The resulting map may be quite alarming to the legislature.		acity of any solid waste services and facilities. It has also further revised the language to allow air pollution control agencies to establish a reasonable distance around each service and facility.
	The formal process of determining whether a reasonable alternative to burning exists, will be rigorous and will involve a considerable amount of staff time. Nonetheless, SCAPCA supports the concept of making these formal determinations. SCAPCA requests Ecology to follow up with specific guidance on implementing this process, so it will be made as simple as possible and there will be statewide consistency.	Written comment 35E. (Eric Skelton)	Ecology intends to provide as much help as possible to local agencies involved in this process, and we are currently planning to prepare the kind of specific guidance you request.
	The SWAPCA Board appreciated the decision to revise the definition of “reasonable alternatives” and hold additional hearings on the new definition. They also appreciated you scheduling one of these new hearings in southwest Washington.	Written comment 55A. (Robert Elliott)	Ecology revised the criteria for identifying areas with a reasonable alternative as requested by SWAPCA, and we were pleased to schedule the additional hearing at your request.
	SWAPCA appreciates that the “reasonable alternatives” option has been made less prescriptive by eliminating the language that caused a burning prohibition within 15 miles of a recycling facility, but the general public does not believe the alternatives prohibition is being implemented to solve any air pollution problem, so it’s inconsistent with past actions of the agencies. Therefore, SWAPCA would like Ecology to defer rule-making on RCW 70.94.745(6) until 2003, so we can evaluate our air quality needs and perhaps coordinate “reasonable alternative” burning phase-outs to coincide with the December 31, 2006, ban in small city urban growth areas. Instead of relying on the language in state law, we need to do some data gathering and public education and convey a simultaneous air quality health problem or nuisance problem as a basis for action.	Written comment 55C. (Robert Elliott)	Please see our letter response dated November 4, 1999 in Appendix H. Also, Ecology believes that the “reasonable alternatives” provisions in the state Clean Air are already based on air quality and nuisance problems that are further substantiated in this rule making, and we don’t have authority to defer implementation in particular areas until a specific problem is proven. However, we have further modified the criteria for identifying areas with a reasonable alternative to alleviate your

			concerns and those of many of your constituents.
	<p>If Ecology believes that general public support for the “reasonable alternatives” provisions is unimportant, I still recommend (1) that local air authorities be allowed to phase-in a “reasonable alternatives” prohibition over a period of time they select (after each required determination) so they have adequate time to educate the public about a significant life-style change for them, and (2) that the rule convey to the public that an optimum pollution prevention approach is being adopted (i.e. one that considers the transportation and air pollution costs caused by having everyone drive their pickup 15 miles to the recycling center).</p>	Written comment 55D. (Robert Elliott)	<p>Please see our letter response dated November 4, 1999 in Appendix H. Also, Ecology believes there is public support for the various alternatives to burning that have been developed (otherwise they wouldn’t be economically viable), and the prohibitions should be adopted as soon as possible after the required determinations are made. We’ve also changed the 15-mile criteria and demonstrated in this rule-making that the air quality and other benefits of the reasonable alternatives prohibition out-weigh the transportation and air pollution costs.</p>
	<p>The evaluation for a reasonable alternative should be performance based and measure things like: Actual and threatened violations of a PM10 or CO NAAQS from outdoor burning; Is the area in attainment of PM10 or CO?; Are outdoor burning nuisance complaints increasing or decreasing?; and How effective is an Authority in dealing with nuisance and public safety complaints from outdoor burning?</p>	Written comment 74D. (Les Ornelas)	<p>Ecology is obliged to establish rules for identifying areas with a reasonable alternative to burning, where burning must then be prohibited regardless of whether the areas are in attainment or have experienced any air quality violations or changes in nuisance complaints caused by outdoor burning or ineffective enforcement (and burning can contribute to air quality problems caused primarily by <u>other</u> sources). Also, please see our response to written comment 55C, above.</p>

	Given the apparent continuing concern over this provision, I would think seriously about keeping some kind of approach to reasonable distance in the rule. Given the general shift away from specific requirements to a more local decision, I would suggest the following approach - add “reasonable distance” to the phrase “served by” - see attachment. I support the general shift to a more locally determined approach, making distance explicit may help fend off some critics.	Written comment 79A. (Robert Saunders)	After discussing this approach with the Outdoor Burning Advisory Committee members and all of the state’s air pollution control officers and others, we have incorporated this suggestion in the final rule, but placed the “reasonable distance” language in WAC 173-425-040(5)(a)(ii).
WAC 173-425-050(1) Prohibited materials.	The prohibited materials list includes petroleum products as a generic material. The rule needs to allow for the use of LP gas or propane gas for use as fire starter, or accelerant, in clean burning some materials. Our experience show the proper uses of these gases will combust many materials quickly with lower total emissions. At least allow local Authorities the option to use LP or propane gas.	Written comment 30E. (Les Ornelas)	RCW 70.94.775 prevents Ecology from allowing outdoor fires containing petroleum products, except as provided in RCW 70.94.650(5), but flaming devices with controlled combustion may be used to start an allowed fire.
WAC 173-425-050(2) Hauled material.	One thing I didn’t think was addressed well enough is the newer policy on hauling material off a developed area into another area for burning, where the neighbors don’t like it. How it’s going to be permitted needs to be addressed.	Oral comment 28B. (Derald Gaidos)	The rule prohibits such burning if the material is from an area where that type of burning is prohibited. If it’s from an area where that type of burning is allowed, then the appropriate permit for that type of burning is needed (e.g. land clearing debris would require a land clearing burning permit). Residential yard and gardening refuse, on the otherhand, would require an “other outdoor burning” permit because it’s not residential burning unless it occurs on the residential lands where the refuse originates.
WAC 173-425-050(5) Burning in outdoor con-	We [at NWAPA] support this particular provision. The research I’ve seen would suggest that two families burning	Oral comment 15C. (Terry Nyman)	Although other provisions of the rule prohibit the burning of

tainers.	their household garbage in burn barrels would produce the same amount of polychlorinated dibenzodioxins that our incinerator here in Skagit County produced. It's a significant toxic air pollutant, and anything we can do to dissuade people from burning illegally is a big step in improving public health.		garbage, and this provision is included primarily to reinforce an existing Uniform Fire Code requirement, we recognize that it may reduce garbage burning and benefit public health.
	We still have large numbers of residents that want to burn all of their garbage in burn barrels and we have been tactfully addressing the removal of burn barrels as unapproved burning appliances. Your terminology on burn barrels is beneficial and assists us in convincing the public to remove them.	Written comment 3B. (Mark Anderson)	Thank you. Ecology and it's Outdoor Burning Advisory Committee concluded that the rule should be explicit and consistent with the Uniform Fire Code in this regard.
	We do not support the inclusion of Uniform Building Code or Uniform Fire Code requirements in the outdoor burning rule. These are properly administered by other agencies, and they are generally not needed to control the emissions from outdoor burning containers. Most of these violations can be cited under WAC 173-425-050(1), WAC 173-425-050(4), or comparable local rules. If enforcement is really needed, all permits include a "Permits and Requirements of Other Agencies" clause, and a person may be cited for not complying with the regulations of another agency. If there is a need to adopt this in other parts of the state it should be made optional for local adoption	Written comment 30F. (Les Ornelas)	The Outdoor Burning Advisory Committee concluded that it would be inappropriate for Ecology to require compliance with (and hence become involved in enforcing) other agency requirements. Therefore, it recommended that Ecology adopt standards for construction of outdoor burning containers that are consistent with the Uniform Fire Code, so enforcement will be consistent statewide regardless of which agency handles enforcement.
	SCAPCA assumes that Ecology does not intend to have permitting authorities enforce the Uniform Building Code and/or Uniform Fire Code as they pertain to outdoor burning containers. If SCAPCA encounters such containers being used to legally burn, under the Outdoor Burning rule and SCAPCA's rule, our examination of the containers will be cursory in nature. If there are questions relative to strict compliance with the UBC or UFC, SCAPCA may choose to refer those questions to the agency with enforcement auth-	Written comment 35F. (Eric Skelton)	Please see our response to written comment 30F, above. In our opinion, it will not be legal to use a burn barrel for outdoor burning under the new rule unless it's modified to meet the rule's construction standards for outdoor burning containers.

	<p>ority. However, SCAPCA does not intend to enforce the requirements of the UBC and/or UFC.</p>		
	<p>As I read the new rule, it is o.k. to place combustibles on the ground and burn them in the dry grass, but it's a violation to burn them in anything other than a concrete container. Isn't a metal burn barrel safer?</p>	<p>Written comment 36B. (Jack Smith)</p>	<p>The rule simply adopts construction standards for incinerators that are consistent with those in the Uniform Fire Code.</p>
	<p>SWAPCA recommends that Ecology revisit this portion of the rule prior to adoption. Considerable opposition can be expected to develop at the local level, especially in rural counties, when people realize that burn barrels are required to be replaced with concrete or masonry devices with a completely enclosed combustion chamber and heavy wire mesh screen over the top. This provision does not appear to be based in explicit state law language, but instead appears to promote improved combustion practices. It's going to be difficult to administer and invite credibility problems because it does not significantly alter the amount of air pollution emitted (i.e. citizens will simply opt to burn the material on the ground and nothing will ultimately be achieved except to antagonize a wide segment of the general public). This language should be converted in a best management practice guideline.</p>	<p>Written comment 55G. (Robert Elliott)</p>	<p>Please see our letter response dated November 4, 1999 in Appendix H, where the legal basis for this provision is set forth. Also, Ecology believes it's appropriate for the outdoor burning rule to reinforce the Uniform Fire Code standards, which are not widely known or readily available, and if people choose to burn their material on the ground as allowed, their fire should produce less smoke than burning in a barrel.</p>
<p>WAC 173-425-060(2) Types of burning that require a permit.</p>	<p>Don't require a permit for fire fighting instruction fires.</p>	<p>Oral comment 1B. (Jerry Davis)</p>	<p>RCW 70.94.650(1)(b) requires a permit for any fire fighting instruction fires except those specifically listed in that section.</p>
	<p>Amend this section to exempt fire fighting instruction fires from permit fees.</p>	<p>Oral comment 3B. (A. H. Gillespie)</p>	<p>RCW 70.94.650(2) requires a fee for any fire fighting instruction fires that require a permit, so WAC 173-425-060 (3) requires a fee.</p>
	<p>My agency is concerned that the proposed rule eliminates the requirement for a permit for residential burning in the nonurban areas of counties with an unincorporated population of less than 50,000. This will give the public the impression that there are no rules and anything goes. In our area</p>	<p>Written comment 3A. (Mark Anderson)</p>	<p>We were unable to retain such a requirement because the 1995 legislature amended the state Clean Air Act to exempt residential burning from permits in</p>

	alone, residents would burn anything that didn't move and some things that do move if it weren't for the permit requirements. To remove our existing permit process will probably increase the number of responses to complaints and place our equipment and personnel out of position for other emergency responses, and we get no funds from Ecology or the local air authority to monitor burning for air quality purposes.		such areas. However, the requirements in WAC 173-425-050 still apply, and we believe you can continue to require a permit under other laws, as stated in our June 21, 1999 response letter shown in Appendix H.
	There also appears to be a tremendous conflict with the Uniform Fire Code on the permit issue. Section 1101.3 of the code says "Permits are required to conduct open burning" and does not identify any exceptions based on population. We intend to continue to require permits and do not understand how Ecology or any other agency can dilute codes adopted by the state.	Written comment 3C. (Mark Anderson)	Please see our response to written comment 3A, above.
	SCAPCA intends to work with the Department of Natural Resources on a gradual change over in jurisdiction over land clearing burning. The nature of SCAPCA's program (permits, prohibitions, etc.) remains to be determined and will involve policy questions which must be brought before the SCAPCA board.	Written comment 35G. (Eric Skelton)	Thank you for informing us of this potential program change.
	All recreational fires should be permitted. We started permitting them here [Longview/Cowlitz 2 Fire & Rescue], and it's proven beneficial. If no permit is required, they can be placed anywhere at anytime even in a no-burn season.	Written comment 36A. (Jack Smith)	The rule only requires a permit for <u>large</u> recreational fires in the nonurban areas of counties with an unincorporated population of 50,000 or more, but it makes all recreational fires subject to the curtailments and other requirements in WAC 173-425-050.
WAC 173-425-060(3) Fees.	Fees for fire fighting instruction fires vary from jurisdiction to jurisdiction.	Oral comment 1C. (Jerry Davis)	According to RCW 70.94.650 (2), any fees for fire fighting instruction fires that are not exempt from permits must be set by the permitting agency.
	Don't charge fire districts a fee for fire fighting instruction	Oral comments 1D	RCW 70.94.650(2) requires a

	fires.	and 3A. (Jerry Davis) (A. H. Gillespie)	fee for burning permitted under RCW 70.94.650, so WAC 173-425-060 (3) requires a fee.
	We strongly oppose universal or base fees to be set by Ecology. The establishment of fees for various types of permits should be left to the local air authorities. The proposed requirement for fees for all fire fighting instructional fires creates a problem for this Authority. We plan to create general rule permits with no fees for some types of infrequent, low impact and low emissions fire training such as fire extinguisher training.	Written comment 30G. (Les Ornelas)	The adopted rule doesn't contain any universal or base fees, and any fees we might set in the future under other rules will only apply to permits issued by Ecology. Also, please see our response to oral comments 1C, 1D, and 3A, above, and written comment 35H, below.
	With regard to setting fees by rule, SCAPCA assumes that Ecology intends for us to commence the formal rule amendment process, in accordance with the Administrative Procedures Act, to adopt fees for weed abatement fires and fire fighting instruction fires. SCAPCA further assumes that Ecology does not intend for permitting agencies to require fees for small fire extinguisher training fires. If it is Ecology's intent for the permitting agencies to require fees for fire extinguisher training, as a form of "fire fighting instruction fires," then SCAPCA would oppose this section of the rule.	Written comment 35H. (Eric Skelton)	Ecology does not intend for permitting agencies to require fees for small fire extinguisher training fires. In our opinion, although such fires could be regarded as fires for training to fight structural fires, which would require a permit in urban growth areas and cities of over 10,000 people, and they're not otherwise specifically exempt from permits under RCW 70.94.650 (1)(b), we do not believe such fires require a permit, provided they do not involve conflagration of a structure.
WAC 173-425-060(5) Establishment of a general permit and requirements for residential burning.	SCAPCA presently has 7 days per year, stipulated by rule, for residential burning. However, the rule does not stipulate which days are the burn days, as Ecology has done with the 8 days in the proposed changes to the WAC. Does this section require SCAPCA to commence formal rule making in order to reaffirm an unspecified 7 days of burning? Is the adoption of a general permit, a different process from the adoption of rule amendments?	Written comment 35I. (Eric Skelton)	According to our attorney, a general permit should be specific enough for people to know from reading the rule what is required. It should, therefore, specify the burn days and tell people how they can find out about any substitute days. A

			general permit must also be adopted by rule, so the process should be the same as for other rule amendments.
	No fire is permitted within 500 feet of forest slash. This may be important in the summer months, but in the winter when there's no danger of fire spread, it's very restrictive.	Written comment 36C. (Jack Smith)	According to the DNR, major fires have occurred in forest slash in all months of the year, and their rules require a written permit for any fires within 500 feet of forest slash.
WAC 173-425-060(6) Field response and enforcement.	Yakima County Fire District 2 does not like to enforce against people who are burning illegally under the Clean Air Act, or charge them to put their fire out, because it puts the fire district in a bad light with people who vote on taxes for fire service, and the violators pay to have their fire put out through their taxes.	Oral comment 1E. (Jerry Davis)	Ecology understands this concern, so we're willing to negotiate the level of enforcement by permitting agencies. Also, the rule allows you and your constituents to decide whether to charge a separate fee to put out illegal fires.
	You're going to have to fund the enforcement side of this. We have to fund the Department of Ecology to support the enforcement because it's going to trickle down to them sooner or later, especially if you make mandates that are not covered under my Uniform Fire Code.	Oral comment 28C. (Derald Gaidos)	Ecology can seek a budget appropriation for any enforcement activities it engages in, but any fees charged by an agency that issues permits should cover the costs of administering and enforcing the permit program.
WAC 173-425-070 Variances.	This provision in state law has not created a problem in actual practice because SWAPCA has given Ecology advance notice of its intended action on variances through the SWAPCA Board agenda. Ecology then has ample time to express its objections up to and including the day of the board meeting when action is planned on the variance. Ecology personnel have stated that they do not want to impede resolution of difficult local issues and have expressed comfort with SWAPCA's application of the law as long as logical criteria are used in the variance approval process. SWAPCA would recommend that Ecology help local air authorities	Written comment 55H. (Robert Elliott)	Please see our letter response dated November 4, 1999 in Appendix H. Also, the only acceptable criteria for approval of variances from state rules are the criteria in RCW 70.94.181, and Ecology would like to review any proposed changes to the variance provisions in state law before deciding whether to support changing the law to

	modify the language in the law to more closely parallel the actual practice outlined above.		more-closely parallel existing practices.
	Include a waiver provision that allows local air authorities to define acceptable alternative practices which will have equal or lower emissions, nuisance or safety hazard. The variance provisions in WAC 173-425-070 are needed, but they are too burdensome for routine compliance work.	Written comment 74B. (Les Ornelas)	Ecology is of the opinion that the current wording of RCW 70.94.181 does not allow use of any other mechanism for granting relief from rules governing the quality, nature, duration or extent of discharges of air contaminants, including those in the Chapter 173-425 WAC.
Comments by people involved in providing alternatives to burning.			
Subject of Comment	Ecology's Summary of Comment	Source	Ecology's Response
The entire rule.	I have read the PROPOSED RULE MAKING (RCW 34.05.320). First of all there is not much left of the original document.	Written comment 72A. (Rolf Nilsen)	RCW 34.05.320 is the section of the Administrative Procedures Act that requires us to publish notice of hearing in the state register. Also, many provisions of the new rule are similar to those in the 1992 rule, but they have been reworded and reorganized.
	The problem is not handled properly. Your department should ask people why they burn things and then look for solutions. The problem is a garbage can costs \$3 or more each plus the monthly fee and taxes. There is no one that recycles paper or cardboard any more. They send it to a landfill in Oregon. Did you know that some companies send their old newspapers to Canada for recycle and buy it back as new newspaper? There is no return deposit on cans and bottles in WA, but they have it in Canada and Oregon.	Written comment 72B. (Rolf Nilsen)	Ecology has a great deal of information about why people burn things, and their reasons are further documented in this CES. We are also obliged to implement various "solutions" specified in the state Clean Air Act, which prohibits the burning of garbage, including paper, cardboard, metal, etc.
WAC 173-425-040(5) Areas with a reasonable alternative to burning.	There are reasonable alternatives to burning, and I'm involved in on-site grinding, which can be a pretty cost competitive way to go. Maybe it's an educational thing - a lot of people haven't been around grinding in Skagit County and	Oral comment 26B. (Rocky Oordt)	Any service such as yours will have to meet the criteria in the rule to be deemed a reasonable alternative to burning, and yes,

	parts of northern Snohomish County and Whatcom County.		convincing people to use such a service will probably be an educational thing.
WAC 173-425-050(1) Prohibited materials. and WAC 173-425-050(5) Burning in outdoor containers.	I would like to know if people can be allowed to burn paper, cardboard and yard waste in a simple incinerator that won't smoke. The simple burner mentioned in your document will smoke due to bad insulation value in regular concrete. Refractory can be used in a steel body supplied with a stack section and spark arrestor. I will be happy to work with you on this due to my friends problems to dispose of paper, wood, cardboard and yard waste. I will include a brochure that shows one of my products that costs \$16,000. I would like to make something simpler that will cost \$300 to \$1500.	Written comment 72C. (Rolf Nilsen)	RCW 70.94.775 prohibits any outdoor fire containing garbage (including paper and cardboard) and various other materials, except natural vegetation, and this precludes the burning of such material in any outdoor container, except any regulated under WAC 173-400-070(1).
WAC 173-425-010 Purpose. [Subsection (3)] and WAC 173-425-050 (2) Hauled material.	If you're going to encourage the development of alternatives to burning, you have to prohibit the burning of any material hauled from an area where the burning of such material is prohibited and enforce it, and I don't know how you're going to do that if you don't see it happen. (Because people will haul it and burn it later when it's snowing, or a weekend.) Any kind of alternative depends on volume to maintain profitability.	Oral comment 25A. (Herb Barker)	Ecology understands the importance of the "hauled material" provision in the rule, and it recognizes the difficulties for enforcement. However, we also believe that most people will comply if the rules are explicit and well publicized.
	If the [hauled material provisions] go into effect like they already are in some areas, everybody needs to be aware of them. I've informed guys in the construction industry that it is illegal to transport material out of a prohibited area, and they laugh at me. I know guys that have trucked stuff from Bellevue [a prohibited area] to Ferndale and burned it.	Oral comment 26A. (Rocky Oordt)	Thank you for making this point for the record. Ecology will certainly do what it can to inform people of this requirement, which is a new addition to the state rule.

V. DIFFERENCES BETWEEN THE PROPOSED RULE AND ADOPTED RULE

This section of the Concise Explanatory Statement identifies the differences between Ecology's original proposed rule dated 3/23/99 and the adopted rule that were made in response to public comment. (Hence, only some of the changes to Ecology's second proposed rule dated 9/1/99 are readily apparent.) It also explains the reasons for making any changes (or for not making any changes) that are not explained in the previous section. Underlined text [sample] denotes language that has been added to the original proposed rule, and strikethrough text [~~sample~~] denotes language that has been removed from the original proposed rule. Shading [sample] denotes the location of changes to Ecology's second proposed rule.

WAC 173-425-010 [second paragraph]:

The limited burning policy requires ~~the department~~ ecology and other agencies to:
... [etc.]

WAC 173-425-030 (4):

(4) "~~Department~~Ecology" means the Washington state department of ecology.

[Note: In Ecology's second proposed rule dated 9/1/99 and in the adopted rule, the code reviser shows this deletion of the word "Department" under WAC 173-425-030 (1) instead of under WAC 173-425-030 (4) where the word "Department" was originally proposed. Also, the phrase "Washington state" was added for consistency with the definition of "Ecology" in WAC 173-400, Ecology's "General Regulations for Air Pollution Sources".]

WAC 173-425-030 (7):

(7) "**Impaired air quality**" means a first or second stage impaired air quality condition declared by ~~the department~~ ecology or a local air authority in accordance with WAC 173-433-140.

WAC 173-425-030 (16):

(16) "**Outdoor burning**" means the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. For the purposes of this rule, "outdoor burning" means all types of outdoor burning except agricultural burning and silvicultural burning. (RCW 70.94.743(2))

[Note: Ecology added the underlined sentence at its own initiative to make it clear that the rule does not apply to agricultural and silvicultural burning, even though agricultural and

silvicultural burning fit the definition of “outdoor burning” provided in the first sentence, which comes from RCW 70.94.743(2).]

WAC 173-425-030 (24):

(24) "**Storm or flood debris burning**" means ~~the outdoor burning fires consisting of~~ natural vegetation ~~deposited on lands from by~~ storms or floods that have occurred in the previous two years and resulted in an emergency being declared or proclaimed in the area by the city, county, or state government ~~and burned on such lands by the property owner or his or her designee.~~ (RCW 70.94743(1)(c))

[Note: Ecology made these changes in response to an informal comment from Jim Nolan of the Puget Sound Clean Air Agency, who pointed out that the “conditions and restrictions” on storm and flood debris burning referred to in the last sentence of RCW 70.94.743(1)(c) were not being fully implemented under the proposed rule. This change was negotiated with the members of Ecology’s Outdoor Burning Advisory Committee and the state’s air pollution control officers, and it is not considered substantive.]

WAC 173-425-040 (1) [second sentence]:

These areas are limited to all ~~current nonattainment areas~~ and former nonattainment areas for carbon monoxide, particulate matter (PM10 and PM2.5), sulfur dioxide, nitrogen dioxide, and lead.

[Note: Ecology made this change to make it clear that (in addition to any former nonattainment areas) the nonattainment area prohibition will apply to all existing and future nonattainment areas that may be designated for the specified pollutants (as intended by Ecology’s Outdoor Burning Advisory Committee), not just any that happen to exist at the time of rule adoption. Ecology also consulted with the members of the Outdoor Burning Advisory Committee and the state’s air pollution control officers about this change, and many agreed it would be an appropriate clarification because the word “current” could be misconstrued.

WAC 173-425-040 (1) [third sentence]:

However, ~~the department~~ ecology may, in cooperation with any local air authority having jurisdiction, authorize the omission of parts of a nonattainment area... [etc.]

WAC 173-425-040 (5) [second paragraph]:

By December 31, 2000, and at least every third year after that, ~~Each~~ each local air authority, and ~~the department~~ ecology in cooperation with counties in those areas outside the jurisdictional boundaries of a local air authority, must for each type of burning listed in this subsection (except other outdoor burning of organic refuse) determine by December 31, 2000, and at least every third year after that, whether any areas within their jurisdiction where a type of burning listed in this subsection is allowed (except other outdoor burning of organic

~~refuse) have a reasonable alternative to burning exists in each area within their jurisdiction where that type of burning is allowed. (Whether a reasonable alternative exists~~
Determinations for other outdoor burning of organic refuse must be ~~determined made~~ on a permit-by-permit basis by applying the criteria in (a) ~~through and (eb)~~ of this subsection.) A reasonable alternative exists ~~in for any area if where~~ the answers to ~~all three both of the following questions below~~ are “Yes” for the specified type of burning ~~in that area~~. Provided, That parts of an area may be excluded for the purpose of defining practical boundaries for the area.

WAC 173-425-040 (5)(a) [and the original (b)]:

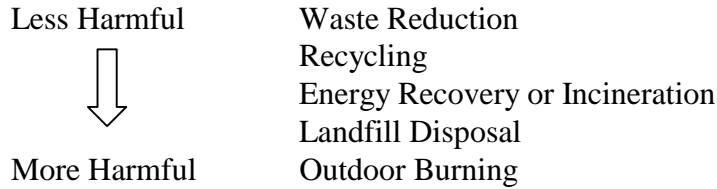
	<u>Yes</u>	<u>No</u>
(a) Available and reasonably economical. Is the area served by:	<input type="checkbox"/>	<input type="checkbox"/>
(i) A county or municipally-sponsored service for recycling (i.e. composting) of the organic refuse (e.g. natural vegetation); or		
(ii) Are any other alternative methods for disposing of the organic refuse (e.g. natural vegetation such as a public or private chipping or chipper rental service, an energy recovery or incineration facility, or a solid waste drop box, transfer station, or landfill) available for use within the area, including, but not limited to, recycling (e.g. chipping and/or composting), energy recovery or incineration, or landfill disposal that is located within a reasonable distance and will accept the type and volume of organic refuse at a cost that is less than or equivalent to the median of all county tipping fees in the state for disposal of municipal solid waste?		
(b) Reasonably economical. Is a municipally sponsored recycling program for disposal of the organic refuse available within fifteen miles, or is any other alternative method for disposal of the organic refuse available within fifteen miles at a cost that is less than or equal to the median of all county tipping fees in the state for disposal of solid waste?	<input type="checkbox"/>	<input type="checkbox"/>

[Note: Except for the added word “municipal”, Ecology made all of these changes for the following reasons after negotiating them with the members of Ecology’s Outdoor Burning Advisory Committee and all of the state’s air pollution control officers: Ecology changed the phrase “municipally-sponsored recycling service for pick-up and composting” to “municipally-sponsored service for recycling (i.e. composting)” because recycling is the generic alternative while composting is the specific type being considered, and some municipally-sponsored composting services involve chipping on-site; Ecology changed “Any other alternative methods for disposal” to “Any other method for disposing” because a single method for disposing of organic refuse can trigger a prohibition and “disposing” is the word used in RCW 70.94.745(6); Ecology added the phrase “is located within a reasonable distance and” to make it clear that local air authorities will have the discretion to determine whether an alternative is within a reasonable distance for any potential users, even though Ecology believes that this discretion already existed because local air authorities are being given the discretion to define the service area of any alternative. Ecology also added the word “municipal” in WAC 173-425-040 (5)(a)(ii) at its own initiative to make it clear that the county tipping fees referred to are the basic county tipping fees for disposal of municipal

solid waste, not any tipping fees they may have for other types of waste, such as yard waste at a county composting facility.]

WAC 173-425-040(5)(b) [the original (c)]:

(eb) **Less harmful to the environment.** Is any available and reasonably economical alternative method for disposing of the organic refuse less harmful to the environment than outdoor burning according to the following hierarchy?:



WAC 173-425-050 (1)(b):

(b) ~~The department Ecology~~ or a local air authority may allow the limited burning of prohibited materials for other fire fighting instruction fires, including those that are exempt from permits under WAC 173-425-060 (2)(f), and other outdoor burning necessary to protect public health and safety. (RCW 70.94.650(7))

WAC 173-425-050 (3)(a)(i) and (ii):

(i) ~~The department Ecology~~ has declared an air pollution episode; (RCW 70.94.775(2) and 70.94.780)

(ii) ~~The department Ecology~~ or a local air authority has declared impaired air quality; or (RCW 70.94.775(2) and 70.94.780)

WAC 173-425-050 (5):

(5) **Burning in outdoor containers.** Outdoor containers (such as burn barrels and other incinerators not regulated under WAC 173-400-070(1)) used for outdoor burning, must be constructed of concrete or masonry with a completely enclosed combustion chamber and equipped with a permanently attached spark arrester constructed of iron, heavy wire mesh, or other noncombustible material with openings not larger than one-half inch, and they may only be used in compliance with this chapter.

[Note: Ecology made this change at its own initiative to make it clear that this provision does not apply to incinerators regulated under WAC 173-400-070(1).]

WAC 173-425-060 (1)(a):

(a) ~~The department Ecology~~ or local air authorities may consult with fire protection authorities, conservation districts, or counties to determine if any of these agencies are

capable and willing to serve as the permitting agency and/or enforcing agency for particular types of burning in an area of the state. ~~The department~~ Ecology or local air authorities may enter into agreements with any capable agencies to identify the permitting agencies and enforcing agencies for each type of burning and determine the type of permit appropriate for each area where a permit is required. (RCW 70.94.654)

WAC 173-425-060 (2)(j):

(j) Other outdoor burning (if specifically authorized by the local air authority or ~~department~~ ecology). (RCW 70.94.765)

WAC 173-425-060 (4) [first sentence]:

(4) **Permit decisions.** Permitting agencies must approve with conditions, or deny ~~all~~ outdoor burning permits as needed to achieve compliance with this chapter.

[Note: Ecology deleted the word “all” in this context in response to an unofficial comment on the proposed rule from Eric Skelton, Director of the Spokane County Air Pollution Control Authority, who pointed out that the word was superfluous.]

WAC 173-425-060 (5)(a) [first sentence]:

(a) A general permit for residential burning is hereby adopted for use in any area where ~~the department~~ ecology (or a local air authority that has adopted this general permit by reference) and any designated enforcing agencies have agreed that a general permit is appropriate for residential burning, and have notified the public where the permit applies.

WAC 173-425-060 (6) [second and third sentences]:

Except for enforcing WAC 173-425-050 (3)(a)(iii), local air authorities and ~~the department~~ ecology may also perform these activities. Local air authorities or ~~the department~~ ecology will also be responsible for enforcing any requirements that apply to burning that is prohibited or exempt from permits in areas under their jurisdiction, unless another agency agrees to be responsible.

WAC 173-425-070 [first sentence]:

Any person who proposes to engage in outdoor burning may apply to ~~the department~~ ecology or a local air authority for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants from the proposed burning.

APPENDICES

APPENDIX A: Primary Changes to the Outdoor Burning Provisions in Chapter 70.94 RCW That Need to be Reflected in Chapter 173-425 WAC

APPENDIX B: Governor Gary Locke's Executive Order 97-02 on Regulatory Improvement

APPENDIX C: Ecology's Original Proposed Rule

APPENDIX D: Concerns and Solutions Suggested by People Who Commented on Ecology's Original Proposal to Revise Its Open Burning Rules

APPENDIX E: Oral Comments

APPENDIX F: Written Comments

APPENDIX G: List of People Who Provided Oral or Written Comment

APPENDIX H: Previous Response Letters From Ecology