

1/6/1984

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

This file is digitized in **black and white** using Optical Character Recognition (OCR) in a standard PDF format.

Standard PDF Creates PDF files to be printed to desktop printers or digital copiers, published on a CD, or sent to client as publishing proof. This set of options uses compression and downsampling to keep the file size down. However, it also embeds subsets of all (allowed) fonts used in the file, converts all colors to sRGB, and prints to a medium resolution. Window font subsets are not embedded by default. PDF files created with this settings file can be opened in Acrobat and Reader versions 6.0 and later.

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

January 6, 1984

14th Floor Conference Room
Department of Environmental Quality
522 SW Fifth Avenue
Portland, Oregon

AGENDA

9:00 a.m.

CONSENT ITEMS

These routine items are usually acted on without public discussion. If any item is of special interest to the Commission or sufficient need for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of November 18, 1983, EQC meeting; and of the December 6 and 7 special meetings.
- B. Monthly Activity Report for October and November 1983.
- C. Tax Credits.

9:05 a.m.

PUBLIC FORUM

This is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of this scheduled meeting. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

HEARING AUTHORIZATIONS

- D. Request for authorization to conduct a public hearing to amend rules for open burning, OAR Chapter 340, Division 23, to ban burning of yard debris in the Portland metropolitan area, to add regulation of 4th-priority burning in the Willamette Valley, and to amend the State Implementation Plan.
- E. Request for authorization to hold a public hearing on proposed revisions to the open field burning rules, OAR 340-26-001 through 340-26-050.

ACTION AND INFORMATION ITEMS

Public testimony will be accepted on the following, except items for which a public hearing has previously been held. Testimony will not be taken on items marked with an asterisk (*). However, the Commission may choose to question interested parties present at the meeting.

- *F. Proposed adoption of amendments to OAR 340-21-025(2) to establish special municipal incinerator standards for coastal areas and to amend the State Implementation Plan.
- G. Proposed adoption of amendments to solid waste management rules OAR 340-61-005 to 340-61-043, relating to closure, post-closure maintenance and financial assurance of solid waste disposal sites.

(over)

- H. Proposed new rules on solid waste disposal permit fees, OAR 340-61-115.
- I. Request for approval of preliminary plan, specifications, and schedule for sewerage system and treatment works to serve the health hazard area of Westport, Clatsop County.

WORK SESSION

The Commission reserves this time, if needed, for further consideration of any item on the agenda. At this meeting, the Commission will take up discussion of the issues surrounding final authorization for Oregon's assumption of the federal hazardous waste program.

Because of the uncertain length of time needed, the Commission may deal with any item at any time in the meeting except those set for a specific time. Anyone wishing to be heard on any item not having a set time should arrive at 9:00 am to avoid missing any item of interest.

The Commission will breakfast (7:30 a.m.) at the Portland Motor Hotel, 1414 SW Sixth Avenue, Portland; and will lunch at the DEQ Laboratory and Applied Research Division, 1712 SW 11th Avenue, Portland.

DOD358
EQC.AG (12/83)

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-THIRD MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

January 6, 1984

On Friday, January 6, 1984, the one hundred fifty-third meeting of the Oregon Environmental Quality Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Chairman James Petersen; Vice-Chairman Fred Burgess; Wallace Brill; Mary Bishop; and Arno Denecke. Present on behalf of the Department were its Acting Director, Michael J. Downs, and several members of the Department staff.

The staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Department of Environmental Quality, 522 SW Fifth Avenue, Portland, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address.

BREAKFAST MEETING

1. Future EQC meeting places: The Commission was presented with a proposed schedule of dates for future meetings. They asked staff to report back at the next meeting on places other than Portland to hold meetings, and the items that might be discussed in other cities.
2. Briefing on Woodstove Advisory Committee: John Kowalczyk of the Department's Air Quality Division, reviewed his written status report. Chairman Petersen asked staff to propose a way the Commission could recognize the work of the Advisory Committee. The Commission also asked if it would be possible to put together a self-contained educational package for schools to use. The Department is working on this concept.
3. Disposal of storm debris: Tom Bispham of the Department's Northwest Region Office reviewed his written status report. The Department has decided not to allow a special burning period at this time. The Commission was informed that Multnomah County had opened up two free dump sites for storm debris and that the Department would be informing callers of their locations.
4. Results of Agency Goals and Objectives Planning Sessions: The Commission had received a written summary of the agency's goals and objectives planning sessions earlier. They did not have any questions at this time.

FORMAL MEETING

Commissioners Petersen, Burgess, Bishop, Brill, and Denecke were present at the formal meeting.

AGENDA ITEM A: Minutes of the November 18, 1983 EQC Meeting; and the December 6 and 7, 1983 Special Meetings.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess, and passed unanimously that the Minutes be approved.

AGENDA ITEM B: Monthly Activity Reports for October and November, 1983.

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

AGENDA ITEM C: Tax Credits

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

PUBLIC FORUM:

No one appeared.

AGENDA ITEM D: Request for Authorization to Conduct a Public Hearing to Amend Rules for Open Burning, OAR Chapter 340, Division 23, to Ban Burning of Yard Debris in the Portland Metropolitan Area, to Add Regulation of 4th Priority Burning in the Willamette Valley, and to Amend the State Implementation Plan.

These proposed amendments to the open burning rules would restrict open burning in the Portland area and would help clarify, modernize and simplify the regulations. A few other minor operational changes were proposed.

Acting Director's Recommendation

Based on the summation, the Acting Director recommends that the EQC authorize the Department to proceed to rulemaking hearing with revised open burning rules which would ban backyard burning in the Portland metro area beginning June 16, 1984 with provisions for a hardship burning permit for those households which do not have reasonable alternative disposal means available.

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

AGENDA ITEM E: Request for Authorization to Conduct a Public Hearing on Proposed Revisions to the Open Field Burning Rules, OAR 340-26-001 through 340-26-050.

The Department reviewed the field burning rules and drafted proposed revisions intended to clarify and modernize the regulations and make them easier to use. In addition, some minor substantive changes were proposed, characterized as "fine-tuning" adjustments to existing controls. No major substantive changes were proposed and the Department requested authorization to conduct a public hearing before the Commission at their next meeting on these proposed revisions.

Acting Director's Recommendation

Based on the summation, it is recommended that the Environmental Quality Commission authorize the Department to schedule a public hearing on the attached proposed rules at its February 17, 1984 meeting.

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

AGENDA ITEM F: Proposed Adoption of Amendments to OAR 340-21-035(2) to Establish Special Municipal Incinerator Standards for Coastal Areas and Amend the State Implementation Plan.

The Department's particulate emission limits for incinerators appear to be a significant economic barrier to the application of this means of solid waste volume reduction in coastal areas. With very good ventilation and air quality in coastal areas, the Department believes its particulate emission limit could be relaxed for small to medium sized incinerators without creating an air quality problem.

The proposed rule change would contain adequate safeguards to ensure that visible emissions, odors, and toxic compounds will be adequately controlled. The proposed rule responds to hearing testimony over concern for incinerator operating temperatures.

Acting Director's Recommendation

Based on the summation, the Acting Director recommends that the EQC adopt the proposed special municipal waste incineration emissions rules for coastal counties and direct the staff to submit the rules as a revision to the State Clean Air Implementation Plan.

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

AGENDA ITEM G: Proposed Adoption of Amendments to Solid Waste Management Rules OAR 340-61-005 to 340-61-043, Relating to Closure, Post-Closure Maintenance and Financial Assurance of Solid Waste Disposal Sites.

The 1983 Oregon Legislative Assembly passed House Bill 2241, Chapter 766 Oregon Law 1983, which requires the Commission to adopt rules governing closure and post-closure maintenance of land disposal sites. On October 7, 1983, the Commission authorized a public hearing on the proposed rules. That hearing was held in Portland on November 17, 1983.

The Environmental Quality Commission is not obligated to allow additional public comment in taking final action on these proposed rules. However, because the sections dealing with (a) the criteria for exempting certain sites from financial assurance requirements, (b) the form of financial assurance and (c) landfill cover material have been substantially modified as a result of the input received at the public hearing and from the Solid Waste Advisory Task Force, the Department recommends that the Commission allow additional public input limited to those three areas.

Adoption of rules at this EQC meeting is necessary so that closure permit applicants can know what is required to meet the January 31, 1984 statutory deadline.

Acting Director's Recommendation

Based on the summation, it is recommended that the Commission adopt the proposed amendments to the Department's solid waste management rules, OAR 340-61-005 through 61-043.

Roger Ermons, OSSI, testified that his group was generally in support of the rules as amended. However, he asked that no further change be made in the two foot cover rule for landfills that are to be closed within five years.

Craig Starr, Lane County Solid Waste Program, testified they had not had enough time to determine if they could comply. He asked that local government have the same flexibility as private industry in financial assurance.

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

AGENDA ITEM H: Proposed New Rules on Solid Waste Disposal Permit Fees, OAR 340-61-115.

At its October 7, 1983 meeting, the EQC granted authority to conduct a public hearing on proposed Solid Waste Disposal Permit fees. Hearings were held and, as a result of testimony received, the proposed rules were modified. Since the E-Board must approve the fee schedule, it is recommended that the EQC approve but not adopt the rule. Staff is recommending that testimony, limited to the addition of categories, be taken at this meeting.

Acting Director's Recommendation

It is recommended that the Commission approve the Solid Waste Disposal Permit fee schedule proposed by the Department and concur with the Department's intent to seek Legislative Emergency Board review of the schedule prior to formal Commission adoption.

Roger Emmons, OSSSI, testified that they generally support the revised fee schedule. He asked that the recycling fees be implemented only after the Department has a budget together, and also that some recognition be given to communities that already have operating recycling programs.

Fred Neal, League of Oregon Cities, commended the Department for the modification of the fee schedule to recognize the needs of small communities. He also expressed an overall concern about recycling fees and the funding for the recycling program.

David Riggs, Crook County Public Health Administrator, asked for more categories under the permit renewal fees. He asked to waive, defer or exempt recycling fees until it is determined that recycling can be done in small, rural communities.

Craig Starr, Lane County Solid Waste Program, testified about determining the landfill tonnage and made a suggested language change to 340-61-115(4).

Dan Smith, Association of Oregon Recyclers, said that SB 405 does not exempt any county. He said that at a minimum the recycling program needed one person, and they would prefer three. He commended the Solid Waste Division for their rulemaking effort.

Jerry Powell, testified in support of the recycling fees. He said SB 405 was a good piece of legislation and the Department needs the resources to implement it.

Dan Durig, METRO, submitted written testimony and strongly urged that the original fee schedule be adopted.

Ezra Koch, McMinnville hauler and landfill operator, said the initial licensing fee was appropriate. He said the rule should have more tonnage increments. He is opposed to the recycling fees. He doesn't get DEQ help to recycle now and doesn't need it in the future.

Steve Colton, Association of Oregon Recyclers, was concerned about the staff level for recycling. One FTE is not enough to implement SB 405.

Lorie Parker, OEC, encouraged raising revenue for at least two staff members in the recycling program now, and then dropping back later.

Tom Donaca, Associated Oregon Industries, suggested the Commission consider presenting alternative fee schedules to the E-Board, including one that requests \$50,000 to \$70,000 from the General Fund.

Commissioner Burgess expressed concern about equity in the rules. The Commission began making some language changes in the rule. Commissioner Burgess was opposed to a piece-meal revision to important administrative rules. The Commission instructed staff to consider amendments to their proposal, including the suggestion made by Tom Donaca. The Commission agreed to meet by conference call next week to decide this issue.

AGENDA ITEM I: Request for Approval of Preliminary Plan, Specifications, and Schedule for Sewerage System and Treatment Works to Serve the Health Hazard Area of Westport, Clatsop County.

Past surveys have shown failing septic tank systems in the Westport area of Clatsop County. Pursuant to ORS 431.715, the Board of Commissioners of Clatsop County submitted preliminary plans and specifications together with a time schedule for forming a County Service District and sewerage the area. ORS 431.720 requires the Commission to determine the adequacy of the time schedule and plans for correcting the health hazard. If approvable the Commission must certify same to the Health Division and so inform the County.

The staff has reviewed the plans and timetable and considers them satisfactory.

Acting Director's Recommendation

Based upon our findings in the summation, it is recommended that the Commission approve the proposal of Clatsop County, certify said approval to the Health Division, and inform Clatsop County of said approval.

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

LUNCH MEETING

During lunch, the Commission decided to move its scheduled February 17, 1984 meeting to February 24, 1984 as Chairman Petersen would not be available February 17. The Commission then toured the Department's laboratory.

WORK SESSION

The Commission met in a work session to discuss the issues surrounding final authorization for Oregon's assumption of the federal hazardous waste program.

Respectfully submitted,


Carol Splettstaszer
EQC Assistant

CS:d

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF A SPECIAL MEETING OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

December 6 and 7, 1983

On Tuesday, December 6, and Wednesday, December 7, 1983, the Environmental Quality Commission convened in Executive Session at 500 Pacific Building, 522 SW Yamhill, Portland. Present were Commission members Chairman Jim Petersen, Mary Bishop, Wally Brill, and Arno Denecke. Vice-Chairman Fred Burgess was present only on Wednesday, December 7.

The meeting began at 8:30 am on Tuesday, December 6, to discuss interview questions and procedures and continued until noon with interviews of prospective candidates.

At noon, the Commission lunched with Bob Landauer and Larry Hilderbrand of The Oregonian, along with selected staff members, for discussion of the backyard burning question.

The meeting commenced again at 1:15 pm in Executive Session until 3:30 pm for further interviews of prospective candidates. The Commission recessed until the following morning.

At 8:50 am on Wednesday, December 7, the full Commission met to brief Commissioner Burgess on the events of the previous day. From 9:00 am until noon, further interviews of prospective candidates were conducted.

At lunch, the Commission reviewed slide presentations to be used for describing the new woodstove and recycling legislation. Selected Public Affairs staff were present.

At 1:00 pm, further interviews of prospective candidates took place. The special meeting was adjourned at 2:45 pm.

Respectfully submitted,

James E. Petersen
Chairman
Environmental Quality Commission

JAS:d
DOD350

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-SECOND MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

November 18, 1983

On Friday, November 18, 1983, the one hundred fifty-second meeting of the Oregon Environmental Quality Commission convened at the Department of Environmental Quality, Portland, Oregon. Present were Commission members Chairman James Petersen; Wallace Brill; Mary Bishop; and Arno Denecke. Commissioner Fred Burgess was absent. Present on behalf of the Department were its Acting Director, Michael J. Downs, and several members of the Department staff.

The staff reports presented at this meeting, which contain the Director's recommendations mentioned in these minutes, are on file in the Office of the Director of the Department of Environmental Quality, 522 SW Fifth Avenue, Portland, Oregon. Written information submitted at this meeting is hereby made a part of this record and is on file at the above address.

BREAKFAST MEETING

1. Variance log: The Commission members discussed and approved the format and schedule of the variance log.
2. Contested case procedures: The Commission is satisfied with the division of responsibility between the Commission and its Hearings Officer in dealing with contested cases.
3. Department's performance review with the Governor: Mike Downs, Acting Director, described for the Commission an upcoming review process by the Governor's office of all state agencies. DEQ expects its review to take place sometime after the first of the year. The Commission would like to be notified when the date is set.
4. Georgia-Pacific Toledo - NPDES permit renewal: Harold Sawyer, Administrator of the Water Quality Division, described the permit renewal process and will determine who from the DEQ staff will participate in any hearing.
5. Terrebonne: Rich Reiter, Manager of the Hazardous Waste Division, described for the Commission the cleanup efforts due to begin soon on an abandoned hazardous waste site in Deschutes County.
6. Mt. Mazama Plywood: The Commission decided to discuss this matter in an Executive Session after the public has had an opportunity to testify during the formal meeting.

7. Backyard burning: The Commission asked to see those questions used in a telephone poll taken recently to determine public sentiment toward backyard burning. Staff will provide copies of that poll at the beginning of the formal meeting.

FORMAL MEETING

Commissioners Petersen, Denecke, Brill, and Bishop were present at the formal meeting.

AGENDA ITEM A: Minutes of the October 7, 1983, EQC Meeting, and the September 23 and October 13, 1983, special conference call meetings.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed unanimously that the Minutes be approved.

AGENDA ITEM B: Monthly Activity Reports for September, 1983

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

AGENDA ITEM C: Tax Credits

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

PUBLIC FORUM:

Louise Weidlich spoke regarding the broadcasting on November 20 of a film, "The Day After," and the propriety of allowing the movie to be shown to such a wide audience.

AGENDA ITEM D: Request for Authorization to hold a Public Hearing on Modifications to Water Quality Rules Related to Surety Bonds For Construction and Operation of Private Sewerage Facilities, OAR 340, Division 15.

At the July Commission meeting, the Water Quality Division presented a report on problems associated with getting perpetual surety bonds for construction and operation of sewerage facilities. After studying the various alternatives, the Commission suggested that the staff evaluate the possibility of amending the rules to allow a combination of insured savings account assignment and a short-term bond. The Water Quality staff drafted a rule change and request authorization for a hearing.

Acting Director's Recommendation

It is recommended that the Commission authorize a hearing to be held on the proposed surety bond rule modifications.

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

AGENDA ITEM E: Request for Authorization to Conduct a Public Hearing on the Adoption of Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100-125.

Due to a high potential for human health and environmental damage, hazardous waste requires special management controls. This need has been recognized since 1971 when the Legislature initially adopted hazardous waste legislation so that today Oregon has a comprehensive hazardous waste management program that controls hazardous waste from the time of generation through transportation, storage, treatment and disposal.

This package contains the DEQ's proposal to adopt as OAR Chapter 340, Divisions 100 to 125, a substantially more detailed set of rules for hazardous waste management than now exists. They are the culmination of a two-year rulemaking process designed to make the state program fully equivalent to and consistent with the federal RCRA. They are based on rules promulgated by EPA but have been modified to more closely serve the needs of the Oregon community.

Adoption of the rules, and subsequently obtaining Final Authorization, will enable the DEQ to be solely responsible for managing hazardous waste in Oregon. The need to keep this responsibility in local hands has been expressed by the Legislature, the regulated community, and the public.

Acting Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed repeal of OAR Chapter 340, Divisions 62 and 63 and the adoption of OAR Chapter 340, Divisions 100 to 125.

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

AGENDA ITEM F: Request for Authorization to Hold a Public Hearing on Proposed Redesignation of the Medford-Ashland AQMA as Attainment for Ozone, and Proposed Revision of the State Implementation Plan.

The Medford-Ashland area has been designated as nonattainment for three air pollutants: suspended particulate, carbon monoxide, and ozone. The Medford-Ashland area has been in compliance with the ozone standard since 1979 and is expected to stay in compliance with the ozone standard in future years. This agenda item requests a public hearing to redesignate the Medford-Ashland area as attainment for ozone.

Acting Director's Recommendation

Based on the Summation, the Acting Director recommends that the Commission authorize a public hearing to consider:

1. The proposed redesignation of the Medford-Ashland AQMA as an attainment area for ozone; and

2. The proposed replacement of the ozone attainment strategy for the Medford-Ashland AQMA (Section 4.8 of the State Implementation Plan) with an ozone maintenance strategy as a revision to the State Clean Air Implementation Plan.

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

AGENDA ITEM G: Request for a Variance for the Miscellaneous Products and Metal Parts Industry From OAR 340-22-170(4) (j) Which Limits Solvent Content of Coatings.

The miscellaneous products and metal parts industry is one of the categories covered by the Department's surface coating in manufacturing rule. This rule limits solvent content of coatings used in the Portland Metropolitan area in order to reduce emissions of volatile organic compounds (VOC).

The industry cannot obtain satisfactory coating systems to meet the rule.

The Department is requesting the Commission to grant a class variance to the miscellaneous products and metal parts industry from the VOC rule until July 1, 1985, to allow the Department to include this industry in its study of alternative control strategies for VOC.

Acting Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant a variance for the miscellaneous products and metal parts industry with the following conditions:

1. The requirements of OAR 340-22-170(4) (j) be waived for all affected sources until July 1, 1985.
2. The FMC and Winter Products variances remain in effect as originally granted by the Commission.
3. The Department include the miscellaneous products and metal parts industry in its alternative control strategy analysis for VOC control due to be completed by December 31, 1984.

David P. Thompson, private citizen, expressed a concern regarding solvent-based paint versus water-based paint.

Ron Graham, representing the painting industry, also spoke on this matter.

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

AGENDA ITEM H: Request by Sportsman's Park Sewer Association for Approval of an Interim Alternative Security Plan to Meet the Surety Bond Requirement of ORS 454.425 and OAR Chapter 340, Division 15.

The Sportsman's Park Sewer Association has taken over the community sewerage system serving the Sportsman's Park recreational subdivision in Wasco County.

One of the conditions of the takeover is the requirement for them to provide a performance bond or other perpetual security in the amount of \$10,500. The bonding companies are not willing to write them a perpetual surety bond so the Sewer Association is requesting that the Commission approve an alternate form of security for about a two-year period.

Acting Director's Recommendation

Based upon the Summation, it is recommended that the Commission approve the request of the Sportsman's Park Sewer Association and allow the required security to consist of an insured savings account in combination with a renewable bond.

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

AGENDA ITEM I: Proposed Adoption of Amendments to Motor Vehicle Emission Control Inspection Rules. OAR 340-24-306, 310, 315, 320, 325, 340, and 350; Affecting Operating Procedures, Pollution Equipment Inspection, the Engine Exchange Policy, Test Method, and Licensed Fleet Policy.

The Commission is asked to adopt revisions to the Motor Vehicle Emission Inspection program rules. These changes would include changes to the operating procedures and test criteria sections. A special testing provision for Ford vehicles would be eased with the 1983 model year, tampering inspections would be eased on 1970 - 1974 vehicles, and the engine change policy would be modified. The proposal also includes changes affecting the licensed fleet-testing schedule and inspector and equipment-licensing requirements.

A hearing was held October 3, 1983. There was testimony supportive of the changes on licensed fleet-testing schedules. No testimony was received against any of the proposed amendments.

Acting Director's Recommendation

Based upon the Summation, it is recommended that the proposed rule amendments listed in Attachment 3 be adopted.

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

AGENDA ITEM L: Informational Report - Portland Area Backyard Burning.

The issue of Portland-area backyard burning has been before the EQC many times. In March 1981 the EQC rescinded a burning ban on the basis it had over-estimated the ability of local government to provide alternative disposal methods.

The Department has promised to provide new recommendations for a course of action to the EQC when conditions warrant. Even though substantial progress has been made to develop recycling programs for yard debris, the Department is recommending an indefinite continuation of the spring/fall burning season.

This recommendation is being made on the basis that there appears to be a lack of support from a majority of local governments and citizens to implement any other alternative which would have direct economic impacts.

The Department will investigate the feasibility of classifying yard debris as a recyclable under SB 405. Such a classification would allow mandating curbside pickup which would make imposition of a ban a less controversial issue.

Acting Director's Recommendation

Lacking substantial support from local government and citizens of the Portland area for either a burn ban, a monetary commitment to cover segregated curbside pickup, or a burning fee system to improve recycling and existing burning practices, the Acting Director recommends that the EQC maintain the current spring/fall burning period and further that the staff continue to work with Metro and other interested parties to investigate the feasibility of a program to classify yard debris in the Portland area as a recyclable material under SB 405. The Department should also propose incorporation of present backyard burning rules in the SIP as part of the total SIP overhaul expected in the first quarter of 1984.

David P. Thompson, M.D., Marquam Medical Center, favors a ban on burning because of obvious harmful health effects.

George Feldman, M.D., favors restrictions against backyard burning on the basis of health and aesthetics.

Jeanne Roy, Yard Debris Steering Committee and former member of Open Burning Subcommittee of the Portland Air Quality Advisory Committee, contended that the EQC should reject staff recommendations and ban backyard burning.

Dockum Shaw, Hillsboro, wished to promote the idea of a burning ban.

Joe Weller, Oregon Lung Association, supports a backyard burning ban.

John Charles, OEC, suggested that the collection problem is one of local government and that the Commission has the responsibility to ban a polluting process such as backyard burning.

Mark Hope, Waste By-Products, supports a ban on backyard burning.

Sandra Gee, Southwest Portland resident, feels that citizens need some public protection from actions such as backyard burning.

Joseph A. Greulich, Tualatin Fire District, asked the Commission not to make any more changes in the rules until all burning is prohibited.

Owen P. Cramer, meteorologist, favors the Department's recommendation.

Ann Kloka, Sierra Club, represented 3,000 members in the Portland area who disagree with the staff recommendation to continue backyard burning.

Vern Lenz, spoke on burning yard debris versus recycling and favors the Department's proposed action.

Robert Smith, Northeast Portland resident, supports a complete ban on open burning in the Portland area and suggests that the Commission must protect the rights of all citizens.

Charles Schade, M.D., Multnomah County Health Officer, favors a ban on open burning and feels that not to do so will send mistaken messages to the Woodstove Advisory Committee and others who might burn.

James Marsh, Southwest Portland, favors a ban and opposes the Department's proposed action.

Eve Heidtmann, Southwest Portland, favors a ban.

Bobby Simons, Southwest Portland, urges a vote in favor of the ban in order to protect the rights of all citizens.

Amanda Jacobson, Southwest Portland, favors a ban on backyard burning.

T. Dan Bracken, Portland Air Quality Advisory Committee, urged the Commission to reject the recommendation of the Department and institute a ban on open burning.

Louise Weidlich, Neighborhood Protective Association, contended that instituting a ban of open burning in the Portland metropolitan area would violate the constitutional rights of the citizens.

It was MOVED by Commissioner Bishop to proceed toward a ban with a provision for a hardship burn permit. The motion failed for lack of a second.

It was MOVED by Commissioner Bishop, and seconded by Commissioner Denecke, that the Commission finds that it is necessary to meet air standards and that alternative methods are reasonably available and, therefore, the Department should proceed toward a ban with provisions for hardship burn permits. Commissioner Brill voted no; the motion passed.

The Department was further instructed to guide the Commission in the proper way to proceed in this matter. The Department should come back at the next meeting for authorization to conduct a public hearing.

AGENDA ITEM K: Relationships with Other Agencies.

The Commission requested a report on the Department's relationships with other agencies when a petition from the Oregon Environmental Council regarding pesticide application on Tillamook Bay oyster beds was denied. This is the second and final version of that report. An earlier report described the permit-related activities of the Department in more general terms. The Commission and the Department's authority in the water quality and solid waste programs is quite broad. The Department has attempted to outline the guidelines it uses in exercising its permitting authority.

Acting Director's Recommendation

This is an informational report. No Commission action is required. The Commission should accept the report and direct the staff to change any permit related activities they wish.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed unanimously to accept the report.

AGENDA ITEM M: Informational Report on the Ozone Control Strategy and VOC Growth Cushion for the Portland-Vancouver AQMA (Oregon Portion).

The Commission adopted an ozone control strategy for the Portland-Vancouver airshed in 1982. The ozone strategy included a growth cushion for future emissions of volatile organic compounds (VOC) from new or expanded industries. Requests for increased VOC emissions now exceed the available growth cushion. This agenda item recommends that the Commission direct the Department to develop new control measures in order to maintain a growth cushion for the Portland area.

Acting Director's Recommendation

The Acting Director recommends that the Commission direct the Department to work with Metro and the Portland Air Quality Advisory Committee to identify as expeditiously as possible the most feasible and cost-effective new VOC control measures which could be implemented to increase the VOC growth cushion in the Portland-Vancouver AQMA. A proposed revised ozone SIP would be brought back to the EQC for hearing authorization.

John Charles, OEC, spoke in support of the staff recommendation on this issue.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed unanimously to accept this report.

AGENDA ITEM J: Informational Report on Noise Study of Jackson County's Drag Strip at White City.

At the May 1983 EQC meeting, Jackson County was granted a variance from the muffler requirements for drag race vehicles operated at the Jackson County Sport Park during the 1983 racing season. As a condition of the variance, this report was prepared to provide information that was not fully available to justify a long-term variance at the time of the request. The conclusions of this report are that a continued variance is not necessary and staff does not recommend any amendments to the rule to address the specific issues at the Jackson County track.

Acting Director's Recommendation

It is recommended that the Commission accept this informational report.

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

AGENDA ITEM N: Informational Report on the Compliance Status of Mt. Mazama Plywood Company of Sutherlin.

Agenda Item N provides an update on Mt. Mazama Plywood's progress toward complying with the veneer dryer emission standards as directed by the Commission at their meeting of July 8, 1983.

Proposed Department Action

Robert Haskins, Department of Justice, expects to complete a review of the details regarding the bankruptcy action within a few days. He also hopes to meet with the company's attorney on this matter.

The Department will provide updated information regarding the Mt. Mazama Plywood Company variance at this EQC meeting. This update will include Mr. Haskins' findings, the company's financial progress, and alternatives for possible further actions on this variance.

Robert Haskins reviewed recent findings regarding funding to purchase pollution control equipment as related to the bankruptcy issue. Copies of a letter from State Senator William Frye, dated November 10, 1983, concerning this matter were made available.

Lloyd Norris, City Manager of the City of Sutherlin, told the Commission that the City is concerned about the economic effect of any curtailment of Mt. Mazama's production.

Jim Kline, Mt. Mazama Plywood, answered questions regarding the financial matters of Mt. Mazama Plywood.

The Commission directed the Attorney General to clarify the bankruptcy stay order to ensure that the Commission/Department is a party to the Chapter 11 bankruptcy proceedings.

The Commission recessed for lunch at this point, after which they intended to reconvene in Executive Session for the purpose of discussing with their attorney litigation options with respect to Mt. Mazama and also to further their Director selection process.

LUNCH MEETING

John Kowalczyk, Air Quality Planning and Development, reviewed for the Commission the ongoing woodstove program.

There was a brief discussion between staff and the Commission members on the Department's Goals and Objectives schedule and review.

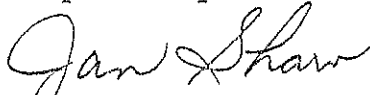
The action resulting from the Executive Session discussion was announced when the Commission reconvened in public session at the end of that Executive Session:

Mt. Mazama Plywood: The Commission authorized Robb Haskins to take any necessary action to remove the stay order or anything necessary which would enable the Commission/Department to proceed toward compliance, apart from the bankruptcy action.

Director selection process: The Commission selected seven applicants for interviewing. This will take place in a two-day Executive Session to be held on December 6 and 7, 1983, from 8:30 am to 5:00 pm, at 500 Pacific Building, 522 SW Yamhill Avenue, Portland.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Jan Shaw
EQC Assistant

JS:d

OREGON ENVIRONMENTAL QUALITY COMMISSION

January 6, 1984

BREAKFAST AGENDA

- | | |
|--|--|
| 1. Future EQC Meeting Dates | <i>encl</i>
Spletstaszer |
| 2. Briefing on Woodstove Advisory Committee | <i>SpH</i>
Kowalczyk |
| 3. Disposal of Storm Debris | Bispham |
| 4. Results of Agency Goals & Objectives
Planning Sessions | Downs
Kowalczyk
Sawyer
Schmidt' |



STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Memorandum

To: Environmental Quality Commission

Date: 1/5/84

From: Carol Splettstaszer *CS*

Subject: Future EQC Meeting Dates

Following for your approval are suggested meeting dates for future EQC meetings. (see calendar on reverse).

<u>Date</u>	<u>Location</u>	<u>Purpose</u>
February 17, 1984	Eugene	Field burning update; Eugene/Springfield sewage treatment facilities; River Road/Santa Clara
March 30, 1984	Medford?	Jackson County I/M program; redesignation of Grants Pass to nonattainment?
May 11, 1984	Portland	
June 22, 1984	Portland	

There may also be a need for a special meeting, or conference call meeting inbetween regular meeting dates to discuss adoption of the woodstove rules.



1984 CALENDAR

	SUN	MON	TUE	WED	THU	FRI	SAT
JAN		1	2	3	4	5	6
		8	9	10	11	12	13
		15	16	17	18	19	20
		22	23	24	25	26	27
		29	30	31			

	SUN	MON	TUE	WED	THU	FRI	SAT
FEB				1	2	3	4
		5	6	7	8	9	10
		12	13	14	15	16	17
		19	20	21	22	23	24
		26	27	28	29		

	SUN	MON	TUE	WED	THU	FRI	SAT
MAR					1	2	3
		4	5	6	7	8	9
		11	12	13	14	15	16
		18	19	20	21	22	23
		25	26	27	28	29	30

	SUN	MON	TUE	WED	THU	FRI	SAT
APR		1	2	3	4	5	6
		8	9	10	11	12	13
		15	16	17	18	19	20
		22	23	24	25	26	27
		29	30				

	SUN	MON	TUE	WED	THU	FRI	SAT
MAY			1	2	3	4	5
		6	7	8	9	10	11
		13	14	15	16	17	18
		20	21	22	23	24	25
		27	28	29	30	31	

	SUN	MON	TUE	WED	THU	FRI	SAT
JUN					1	2	
		3	4	5	6	7	8
		10	11	12	13	14	15
		17	18	19	20	21	22
		24	25	26	27	28	29

	SUN	MON	TUE	WED	THU	FRI	SAT
JUL		1	2	3	4	5	6
		8	9	10	11	12	13
		15	16	17	18	19	20
		22	23	24	25	26	27
		29	30	31			

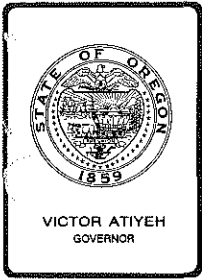
	SUN	MON	TUE	WED	THU	FRI	SAT
AUG					1	2	3
		5	6	7	8	9	10
		12	13	14	15	16	17
		19	20	21	22	23	24
		26	27	28	29	30	31

	SUN	MON	TUE	WED	THU	FRI	SAT
SEP							1
		2	3	4	5	6	7
		9	10	11	12	13	14
		16	17	18	19	20	21
		23	24	25	26	27	28

	SUN	MON	TUE	WED	THU	FRI	SAT
OCT			1	2	3	4	5
		7	8	9	10	11	12
		14	15	16	17	18	19
		21	22	23	24	25	26
		28	29	30	31		

	SUN	MON	TUE	WED	THU	FRI	SAT
NOV					1	2	3
		4	5	6	7	8	9
		11	12	13	14	15	16
		18	19	20	21	22	23
		25	26	27	28	29	30

	SUN	MON	TUE	WED	THU	FRI	SAT
DEC							1
		2	3	4	5	6	7
		9	10	11	12	13	14
		16	17	18	19	20	21
		23	24	25	26	27	28



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: John Kowalczyk, Air Quality Division

Subject: Breakfast Agenda Item, January 6, 1984 EQC Meeting
Status of Woodstove Advisory Committee Activities

Committee Recommendations

After 19 meetings ranging from 4 to 8 hours each, the Committee completed making recommendations on all major elements of the certification program on December 21. This process took one month longer than anticipated, primarily because of extensive national interest and involvement.

Although the Committee activities were extremely arduous, the results are considered by Department staff as being generally constructive and positive. The only major difference of views between the Committee and staff deals with whether the emission standard should be staged. A complete summary of Committee recommendations is attached.

Test Procedure Recommendations

The majority of Committee time was spent on the woodstove test procedure. This occurred because of a strong local and national industry desire to make the procedure nationally recognized so that manufacturers would not have to bear testing costs in every state.

Since significant changes were made in the test procedure, the Committee strongly recommended we do some confirmation testing to insure changes would not adversely affect accuracy and precision of test results. The Department procured \$40,000 from EPA and E-Board approval was obtained in December to conduct such testing. Testing has been initiated and results will be available in mid-January. The Department has promised to review the data with the Advisory Committee in late January before finalizing the certification program package for EQC hearing authorization.

One noteworthy item is the fact that there has been a wide variety of views on test procedure components expressed by national experts. DEQ and the Advisory Committee have tried their best to reconcile these views but we have noted a continuing changing of views and even renegeing of support for



Contains
Recycled
Materials

certain facets in the test procedure. Most importantly, though, Oregon's Woodstove Advisory Committee, which is heavily weighted toward Oregon's woodstove industry, was unanimous and remains unanimous in its support for the present test procedure.

Lab Accreditating Recommendation

The Department initially wanted to restrict lab accreditation to only Oregon labs to limit staff time involvement in this process and provide better overall quality control of testing. This was met with substantial resistance, including a legality question from the woodstove industry.

The Department has tentatively concurred with the Advisory Committee that accreditating would not be limited to Oregon labs but the Department is continuing to explore options with the Attorney General's office.

Labeling Recommendations

The Department and Advisory Committee have unanimously agreed to a labeling scheme which will meet objectives of providing labeling which will be compatible with national interests, provide consumers adequate information, and will provide a sound basis for conducting an effective enforcement program.

A permanent and a removable label would be required. Examples of the recommended format are attached to the Summary of Committee recommendations.

Emission Standard Recommendations

The Advisory Committee had extremely heated debate on the emission standard issue. Industry representatives raised many of the same arguments raised in the Legislature, such as the mandatory sales restriction date should be delayed, a standard should not be adopted until more testing is done, standards should be loose at first and tightened with time, catalyst stoves won't work over time, etc. Several retailers testified at committee hearings that they feared the program would put them out of business. Several key legislators were contacted by committee industry members who ultimately contacted Department staff to find out what was happening. After discussions, these legislators generally seemed to support the thrust of the Department's approach in carrying out legislative intent.

The Committee finally supported an industry position on a 7-2 vote that the Department's proposed standard be delayed until July 1, 1988 and that a standard roughly twice the DEQ proposal be effective on the July 1, 1986 legislative mandated date.

The Department sees little advantage and many disadvantages to the Committee's recommendation but we are continuing to evaluate it and will finalize our position in the hearings authorization report.

EQC Breakfast Agenda Item
January 6, 1984
Page 3

Rule Adoption Schedule

The original rule adoption schedule had EQC hearing authorization taking place in January 1984, with adoption in March 1984. A three month contingency was built into the schedule to insure meeting the statutory deadline of rule adoption by July 1, 1984. The extra time used by the Committee to formulate its recommendations and the necessity to do conformation testing has used 1 to 2 months of the contingency time. The Department is planning to bring a rule package to the EQC for hearing authorization in February. Meeting the scheduled report completion date of January 26 for the February 17 meeting or even just getting the report to the EQC just before the February 17 meeting may be difficult, especially if conformation testing results necessitate any changes in the proposed program. A special EQC phone conference hearing authorization may be needed. It would be unacceptable to wait until the March 30, 1984 meeting for hearing authorization.

The staff is confident that the EQC can responsibly meet the legislative directive of HB 2235, based on progress made to date, but that it may take some special EQC meeting dates to work around the time constraint imposed by the EQC's regular six week meeting schedule.

J.F. KOWALCZYK:a
AA4107
229-6459
January 5, 1984

SUMMARY OF
 ADVISORY COMMITTEE RECOMMENDATIONS ON THE
 OREGON WOODSTOVE TEST METHOD AND OPERATING PROCEDURE
 (as of 12/19/83)

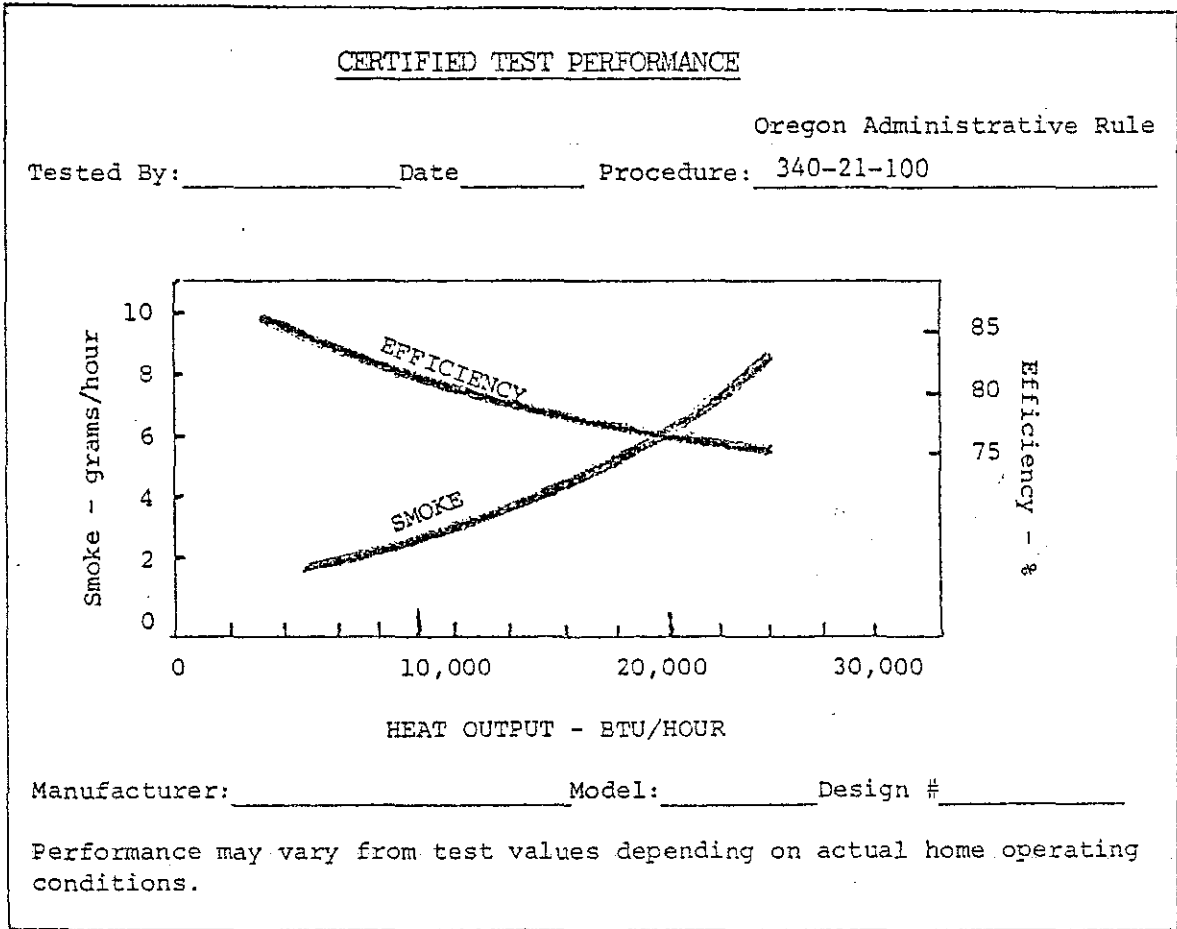
- Wood Species - Douglas Fir - Bomb calorimetry on composite of each test load.
- Wood Moisture - 16% - 20% wet basis.
- Wood Size - 2 x 4 and 4 x 4 dimensional lumber with flanges
 7#/ft³ + 10% fire box loading density (see Attachment 1 for details).
- Burn Cycle - Hot start, full fuel load cycle starting with 25% of full fuel load coal bed.
- Burn Rate Control - Single primary air supply setting.
- Heat Output - Test conditions (BTU/hr): <10,000; 10,000-15,000; 15,000-25,000; maximum heat output.
- Efficiency Method - Calorimeter or stack loss by continuous analyzers.
- Particulate Method - Modified EPA Method 5 (Oregon Method 7) with continuous adjustments for proportional sampling by tracer gas or equivalent. CHO balance for calculations.
- Number of Tests - Four - one at each heat output level.
- Particulate Emission Standard - Weighted average based on Oregon weather conditions and stove performance over entire range of heat output test conditions. Two phased approach based on technology type and tighter standard over time.
- | <u>July, 1984-1986*</u> | <u>July, 1988 on</u> |
|-------------------------|------------------------|
| 20 gms/hr non-catalytic | 9 gms/hr non-catalytic |
| 10 gms/hr catalytic | 6 gms/hr catalytic |
- Labeling - Two labels will be mandatory for each appliance: a label permanently fixed to the appliance, and a point of sale removable label (see Attachment 2 for details).
- Lab Accreditation - This issue, and certification fees, will be considered at a Committee meeting early in 1984.

* Woodstove Certification Program

Voluntary Phase	July, 1984-June, 1986
Mandatory Phase	July, 1986-on

EXAMPLE ONLY

PERMANENTLY AFFIXED LABEL



EXAMPLE ONLY

POINT OF SALE REMOVABLE LABEL

EMISSIONS AND EFFICIENCY PERFORMANCE

Smoke _____ grams/hour (DEQ Standard: 20 (until 07/88)
10 (after 07/88) gms/hr

Efficiency _____ % (No DEQ Standard)

HEAT OUTPUT RANGE

_____ to _____ BTU's/hour

Manufacturer: _____ Model: _____ Design # _____
Name Name Number

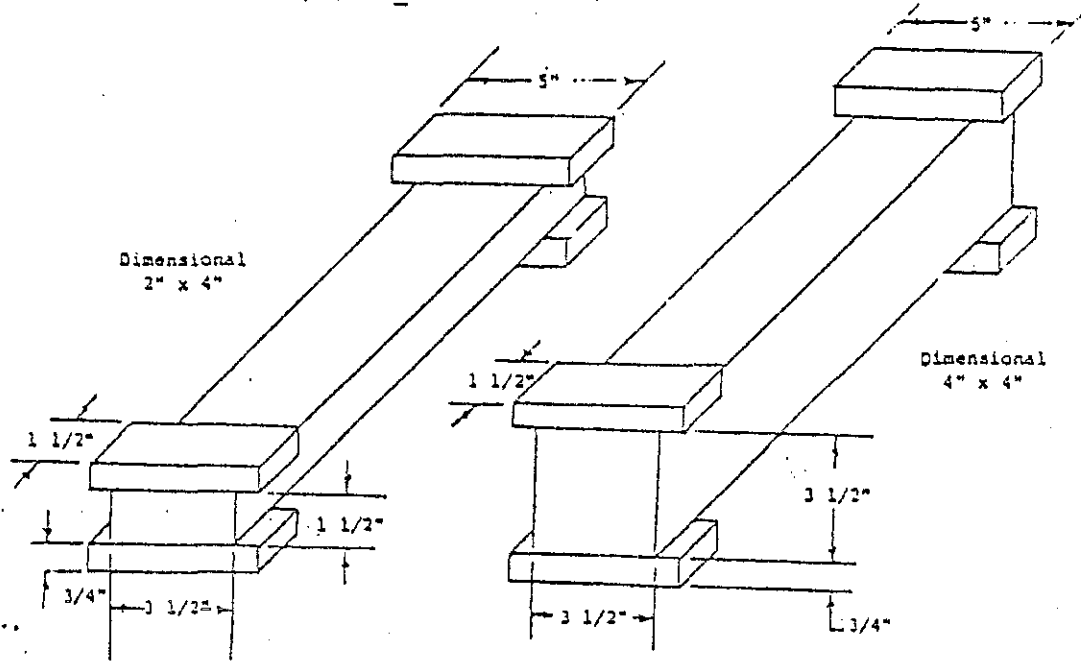
(Performance may vary from test values depending on actual home operating conditions)

Pursuant to OAR _____, this unit has been certified as meeting Oregon Department of Environmental Quality emission standards and has been approved for sale in the State of Oregon until July 1, 1988.

Test Fuel Size

Usable Firebox Volume (ft ³)	Size - Flanged Log (Nominal inches)
≤ 1.5	2 x 4
> 1.5 ≤ 3	Combination 2 x 4 (1/2 wt.) 4 x 4 (1/2 wt.)
> 3	4 x 4

Maintain $7 \text{ t/ft}^3 \pm 10\%$ load density



Scale 1/4" = 1"

* Length will vary depending on length of firebox

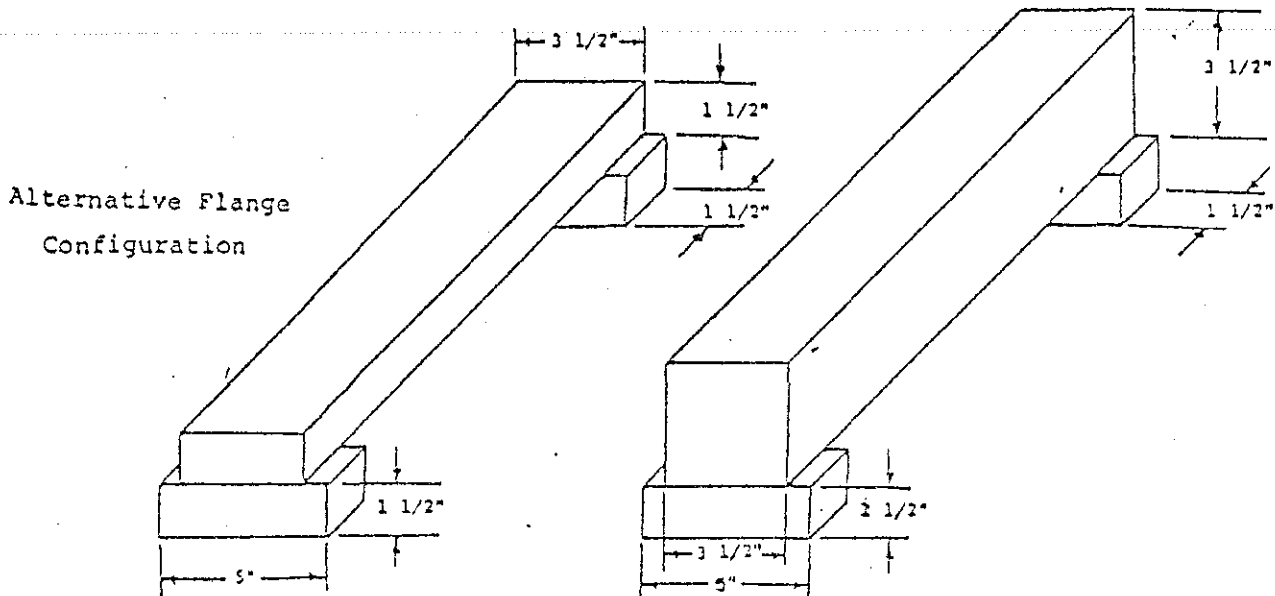
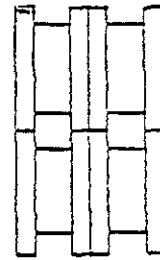
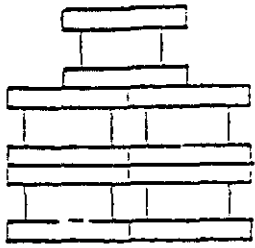
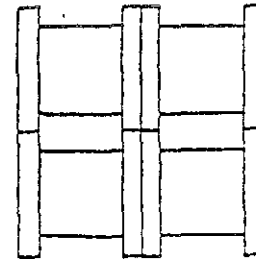
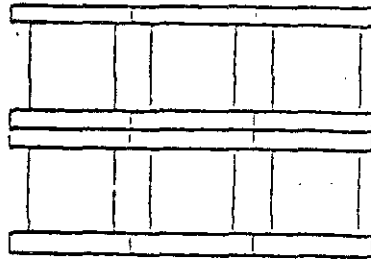
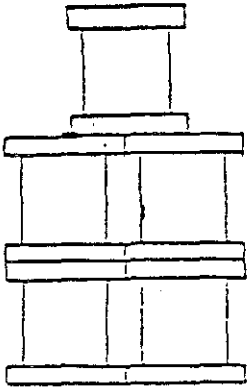


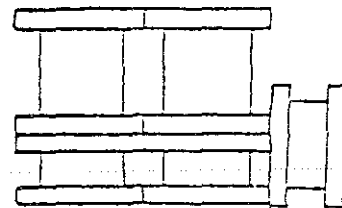
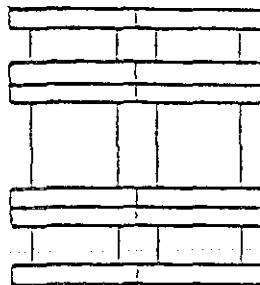
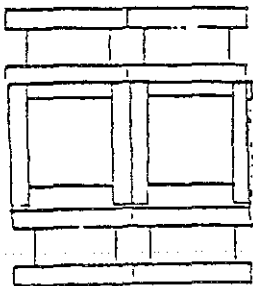
Figure 4.2-A



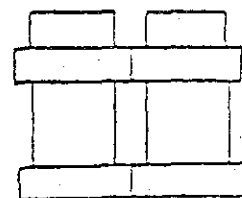
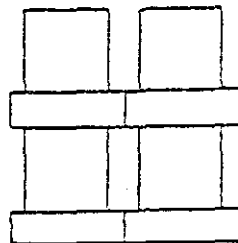
2 X 4



4 X 4



2 X 4 & 4 X 4



Alternative Flange Configuration

Woodstove Stacking & Loading Examples
Figure 4.2- B

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Environmental Quality Commission

DATE: January 6, 1984

FROM: *Tom Buepphan for*
Michael J. Downs

SUBJECT: Ice Storm Debris

The Department has received several calls from Portland area residents interested in a special burning season to dispose of debris downed by the recent ice storm.

The Department's regulations do not allow special letter burning permits for residential debris. However, commercial, industrial, and governmental organizations can be granted special letter permits for the disposal of storm debris under OAR 340-23-100(9). That rule says:

(9) For locations within Clackamas, Multnomah and Washington Counties, letter permits may be issued only for the purpose of disposal of:

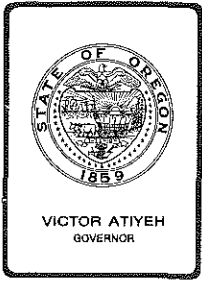
(a) Material resulting from emergency occurrences including, but not limited to floods, storms or oil spills.

(b) Material originating as yard debris which has been collected and stored by governmental jurisdictions provided that no other reasonable means of disposal are available.

To allow a special residential burning season, the Commission would need to adopt a temporary rule allowing the season. Special burning seasons have been tried in previous years. The extra burning seasons resulted in air pollution problems. The material was very wet, and ventilation during the winter is traditionally unfavorable. For the past several years when ice storms hit the Portland area, the Department has not accelerated the burning season, but has allowed local jurisdictions which collected the material to burn under special conditions.

The Department has received about 20 requests from individuals for a special burning season. Based on this small number of requests, and visual observation, the extent of the downed material seems limited and in localized areas. There does not appear to be a need for a special residential burning season. At this time, we have not received any requests for special letter permits from local jurisdictions. Those proposals will be individually evaluated should they be forthcoming.

The Department is recommending that people with storm damage seek to use the available non-burning disposal methods including composting, recycling, and collection by garbage haulers to the extent possible. If the material must be burned, it should be covered in anticipation of the spring burning season, now scheduled to begin March 1, 1984.



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

TO: Environmental Quality Commission
FROM: Acting Director
SUBJECT: Breakfast Agenda Item, January 6, 1984, EQC Meeting

RESULTS OF AGENCY GOALS AND OBJECTIVES PLANNING
SESSIONS

The Department has just finished its biennial round of goals and objectives planning sessions. This year, rather than only concentrating on updating the current goal and objectives document, the programs choose to deal with certain significant issues of concern to them. For example, the water and solid waste programs held a joint session to deal with some overlapping concerns.

Attached are the results of each planning session. We plan to continue to maintain and update the existing goals and objectives document. A revised document should be published and distributed sometime in February, 1984.

Michael J. Downs

Attachments
CASplettstaszer
229-6484
12/16/83

AIR QUALITY PROGRAMS

1983 AIR QUALITY SIGNIFICANT ISSUES WORKSHOP SUMMARY

BACKGROUND

38 people attended the Air Quality Division's one and one-half day Significant Issues Workshop November 1 and 2 at Menucha. The goal of the session was to bring together staff and outside persons to wrestle with issues of long term significance and to develop consensus recommendations on how the Department should proceed. A list of participants and their assigned workgroups is attached.

The session began November 1 with an overview of the planning, operations, vehicle inspection, field burning, laboratory and regional aspects of the air quality program. The rest of November 1 was devoted to an open discussion, which resulted in the attached recommendations. November 2 was spent discussing the significant issues, first in small groups, then with the entire group. Those recommendations are also attached.

The recommendations generally call for a continuation of the division's current policies, with some fine tuning. Only one new program was recommended: visibility monitoring in populated areas. Increases in other monitoring (hazardous pollutants and area source) and public education were also suggested.

GENERAL DISCUSSION, NOVEMBER 1

A number of issues were raised for discussion at the general session November 1. No attempt was made to reach formal consensus on each issue, so the following represents the general direction of the discussions.

1. Are plant site emissions limits arbitrary?

Discussion and Recommendations:

- Department constrained by federal requirements, but within those, Department should consider looking at actual adverse impacts on an airshed in assigning limits.

2. Is voluntary compliance too lenient?

Discussion and Recommendations:

- No change.
- Department is bound by statute to seek nonlegal resolution if possible.
- Voluntary compliance gives flexibility to develop a way to come into compliance; it does not give authority to disregard deadlines.
- The Department has adequate enforcement powers to use when appropriate.

3. Should DEQ set its own fine-particulate standard?

Discussion and Recommendations:

- DEQ should not set its own standard.
- The federal government's role is to set ambient standards; DEQ has neither the money nor data.
- DEQ should work with other states to prod EPA into faster action.

- DEQ should appoint a health committee to review the EPA standard when it is proposed.
- Even with a fine-particulate standard, the state should continue to have a secondary standard for total suspended particulate.

4. Will local governments follow-through on Total Suspended Particulate controls?

Discussion and Recommendations:

- DEQ needs to ensure that local governments implement ordinances contained in State Implementation Plan.
- Failure to implement may require DEQ to initiate alternative compliance strategies.

5. How can we accommodate economic development and environmental quality?

Discussion and Recommendations:

- Need to reduce emissions from area sources.
- Need mix of strategies to allow in new industrial and commercial sources.
- Need more public education so people recognize airshed problems.

6. What is DEQ's role in indoor air quality?

Discussion and Recommendations:

- Indoor air quality is critical, but under no state agency's jurisdiction.
- Public expects DEQ to at least have information available on the subject.
- DEQ could be the appropriate agency to administer an indoor air quality program, if such a program were legislated.

SMALL GROUP DISCUSSIONS

On November 2, the group separated to discuss the list of specifically assigned significant issues. The work-group findings were presented to the entire group in the afternoon.

The following represents the consensus recommendations of the entire group of participants. Resources and timelines were not recommended for all issues.

STATIONARY SOURCES

1. Should nonattainment area control strategies rely on Offsets or Growth Cushions to manage growth?

Conclusions:

- Burden for offsets falls mainly on new sources.
- Growth cushions tend to improve the general air quality.
- Industry is unlikely to use external banking, or to sell banked offsets to others.

Recommendations:

- Generally growth cushions are the preferred growth mechanism where practicable to achieve.
- Develop a good data base on nonpermitted area sources (example: woodstoves, construction projects, road dust) and a data base on cushion use.
- Customize programs to allow flexibility.
- Because BACT is not static, require point sources to meet updated technology when making major modifications.
- Growth cushion should come mostly from area sources; local government and industry should be able to use banking.

Resources:

- Could be accomplished with existing resources.

2. Should the Department increasingly rely on industries to conduct their own emissions monitoring through continuous emissions monitoring?

Conclusions:

- Self-monitoring includes such parameters as production data, visual determination of opacity and stack sampling, as well as in-stack monitoring.
- Continuous self-monitoring is only as good as the quality assurance.
- Time spent educating industry to self-monitor is worth the effort.

Recommendations:

- Pursue/expand self-monitoring.
- Develop quality assurance system.
- Have use or justification for data already determined before specifying what data self-monitors should collect.
- Include operating conditions and reports of breakdowns as parameters for self-monitoring.
- Tailor self-monitoring requirements to each industrial category.
- Develop specific programs with individual sources to minimize breakdowns and their effects.

3. Should more DEQ resources be directed to the larger emitting sources?

Conclusions:

- Small sources need DEQ's help while large sources can do self-monitoring.
- If the Department lets go of small sources as a group it can result in increases in emissions and impacts.
- Consistent regulation results in more acceptance and cooperation. (Larger sources may be less cooperative if the small ones are unregulated.)

Recommendations:

- DEQ's basic distribution of effort is appropriate but as the major sources move to self-monitoring, the Department should increase its effort for medium size sources.

- Use minimal permits for small nonproblem sources and develop method for coping with the subsequent revenue loss.
- Give regional managers discretion after minimum EPA requirements are met, in deciding which sources to emphasize. Criteria should include impact on the airshed, whether the emissions can be controlled, and tons of emissions.

AREA SOURCES

1. Is there anything further DEQ should do to reduce woodstove emissions?

Conclusions:

- DEQ is already working on stove certification, information and education, air quality monitoring, weatherization, firewood moisture control, curtailment (City of Medford), stove sizing limits, solar access, catalyst retrofit testing, and technology tracking.

Recommendations:

- No new regulations are needed.
- DEQ should put effort into:
 1. Cooperating in wood moisture program (i.e., USFS spring workshop for fuel managers).
 2. Increasing information and education (including information on economics of woodburning).
 3. Developing programs for voluntary labeling of retrofits.
 4. Monitoring effectiveness of certification program.
 5. Preparing backup plans for potential problems with certification, including what to do if certification is not sufficiently effective.

2. What should be done about Portland area backyard burning?

Conclusions:

- Backyard burning contributes to violations, reduces visibility, and creates complaints.
- There is a lack of public and local government support for a ban.

Recommendations:

- Speed up SB 405 rule-making to first half of 1984 to include woody waste as a recyclable.
- Make burning criteria more restrictive.
- Encourage local assistance on control programs.

3. Should the Department seek to expand its involvement in slash burning smoke management? Should specific goals be developed to reduce slash burning emissions?

Conclusions:

- Slash smoke is the largest uncontrolled source of particulate pollution in Oregon and Washington.

- The Wilderness Management Act often conflicts with visibility protection. (Slash burning is needed to control wildfires and to restore logged areas to reproduction.)
- Substantial reductions in slash burning emissions can be achieved with modern burning technology and better slash utilization.
- Oregon Department of Forestry believes DEQ would be intruding on Forestry's responsibility if DEQ became active in slash smoke management.

Recommendations:

- DEQ and DOF staff and management need to establish, maintain, and improve communications (e.g., coordinate monitoring and data use, and document problems and control efforts.)
- DEQ should coordinate with Washington and Idaho on a regional haze study to determine extent of the problem and its causes.

PUBLIC EDUCATION AND INFORMATION

1. Should the Division allocate greater resources to achieving and/or maintaining good air quality through public education as opposed to, or in addition to, traditional regulation of industrial sources?

Conclusions:

- Air Quality's public information and education has a two-fold purpose: provide information and act as control strategies.
- People are concerned about air quality.
- Education can be an effective control strategy, though it is difficult to measure results.
- Public information is especially important for area sources, such as woodstoves, backyard burning, auto pollution, etc.
- Public information and education can change attitudes and behavior; it can create a better informed public and build a constituency for improved air quality; and it can provide objective response to misinformation.

Recommendations:

- Develop a comprehensive public education plan emphasizing woodstoves, transportation, and open burning in the short-term; using energy, health effects, economic effects, and quality of life as the keys to getting attention. Include targets: local government, educators, media, DEQ personnel, other agencies, service groups, special interest groups, industry, neighborhood associations, runners' clubs, medical auxiliaries, and general public (retired persons, children, drivers, etc.). Include possible resources: above target groups, EPA special project funds, fees, shifting of resources from point sources through streamlining and automating, private grants, extension agents, and students.
- Include public information as a separate budget item and seek income from fees where appropriate.
- Develop tools such as slide shows, written materials, etc. for others to use.

Time-line:

- Immediate for developing plan.

2. What should be the future role and structure of air quality advisory committees?

Conclusions:

- DEQ needs public input and public liaison.
- There are avenues of public input other than through committees.
- DEQ resources are limited.
- Committees can accomplish needed things.
- Committees require an agreed upon mission.

Recommendations:

- Appoint limited duration committees for specific issues as a need arises, as opposed to having general standing committees.
- Advise Regions that Headquarters staff are available to assist if a Region has a need for a committee to work on a specific regional issue.

3. Are there practicable and reasonable things DEQ (especially the Air Quality Program) can do to improve its public image?

Conclusions:

- This issue deferred to Agency Management due to lack of time and the agency-wide nature of the discussion.

MONITORING AND REPORTING

1. Should more resources be put into visibility monitoring and analysis?

A. Existing program (Class I areas):

Conclusions:

- Two years of information have been collected but not analyzed, due to position vacancy.

Recommendations:

- Fill vacant position as soon as possible.
- Complete analysis of data before June 1984 (when monitoring begins again).
- Continue existing program with appropriate modifications based on above data analysis.
- No recommendation can be made on control strategy based on current status.

Timeline:

- Immediate.

B. Expanded visibility program:

Conclusions:

- Poor visibility in populated areas is an indication of potential health hazards.

Recommendations:

- Develop a program of visibility monitoring in populated areas, possibly using visual observations.

2. Should monitoring be shifted more toward area source problems, and if so, what should be done?

Conclusions:

- There is a definite need for increased area monitoring due to space heating, slash burning impacts, and to assess the success of woodstove control strategies.

Recommendations:

- Expand area source monitoring by seeking help from other agencies (EPA, ODOE, USFS, BLM, and private parties), and by seeking trade-offs (collecting information two out of three years, reducing frequency of monitoring, converting TSP to fine-particulate monitors).

Resources:

- Limited, so trade-offs will be needed.

3. Does DEQ monitoring and reporting of air quality in Oregon adequately meet Local/State/Federal/Public needs?

Recommendations:

- No improvement needed to satisfy federal needs.
- Increase hazardous pollutants and area source monitoring (see issue #3), to better satisfy state and local needs. Incorporate meteorological data into area source monitoring.
- Add forecast, visual quality, and multiple pollution indexes to better satisfy public needs.

Timeline:

- Immediate for public-need changes.

GROUP ASSIGNMENTS

1. Control of Emissions From Stationary Point Sources

*Don Arkell, Lane Regional Air Pollution Authority
Rod Schmall, Publishers Paper Company
Bill Carlson, Husky Industries (White City)
John Charles, Oregon Environmental Council
Gary Grimes, DEQ Southwest Region
Dave St. Louis, DEQ Willamette Valley Region
Lloyd Kostow, DEQ AQ Program Operations Section
Al Hose, DEQ Laboratory
Don Peters, DEQ AQ Program Operations Section
Tom McCue, Oregon Steel

2. Control of Emissions From Area Sources

*Bruce Snyder, Seton, Johnson & Odell
John Langrell and Mike Ziolko, Oregon Department of Forestry
Frank Lehto, U.S. Forest Service
Joe Weller, Oregon Lung Association
Jeanne Roy, Public
John Kowalczyk, DEQ AQ Planning Section
Sean O'Connell, DEQ Field Burning Program
Chuck Clinton, DEQ Northwest Region
Fritz Skirvin, DEQ Program Operations Section

3. Public Information/Education

*Dan Bracken, Portland Air Quality Advisory Committee
Genevieve Sage, Oregon Lung Association
Storrs Waterman, Public
Marilyn Matteson, METRO
Ross Simmons, City Club of Portland (unconfirmed)
Merlyn Hough, DEQ AQ Planning Section
Ron Householder, DEQ Vehicle Inspection Program
Brett McKnight, DEQ Eastern Region
Margaret McCue, DEQ Public Affairs

4. Monitoring/Reporting

*Dennis Norton, Portland General Electric
Jim Walthers, Crown Zellerbach Corporation
Jim Herlihy, Environmental Protection Agency
Bob Danko, DEQ Central Region
Stan Sturgis, DEQ Willamette Valley Region
Dennis Duncan, DEQ Laboratory
Spence Erickson, DEQ AQ Planning Section

Unassigned: Jack Weathersbee
Mike Downs

* = group leader

NOISE CONTROL PROGRAM

Noise Control Program
Significant Issues Workshop
Summary

November 15, 1983

Background

The noise control program held a workshop to develop recommendations on a number of significant program issues on November 15, 1983 at the Portland Motor Hotel. Twenty-two people attended the workshop, representing local government, industry, the public and DEQ. The agenda included an overview of current program activities and a review of the significant issues. The group was then divided into three subgroups to develop recommendations on assigned issues and finally whole group consensus was gained on each issue.

Issues and Recommendations

1. Issue. How should the role of the State (DEQ) and local governments (cities and counties) be defined for the purpose of achieving a comprehensive statewide noise control program?

Recommendation. The group recommended the State should assume the role of standards development and adoption due to its technical expertise. Enforcement of standards should be implemented at both the State and local levels of government with adequate coordination to avoid duplication and to provide technical assistance as needed.

2. Issue. Should the noise program place more emphasis on public information and education?

Recommendation. The group recommended that the Noise Program Advisory Committee further address the public information issue and develop further specific recommendations. It was also recommended that funding sources be identified to print informational material. Awareness programs should be fostered through professional and community groups and through schools. Noise pollution public education should emphasize health effects, safety, property value loss and aesthetics.

3. Issue. How can local governments be encouraged to include noise as a significant issue for land use decisions?

Recommendation. It was recommended that staff investigate, with Department of Land Conservation and Development staff, the options of achieving better noise compatible land use planning by local government.

4. Issue. How should the Tri-Met bus noise issue be addressed?

Recommendation. The group consensus was that DEQ should aggressively develop a monitoring and compliance scheme to quiet individual noisy buses. In addition to taking corrective maintenance action on noisy buses, a driver education program should be implemented to reduce noise caused by driving behavior.

5. Issue. Should industrial/commercial noise sources be required to submit monitoring data and reports after receipt of a citizen complaint, to enhance limited DEQ investigation/compliance resources?

Recommendation. The group believed that self monitoring should be required only after non-compliance had been documented by DEQ staff. The group recommended, however, that after a Notice of Violation had been issued, the source should then be required to conduct all future monitoring and submit final compliance data. Currently, the staff often provides a number of monitoring surveys to assist steps toward compliance. Thus, if this assistance is deleted, a significant reduction in staff effort could be realized and directed toward the backlog of un-investigated complaints. To implement this recommendation, a policy decision by the Department must be made.

6. Issue. Should DEQ request statutory authority to assess a compliance fee from sources during the period of standards exceedance?

and

7. Issue. Should DEQ pursue a program of plan review and permits for major noise sources?

Recommendation. Issues 6 and 7 were combined by the subgroup as similar issues designed to generate revenue to fund compliance activities. The industrial representatives supported the compliance fee concept above noise permits. However, concerns were raised that compliance fee may be difficult to collect and the program could be inequitable if investigation and compliance continued to be based only upon citizen complaints. Permits were supported by some members when applied to major noise sources as a compliance tool. The group was mixed on the need for continuing permits for sources that had demonstrated compliance with the standards. Most believed that noise permits would raise the priority of the noise program among the other DEQ programs.

Consensus recommendations for these issues were:

- a) More general fund monies should be sought for noise compliance efforts;
- b) The Department should consider reallocation of agency resources to apply towards noise compliance. Final approval would be needed from the EQC and the Legislature;

c) Staff should continue to explore methods to assess fees to support noise standards compliance.

8. Issue. Should the civil penalty authority for noise pollution be increased to be equivalent to those of other DEQ controlled pollution forms?

Recommendation. The consensus of the subgroup was this issue is a low priority as larger civil penalty authority would not greatly enhance compliance efforts. The full group agreed with this recommendation.

9. Issue. Should DEQ require mandatory noise inspections at the Portland area vehicle test (I/M) stations?

Recommendation. DEQ should support implementation of a mandatory vehicle noise inspection program within the Portland area upon a formal request by affected local governments, or by public petition with political support. Motorcycles should be included within the mandatory noise inspection program.

10. Issue. Should DEQ attempt to regulate music levels that threaten the public's hearing?

Recommendation. Due to the lack of resources, rules regulating music levels should not be proposed at this time. Staff should investigate the option of a rule requiring the posting of warning signs at public places where music levels may exceed health standard. Informational programs should be emphasized to educate the public on the harmful effects of excessive music levels.

11. Issue. Should DEQ establish ambient standards for residential heat pumps?

Recommendation. Control of this residential source is best achieved by local jurisdictions. A model heat pump ordinance should be developed by DEQ and offered to local government with technical assistance for local approval and implementation.

12. Issue. Should rules be proposed to control the sale and installation of motor vehicle exhaust systems as one way to reduce excessive vehicle noise?

Recommendation. Overall, the concept has a low priority and DEQ should place most effort on developing vehicle inspection programs. Staff should investigate the effectiveness of the California and Florida muffler certification program before any further consideration of muffler sales controls.

John Hector
12/12/83
NA4066

SOLID/HAZARDOUS WASTE AND WATER QUALITY PROGRAMS

SOLID/HAZARDOUS WASTE AND WATER QUALITY

Summary

Significant Issues Workshop

The biennial planning session for the Solid/Hazardous Waste and Water Quality Programs was held at Menucha Conference Center, November 6, 7 and 8, 1983. This is the first time two programs attended a joint session. Rather than look at broad Goals and Objectives, the session centered on current significant issues.

Sunday evening November 6 was used for preparation and general discussion of planning expectations. Monday's work sessions focused on joint water quality and solid waste concerns. Sludge management, groundwater, environmental notice, emergency spill response, and integrated toxics were the topics. On the next day, Water Quality and Solid Waste held separate sessions. The Water Quality staff considered Long-Range Strategies in Water Planning, while Solid Waste had smaller work groups considering hazardous waste facilities inspection frequency, Superfund, siting of hazardous waste facilities, supersiting of landfills, and closure, post closure and financial assurance for landfills. In addition, a group considering implementation policies for the new Recycling Act (SB 405) met for the entire time (2 days).

The planning group consisted of 48 DEQ staff and 22 persons from outside the agency including other state agencies, EPA, environmental groups and representatives of various industries. It was the general feeling of the group that the session was very beneficial. Activities were carried out quite well, considering the relatively large number of participants. There has been much positive feedback, especially from persons attending from outside the Department.

DEQ staff are now moving forward to evaluate the results of the planning workshop and integrate recommendations into the Agency's Goals and Objectives document and work plans.

RLB:b
SE2801

Significant Issues

SITING OF HAZARDOUS WASTE FACILITIES

ISSUE: How to maintain public support for the siting of commercial hazardous waste storage treatment and disposal facilities?

DESCRIPTION: To avoid the mismanagement of hazardous waste, future siting of commercial hazardous waste storage (to facilitate economical shipments), treatment (incineration, chemical treatment) and disposal facilities may be necessary in Oregon. Future commercial hazardous waste storage, treatment and disposal facilities cannot be established or operated without first obtaining a license from the Department of Environmental Quality. Prior to issuing a permit, the Department is required to give public notice of its intended action and hold a hearing if requested by an interested party.

PROBLEM: Examples of historical mismanagement of hazardous wastes are consistently being reported by the media. Absent reporting of activities or facilities that have or are properly managing hazardous wastes, the majority of public opinion appears to be opposed to the establishment of any new facilities that might actually help solve the hazardous waste management problem. In some parts of the U.S.A., maybe including parts of Oregon, it is no longer possible to site the facilities needed to store, treat or dispose of hazardous waste. Without new facilities, mismanagement of hazardous waste may actually increase or society will be denied the benefits of continuing to use certain hazardous materials.

PRODUCT DESIRED: What actions can or should the Department take to insure needed hazardous waste storage, treatment and disposal facilities can be sited in Oregon in the future? Is one of the possible actions a state preemption of the local land use and zoning requirements?

SITING OF HAZARDOUS WASTE FACILITIES

DISCUSSION GROUP MEMBERS

1. Mary Ann Rombach, Leader
- League of Women Voters
2. Maura Doherty
-Citizen with extensive background in household chemicals
3. Jay Vick
-Leupold & Stevens, Inc.
4. Gayla Reese
- DEQ Public Affairs
5. Rich Reiter
- DEQ Hazardous Waste Operations
6. Steve Sander
- DEQ Hazardous Waste Operations

RECOMMENDATIONS

- I. Educate "The Public" by:
 - A. Providing Information to:
 1. Legislators
 2. Local Officials
 3. Business Community
 4. General Public
 5. Schools
 6. Media
 - B. Informational Tools
 1. Establish a Speaker's Bureau (work with other organizations)
 2. Distribute Printed Materials (e.g., fact sheets, newsletters, annual report)
 3. Utilize the Media:
 - a. Press Releases
 - b. Cable TV/Public Broadcasting System
 - c. Video Tapes
 - d. Talk Shows
 4. Conduct Workshops/Field Trips
 - a. General (for legislator, media and organizations)
 - b. Technical (Industry, e.g., rule explanation)
 5. Develop "Cartoon Characters:"
"Henry (or Harry) and Henrietta Hazard"
- II. Existing and/or Additional DEQ Staff Should Concentrate on Small Quantity and Household Chemical Waste Collection Program
(e.g., develop a pilot project to demonstrate to local government).
Share other project information, i.e., costs, liability and success.
- III. The DEQ Hazardous Waste Program Should Stress Hazardous Waste Reduction/Recycling.

- IV. Link the Collection of Small Quantity Hazardous Waste with the Siting of Solid Waste Management Facilities (e.g., license condition requiring a separate hazardous waste collection facility).
- V. We Do Not Recommend Any DEQ Supersiting Authority for Hazardous Waste Management Facilities at This Time (Solid waste supersiting activities should be monitored).
- VI. If Any Funding Is Needed to Implement These Recommendations, Suggest Using A Surcharge on Generator Fees.

DISCUSSION:

Education is the Key

The group felt that if the public exhibits a negative response to a proposed hazardous waste management facility, it is generally based on emotion rather than factual information. It is, therefore, very important to provide as much hazardous waste information/education to the public as possible. This effort may not actually result in more successful siting of such facilities, but the public will have at least made a more informed decision, based on facts rather than emotionalism.

It seems as though any hazardous waste information the public gets through the media is generally negative and related to some environmental crisis (e.g. Love Canal, Times Beach, etc.). The group felt that the Department was frequently put on the defensive in responding to media inquiries regarding hazardous waste problems or incidents. Why not take the initiative and utilize the media to report on positive aspects of hazardous waste management to educate and help dispel fears, rumors, etc. In short, DEQ should view the media as a resource tool.

There was a concern expressed that the current "Public" notice process was not reaching the average citizen and that DEQ should expand their definition of "Public" through a variety of media tools (particularly in regards to permit actions).

It was agreed that the DEQ Hazardous Waste Program should stress/promote waste reduction/recycling. One alternative would be to sponsor legislation similar to SB 405 (a Hazardous Waste Recycling Act, including incentives to industry for waste reduction/recycling). Another idea was to seek a business or trade association to sponsor another waste exchange program.

The group felt that there is a real need for developing a Small Quantity/Household Hazardous Waste Collection Program. Examples were sighted of accidents/injuries to refuse collectors and landfill or transfer station workers from chemicals. There was also a concern expressed for the long-term environmental impact on landfills of continued disposal of small quantity chemicals now present in the solid waste stream. This problem was seen as an opportunity for a positive approach to new landfill siting. By establishing a convenient, separate collection facility for small quantity chemicals, the public's fears of chemical wastes in landfills might be eased. It was pointed out that there are examples of successful programs operating now in other states, which could be a valuable source of information.

Finally, the group addressed the issue of possible state preemption of local land use and zoning requirements to site hazardous waste management facilities. The consensus was that to-date Oregon has not had sufficient problems in this area to justify such authority. It would be wise to wait and monitor the supersiting activities for solid waste landfills.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Ernest Schmidt

DATE: December 12, 1983

FROM: Tim Spencer *TJS*

SUBJECT: Significant Issues Workshop - November 1983

Issue: Supersiting Implementation

Participants: Rick Gates, Stan Biles, Tim Spencer, Gary Grimes,
Dave Phillips

Product Desired:

Recommendations on the following:

- A. Describe how "Supersiting" might be more integrated into local/state solid waste management plans. When should the Department request EQC action with existing projected time frames?
- B. Should EQC authority to directly site a landfill be expanded to cover the entire state?
- C. Should the law be changed to make "Supersiting" (when used as a last resort) more streamlined? There should be some time-frame established (4-6 months) so EQC can quickly identify and site a needed facility.

Recommendations:

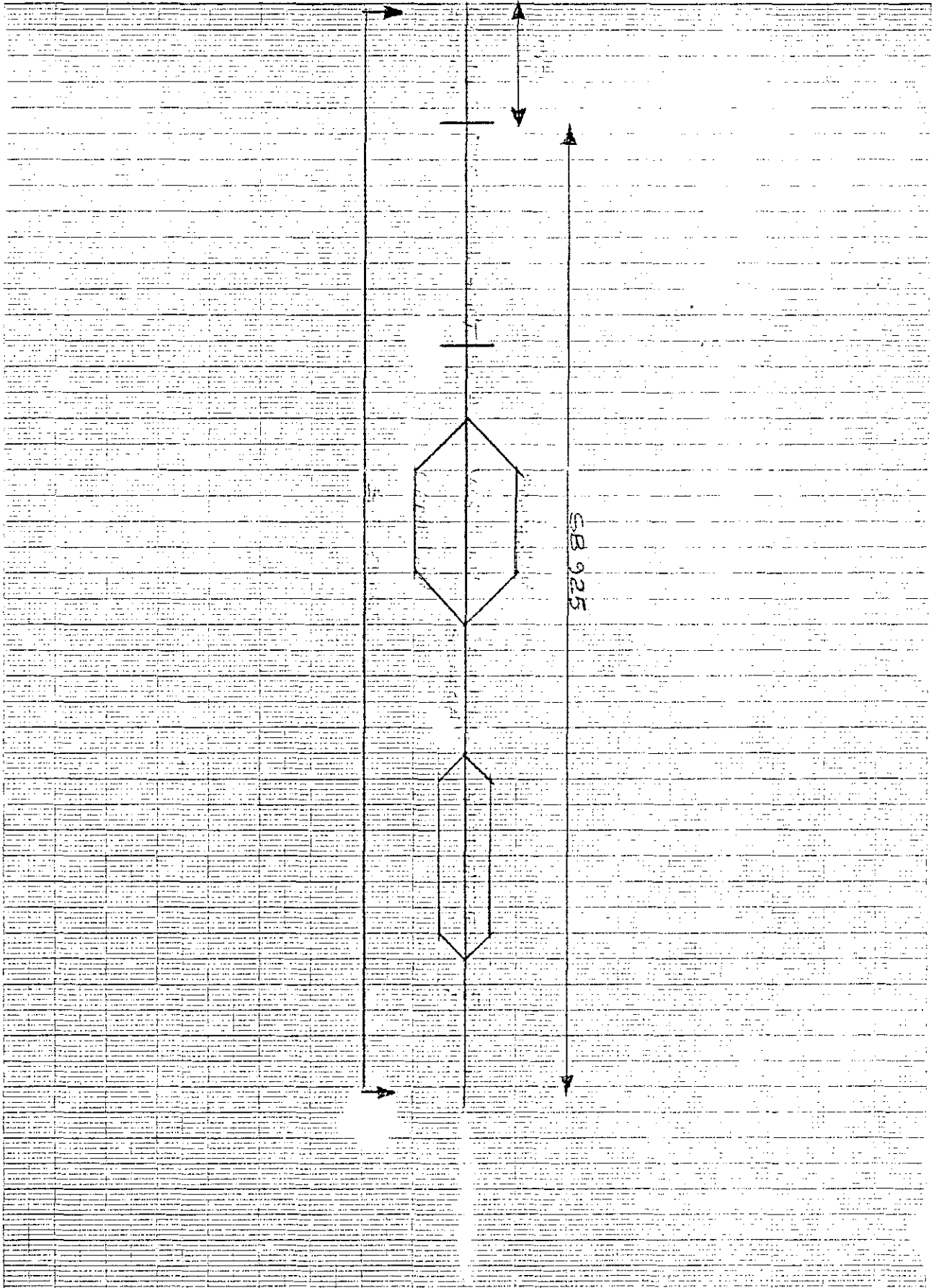
- A. The group developed the following sequence of actions to reduce the time required for supersiting:
 1. In accordance with HB 2241, a closure notice would be sent to local government by regional DEQ inspectors within 5 years or less of projected site closure.
 2. EQC and local government interaction.
 3. Stipulated Consent Agreement between the EQC and local governments:
 - a) update of solid waste management plan,
 - b) update of waste reduction plan, and
 - c) review of conditions of the comprehensive plan, update if needed.

4. Landfill site search with DEQ technical assistance.
 5. Review of alternative sites with DEQ technical assistance.
 6. Detailed feasibility study undertaken for top rated site, reviewed by DEQ, regional and headquarters staff.
 7. The above actions were projected by the group to take 2 years or less (refer to attached diagram).
- B. The group recommends that EQC have authority to directly site a landfill in all counties west of the Cascade Crest.
- C. Further, the group recommends that Section 3 and 4 of SB 925 be reviewed to determine when and if it is appropriate to apply SB 925 authority to regional governments and service districts (e.g., Metro). In its current form, the bill refers only to city and county governments.

In addition the group recommends a provision in Section 4(3a) of SB 925 to override local comprehensive plans for direct siting by the EQC.

Finally, it is recommended that direct siting authority be expanded to include incineration and transfer stations [when located in an EFU Zone - SB 925 Section 8b(1)].

TS:b
SB2796





STATE OF OREGON
Environmental Quality
Laboratories and Applied Research

INTEROFFICE MEMO

TO: Hal Sawyer, Ernie Schmidt

DATE: November 10, 1983

FROM: Al Hose *Al Hose*

SUBJECT: Spill Response

One subject that came up in our small group discussion at Menucca, but was not brought out in the summary presentation was the definition of DEQ's role in the level of response to a spill. This could be anywhere from "stand back and advise" to "hands-on clean-up." The group consensus seemed to be somewhere in-between, but with the realization that we may, and probably will, be expected to at least uncork the barrel and take a sample.

The point of this memo is to point out that it is a management decision to define policy of what our role is with the accompanying commitment necessary. This means that if we send anyone into a spill area, they should be properly prepared both with training/expertise and safety equipment/insurance.

AWH:sd

RECEIVED
NOV 15 1983

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Ernie Schmidt

DATE: November 21, 1983

FROM: Gayla Reese *gar*

SUBJECT: Significant Issues Workshop - November 1983

EMERGENCY SPILL RESPONSE

Participants

Participants for this session were Dick Nichols, Greg Baesler, and Van Kollias, DEQ Regional Offices; Jerry Bell and Al Hose, DEQ Laboratory; Fred Bromfeld and Steve Sander, DEQ Hazardous Waste Section; Al Goodman, EPA; John Jackson, Water Quality Division; Lynn Malmquist, Fire District No. 10, Multnomah County; and Gayla Reese, DEQ Public Affairs.

Issues

Two issues were addressed: The establishment of a spill response team and a spill response fund.

Spill Response Team

The group developed a list of several problems that occurred during the Willow Creek spill in June 1983. Lack of technical expertise, training, and equipment were first on the list. Other examples were conflicting information going to the public, no coordination between state agencies as well as local authorities, and an inability to communicate with experts, spiller, etc. Not knowing about available outside resources and the extent of DEQ's authority were also cited. Finally, not enough DEQ people were available on site to help with leadership, communicate to local authorities and residents, and talk to the media.

The group felt that a spill response team could have greatly improved the response to the Willow Creek spill and to other incidents requiring more than regional response.

A spill response team would include an on-scene coordinator as the leader with other people for public information, safety, communication equipment, technical information, monitoring and laboratory analysis, cleanup observation, and investigation and documentation. Persons serving on the spill response team, as well as a backup staff, need to be specifically identified.

Identification cards and copies of state laws and regulations should be available to the team when it is first set up. The team needs to be well-trained, participating in periodic drills. Rapid mobilization would be required of the team with the capability of traveling on the road with the proper equipment and staff within one hour.

Most important, the group recommends that a spill response team be given a high priority by DEQ management.

Ernie Schmidt
November 21, 1983
Significant Issues Workshop

Action

By December 1, 1983, a person should be appointed from DEQ to coordinate the activities. The coordinator's tasks would include (a) gain commitment from agency managers, (b) set up the team, (c) develop guidelines, and (d) identify funds for resources needed outside of existing sources by March 15, 1984.

Response Fund

The group felt that a Spill Contingency and Response Fund was needed, but legislative support probably does not currently exist because spills are handled now without a fund. However, a limit of available local funds, no cleanup of some spills, and noninclusive coverage of the federal Superfund justifies the need for a state fund.

The fund could be used for (a) cleanup of midnight dumping and abandoned barrels, (b) payment of cleanup when federal funds cannot be used, (c) cleanup when the spiller refuses to take action or the cleanup is inadequate, (d) post-spill monitoring, (e) Attorney General costs, (f) equipment procurement and materials replacement, (g) training, (h) testing gasoline tanks for leaks, (i) drilling wells and groundwater monitoring to identify source(s), and (j) DEQ expenses. Several funding resources were listed such as fees on generators and transporters, or taxes on hazardous material products, petroleum products and pesticide products.

Other sources could be reimbursements from spillers with triple charges for noncooperation; Pollution Control Bond Fund; general fund; federal fund; and civil penalties (only as a last resort).

Action

A person from DEQ needs to be designated to prepare a position paper on the Spill Contingency Response Fund. The proposal would be reviewed by the Solid Waste Advisory Task Force and the Oregon Accident Response System Council. Legislation was suggested to push for a Good Samaritan liability release so that other companies not associated with the spiller could help respond if needed, but not worry about being sued as a result. Another legislative need is to amend the Conflagration Act so that funds to pay for resources would be extended to hazardous materials.

GDR:d
FD263

cc: Greg Baesler
Jerry Bell
Fred Bromfeld
Al Goodman
Al Hose
John Jackson
Van Kollias
Len Malmquist
Dick Nichols
Steve Sander

ENVIRONMENTAL NOTICE WORK GROUP
SUMMARY OF DISCUSSION

Issue: As a matter of state policy, should potentially hazardous environmental conditions be recorded on property deeds?

Product Desired:

1. Concurrence that the issue is important enough to bring back to the 1985 legislative.
2. Identification of potentially hazardous environmental conditions to include in new bill.
3. Suggestions on how to simplify bill so it's easier to interpret and understand.
4. Recommendations on how to build a constituency for this legislation.
5. Recommendations on alternative systems that may achieve the objective of the bill without a legislative change.

Background

Last legislative session, House Bill 2242 proposed that environmental notices be recorded in property deed records to ensure that future purchasers of real property would be aware of the nature and extent of potential hazards that the property contains. This would, therefore, reduce the likelihood that uses and modifications to the land would create an actual hazardous condition. The bill combined, for enactment purposes, two recordable notices concerning the land: (1) notice of potentially hazardous environmental conditions, both present and past if known, such as hazardous waste disposal sites; and (2) notice of the existence of potentially dangerous, unusually costly or operationally complex sewage disposal systems, such as subsurface disposal systems utilizing two or more parcels of land. After due process, recordation would be made by DEQ if particular owners failed to do so voluntarily by January 1, 1984.

Although HB 2242 did not get beyond Committee review, certain questions and weaknesses of the bill were identified: (1) Should the classification of "potentially hazardous conditions" appropriately include alternative subsurface disposal systems and subsurface disposal systems that cross property lines? (2) Will the market devaluation of the property be commensurate with the potential hazard when only a small portion of the property is affected? If not, what would be the method and cost to the agency to narrowly define the affected potentially hazardous condition site? (3) How is the notice most efficiently added and removed from the property records considering that property restrictions are not, in the usual sense, "erased" but are "satisfied" in order to be eliminated? (4) What support and suggestions might interested groups offer, such as the Association of County Clerks? (4) How would due process best be provided to property owners prior to forced recordation?

One of the major problems facing a bill of this nature is perceived to be the public sensitivities surrounding property right issues. Recordation legally signifies "a taking" of private property which cannot be accomplished without "just cause" and "due process" of law. Secondly, an environmental "notice" is a concept that does not square with the very old law of property, which requires that only instruments directly affecting title to real property be recorded by a person or entity having legal title or interest in the land. Under Oregon Statute and years of property law history, public notification of information regarding the land is neither authorized nor established by precedent. Thirdly, the bill would establish a legal liability of the parties involved in the sale of property to affirmatively disclose certain conditions of the property. The courts and legislature have historically been reluctant to interact in such private matters, under the doctrine of caveat emptor. Lastly, recordation of this type is also apparently without example set by other states' enactments and therefore, cuts new ground in linking environmental protection, consumerism, and property transfers.

The concern with property rights history was discussed by the work group because of the potential reluctance of the courts to interpret and enforce a statutory enactment, which by its nature, requires determination of complex issues such as "potentially hazardous", "operationally complex", and so forth.

Current DEQ rules fully utilize and possibly exceed the agency's legal capabilities on recordation. The original objective was to get voluntary recordation. DEQ requires that an affidavit be filed that notice is added to the property deed records by any property owner who receives a permit to construct an experimental subsurface disposal system. Similarly, it is presumed that this type of restriction could be required where subsurface disposal systems cross property lines in order to meet installation rules.

Under an Attorney General's opinion, the agency appears to have the authority to require property owners to record the limitation if the site is permitted or licensed. Functionally, it may be possible for recordation to occur as a condition to permit/license regulations in cases where new ones are issued; however, the existing structure excludes many hazardous waste sites because it does not contain a mechanism for recording property conditions on unlicensed sites or where permits are exhausted. There is no adequate tool to ensure that property owners comply with the requirement, and if challenged, it is possible that the recording requirement may be invalidated.

Work Products

1. Importance of the issue.

Although the environmental notice mechanism appears to create new ground in combining environmental and consumer causes, it was unanimously agreed that the issues should be resubmitted for 1985 legislative action. Several major modifications in the scope, intent and mechanisms for the legislation should occur prior to resubmittal.

2. Identification of conditions.

The work group recommended that a better definition of "potentially hazardous environmental condition" would improve the chances of enactment. Generally suggested was language that referred to "the presence of hazardous wastes or materials which could cause harm to the public or environment if proper precautions and maintenance are not undertaken and continued." Such a restatement of recordable activities should coincide as closely as possible with definitions used in other hazardous waste statutes. The objective of the statute can be clarified only if a specific, unambiguous definition of potentially hazardous conditions identifies the affected properties and relates the conditions directly to the protections of public health and welfare. Concomitantly, it was suggested that subsurface systems should not be included in the definition because (a) the hazardous relationship to public health and the environment is generally more attenuated; (b) the nature of the hazard is different in kind and affect and may often be a consumer issue rather than a public health one; (c) enforcement would require an exhaustive process to implement without landowner's consent and might exceed reasonable resources if voluntary action isn't great; and (d) the target group is intended to be largely prospective in nature, with little demonstrated need at this time to research and record existing subsurface systems that relate to multiple properties or are operationally complex.

It was suggested that the potentially hazardous definition be expanded to include (1) radioactive wastes, if appropriate, after consultation with the Department of Energy and State Health Division; (2) closed municipal landfills; and (3) uncontrolled hazardous waste disposal sites.

A rewrite of Section 6 of H.B. 2242 and a modification in the concept of conditions subject to recordation would limit the use of the mechanism for eminently hazardous conditions, limit the universe of conditions and treat all similar conditions (present or past) similarly.

3. Simplification of the bill.

H.B. 2242 would be greatly simplified if (a) two bills are drafted - one for potentially hazardous conditions and one for subsurface disposal systems requiring a managed approach for future operations; (b) potentially hazardous environmental conditions are redefined; (c) the standards and process to record and remove the notice are reasonably explicit in the legislation itself; and (d) language is used to re-emphasize Section 5 of H.B. 2242.

In an attempt to distinguish nuisance from hazardous conditions, some participants favored a specific listing of possible conditions that would be subject to the recordation. All work group members agreed that the burden of showing cause that recordation is unnecessary to carry out the protective intent of the law were the clear responsibility of the property owner during the administrative due process procedure.

For subsurface disposal systems, the Attorney General has recommended that the agency has the authority to require the property owner who applies for a permit (to construct) to record the condition. However, considerable discussion addressed the nature of the contractual agreement and the consideration that would flow between the constructor and the state in order to demonstrate whether there is a sufficient beneficial interest held by the state that directly affects title. Any subsurface disposal recordation bill should clearly define the interest, the consideration and the responsibility of the state and the perpetual nature of the promise in order to withstand any legal challenge that the contract does not bind successors in interest.

4. Building a constituency.

Due to the unique combination of interests affected by the proposed recordation statutes, the constituency for its support was divided into (a) environmental; (b) financial and (c) "good government" groups.

The essential environmental lobby was suggested to consist of The Oregon Environmental Council, various public health groups, and Forelaws on Board.

The concern and interest of the financial lobby was presumed to be especially great because of the perceived burden that the recordation act would have on the existing mechanisms for real property transactions. It was suggested that any perceived inefficiency that would complicate the transfer of property could jeopardize the success of the bill; the suggestions of the financial community that operates the market could ensure efficiency. These groups include savings and loan institutions, mortgage companies and commercial banks, title groups, real estate and homebuilders associations, the State Bar Association and consumer groups. By organizing a practical approach to quell any unreasonable worry on the part of buyers of land, it was suggested that strong consumer support could be achieved.

Finally, "good government" interests such as the League of Women Voters, neighborhood groups and the interest organizations involved in shaping governmental roles, such as the County Clerks Association and the Association of Oregon Industries, are also important to creating effective legislation.

5. Alternatives

Several alternatives were offered to achieve the objectives of the bill without legislative change, although it was generally assumed that the public recordation method appeared to be most efficient. For hazardous waste disposal sites, the options included:

- (a) direct state purchase of sites. This method appeared to be costly in terms of acquisition, management and loss of private sector usage;

- (b) a public information service by DEQ which would increase public awareness, provide available information, respond to questions from buyers and sellers and create a common database of information to be shared with local planning departments and others. Although less costly than (a), the information program would require sufficient appropriations for its long-term success;
- (c) a comprehensive planning effort to ensure that known sites are recorded in local comprehensive plans. In conjunction with (b), this may complete the public information program but would require continual update;
- (d) individual land contracts with property owners. These must ensure that legal standards for recording of interests in property conveyances by the owner are met. This may be a particularly costly plan to implement and may be subject to legal challenge. However, current legal opinion indicates that such a system may be utilized for sites where permits or licenses are granted by DEQ. It presumably would not be effective where the owner of a hazardous waste disposal site does not require a license or permit (abandoned facilities) and does not voluntarily agree to a contractual relationship with the EQC.

For subsurface disposal site recordations, the options include

- (a) reliance on voluntary recordation required by rules governing the issuance of an experimental system construction permit;
- (b) a similar voluntary recordation requirement for subsurface disposal systems which cross parcel divisions and in the absence of such recordation, authorize a procedure to vacate the parcel division. This could be a costly legal process to enforce;
- (c) recordation of an easement granted by the property owner to the State of Oregon. However, such an easement would presumably require the state to assume specific responsibilities toward the stewardship of the land as a party in interest.



STATE OF OREGON

INTEROFFICE MEMO

TO: EASchmidt through RPreiter

FROM: TRBispham *JLB*

SUBJECT: Significant Issues Workshop - November 1983

DATE: November 10, 1983

Funding of SuperfundParticipants

Gary Calaba, Leader
Al Goodman, EPA
Len Malmquist, Mult. County Fire Dist. #10
Tom Fisher, WVR
Janet Gillaspie, PIO
Tom Bispham, NWR

Issue: How should Oregon fund its 10 percent share of a superfund cleanup project?

As this discussion proceeded, the group questioned whether Oregon needed a superfund. The group concurred that the Department has been very successful in resolving problems addressed to date. Nevertheless, it was agreed that the potential exists for 2-3 sites to be found which could require superfund monies.

As a first step in developing a proposal for the establishment of a superfund, the group concurred that the Department should undertake an evaluation of what funding methods are being employed nationwide. Once this information is obtained, staff would evaluate what methods could be employed in Oregon and how acceptable the various methods would be. In addition, this survey should also address the size of funds being established and the basis for the size of the fund. EPA should be consulted to determine if they have a summary of state activities in this area. The Department needs to compare costs of past cleanups and costs for future cleanups (i.e., United Chrome) in establishing a fund level.

Some of the offhand group thoughts for funding were as follows:

1. General Fund (E-Board request).
2. Generator tax.
3. HW transporter tax.
4. Gate tax at Arlington.
5. Recovery of funds for efforts spent (investigation, monitoring, etc.).
6. Tax of chemical wholesalers of hazardous materials (i.e., 1/2 of 1% on gross sales).
7. Voluntary contributions from private sector.

These possibilities would be considered after looking at the nationwide data.

MEMORANDUM

Page 2

November 10, 1983

With respect to fund uses, the following alternatives were submitted for consideration:

1. Dedication of 100% of state matching funds for remedial action. Remedial action is a term which can be considered in a very narrow scope (cleanup/removal/disposal) or on a very broad basis may include administrative costs, monitoring, analyses, site evaluation, enforcement (A.G.), O/M of project, cost recovery (may need legislative authority), training, community relations program, etc. Determination needs to be made whether the fund would include monies to cover these items.
2. Dedication of a specific percentage of the fund for such things as emergency spill response, purchase of spill response equipment, training, etc.

[It should be noted that a lengthy discussion was conducted relating to the level of Department response to spills. The group concurred that administrators need to reassess the question of "hands-on" vs. "arms length" response and a personnel safety policy.]

In concluding, the group concurred that the Department should administer the fund.

TRB/mb

cc: Gary Calaba
Al Goodman
Len Malmquist
Tom Fisher
Janet Gillaspie
Gayla Reese

RECEIVED
DEPT. OF ENVIRONMENTAL AFFAIRS
NOV 11 1983

SUMMARY REPORT - SIGNIFICANT ISSUES

Integrated Toxics Management

ISSUE: Should the Department (or state) provide interpretation of toxic substance data for the public?

Before addressing the question as stated, it was decided that the question should be broader to include conventional pollutants as well as toxic substances. After considerable discussion, a yes-no consensus was reached on this expanded question. It was agreed that the Department was the state agency the public looked to, to interpret environmental effects of conventional pollutants and toxic substances. It was also agreed, that the Department should not interpret the human health effects of conventional pollutants or toxic substance. The human health effects should be interpreted by an epidemiologist with the Health Division.

It was also concluded that neither DEQ nor the state in general, are well prepared to interpret conventional pollutant or toxic substance data. Two major reasons were identified: 1) lack of adequate staff to study available information and make interpretations, and 2) lack of staff to gather in one place available research reports.

Three recommendations were made for DEQ, or the state, to improve its conventional pollutant or toxic substance management programs:

- I. Conduct an inventory of what other public-private agencies are doing in the area of conventional pollutant or toxic substance research.

Among others, the following should be contacted:

<u>Public</u>	<u>Private</u>
Health Division	Oregon Graduate Center
Health Sciences Center	Oregon Lung Association
Dept. of Agriculture	National Council for
OSU - Environmental Sciences	Air & Stream Improvement
OSU - Extension Service	Association of Oregon
Poison Control Center	Industries
U of O - Survival Center	American Electronics Ass'n.
	Tektronix
	Publishers Paper

- II. DEQ, or the state, should develop a computer-based Information Retrieval Center. The Center should be permanently staffed with existing, reassigned personnel or new positions (preferred) as follows:

- o technical interpreter*/technical report writer
- o epidemiologist* (assigned to Health Division)
- o data entry/retrieval clerk (computer science background)
- o public information/education specialist

*Minimum staff and requires either technical interpreter or epidemiologist to also be versed in computer science.

It was suggested that funding may not need to be solely a state/federal function. If the objectives of the Information Retrieval Center were clearly defined, Oregon businesses and/or public/private foundations may wish to contribute toward the budget. Furthermore, the concept of an Information Retrieval Center should only be pursued if it is intended to be funded for the foreseeable future. Because of the complexity of the issues, long-term commitment must be incorporated into the implementation of an informational center for it to be a worthwhile effort.

- III. DEQ shall arrange annual "Toxic Substances in the Environment" workshops. Agenda should provide for involvement by regulatory agencies, universities and industry. Annual workshops would be the ideal opportunity to "build bridges" between principal parties and thereby assure the public that the best minds are working together to protect the public health and the environment.

On a related matter, extensive discussion occurred on the advisability of continued year-round chlorination of treated effluents. Chlorine is probably the most heavily used, non-selective poison today. Ostensibly used to provide public health protection against fecal coliform disease transmission, no restrictions exist to prevent regular over chlorination. Nor has research proven the need for chlorination during the cold winter months (November thru March) when contact sports aren't practical in Oregon. A recommendation was adopted that Water Quality Division appoint a committee to study existing chlorination policy. If the current unregulated (on the upper side), year-round use can't be scientifically supported, then the committee should lobby for appropriate changes in state/federal regulations.

ISSUE: What risk, if any, is acceptable from the continued use of toxic substances?

The group had real trouble with the vagueness of this issue - risk to human health, the environment or property? Even limited to one of these three broad areas, the group felt that DEQ simply does not have enough data or expertise to get into risk management assessment. Consensus was reached that DEQ should continue to use its best judgment to reduce or minimize environmental risk and improve that judgment over time by early implementation of the Information Retrieval Center.

ISSUE: Should DEQ (or the state) be doing or funding research on the adverse public health or environmental effects of toxic substances?

Quick consensus was reached that doing or funding basic research was not a regulatory role, therefore, not consistent with DEQ's primary mission. It was agreed that DEQ should identify basic research needs and then actively seek to have EPA, universities or public/private foundations do it.

Recycling SB 405
Significant Issues Report

I. PURPOSE

New legislation passed by the 1983 Legislature requires that more recycling opportunities be offered to Oregonians. DEQ is required to develop rules to implement this legislation.

At the 1983 DEQ Significant Issues Planning Retreat, a group earmarked to address recycling rules was directed to develop a list of recommendations for draft rules for the following:

1. Wastesheds,
2. Recyclable materials,
3. Alternative methods,
4. Recycling report,
5. Promotion, education,
6. Guidelines for local governments.

Additionally, the recycling group was directed to develop recommendations on staffing necessary to implement the Recycling Act.

II. PROCESS USED AT MENUCHA TO DEVELOP RECOMMENDATIONS FOR RULES

The following persons participated in the recycling group:

Steve Colton	Dan Smith
Rick Campbell	Bill Bree
Elaine Glendening	Bob Danko
Judy Johndohl	Delyn Kies
Lorie Parker	Dennis Mulvihill
Bruce Bailey	Gretchen Wagner-Rist
(Ernest Schmidt)	(Bob Brown)
	(Michael Downs)

To facilitate discussion, the twelve member recycling group divided into two equal units. Each unit developed recommendations for each rule and presented them to the group. From this the full group produced a list of recommendations for draft rules. These recommendations will be presented to the Solid Waste Task Force and the Recycling Subcommittee for their review and input.

III. ASSUMPTIONS

The recycling group used the following assumptions in developing their recommendations:

1. The Recycling Act sets new policies and priorities for solid waste management in Oregon; reduce, reuse, recycle, energy recovery, disposal.
2. The Recycling Act authorizes cities and counties the authority to grant franchise for solid waste and recyclable materials collection.

3. The Recycling Act creates additional responsibilities for local governments not asked for.
4. All involved have fiscal constraints.
5. Implementation of the Recycling Act will involve changing behavior and habits of all involved.

Flexibility and long-term commitment are prescribed.

6. Support for recycling exists. Momentum is building from haulers, recyclers, industry, etc. to implement the Recycling Act. We should be tuned into this support and use it to successfully implement this Act.

IV. RECOMMENDATIONS OF RECYCLING GROUP

A. WASTESHEDS

1. Wastesheds should be defined around existing jurisdictional boundaries.
2. Suggested options:
 - a. counties
 - b. counties and cities with a population of over 4,000
3. Special consideration will be given to urban growth boundaries for cities with a population of over 4,000.
4. Special consideration will be given to the METRO region.

B. RECYCLABLE MATERIALS

1. There will be a list of recyclable materials for each wasteshed. These lists may differ in the different wasteshed.
2. We should start with a simple list of readily acceptable and doable materials, and then add materials at a later date.
3. Materials on a list should have a high probability of success based on a track record.
4. There may be different materials on the list for depots and collection systems.
5. A list of materials should be viewed as a group of materials.
6. A suggested list included: container glass (3 colors), cans, aluminum, newspaper, cardboard, office ledger paper, motor oil and scrap metal (at depots).

C. ALTERNATIVE METHODS

1. Some areas in the state will need this authority to successfully provide the "opportunity to recycle."
2. We should identify specific areas and conditions where an alternative is better than the stated method.
3. We should identify conditions where a specific, stated method won't work well.
4. We should identify specific alternative methods based on the conditions present.
5. We should establish some standard factors to be considered in choosing an alternative method.
6. We should set tests to measure the effectiveness of an alternative method.

D. RECYCLING REPORT

1. Affected persons in the watershed must submit the report by July 1, 1986 detailing how the "opportunity to recycle" is being provided, local governments will jointly coordinate the report.
2. The report should not create a burden on the affected persons or the local government coordinators.
3. The report should be simple and short.
4. Report should be in a response format, answering questions or fill in blanks.
5. Report should cover the conditions in the watershed, service levels, education program and evaluation of the effectiveness of the "opportunity to recycle."
6. Section 7, (6) of SB 405 identifies some factors which should be considered in the report format.

E. PROMOTION AND EDUCATION

1. This is a key element of providing the "opportunity to recycle."
2. DEQ should evaluate the effectiveness of different education and promotion materials.
3. DEQ should produce some generic education and promotion materials.
4. The rules should set a minimum standard for local education and promotion programs, identifying the quality of material and the level of exposure.

5. The level of financial resource commitment of a local education and promotion program should be set at a minimum of _____% of the resources used for collection and disposal of solid waste.
6. DEQ should have an education program on SB 405 to reach key interested persons including DEQ staff and advisors.

F. STAFFING

1. The new solid waste management policy and priorities should be used to determine the use of solid waste program staff resources.
2. The program should take advantage of the momentum that is developing and keep the established implementation schedule.
3. Headquarters and regional offices must cooperate on implementation.
4. The present staff level is not adequate to continue all recycling and waste reduction programs presently underway.
5. All recycling staff efforts should be shifted or redirected to place highest priority on SB 405 tasks and time schedules. All staff efforts on other recycling programs should be reduced to make resources available for SB 405 activities.

CLOSURE, POST-CLOSURE AND FINANCIAL ASSURANCE

Summary of Discussion
at Significant Issues Planning Session
October 8, 1983

Discussion focused on three main areas:

Closure Permit Process

- A. Sites That Closed Between 1980 and 1984. The Department will inspect the site and review the file. Then the last permit holder will be notified that either:
1. No permit will be required because:
 - (a) the site has an approved closure plan on file, and
 - (b) the Department has issued a written approval on the site closure, and
 - (c) there is no need to continue supervision of the site because it has no suspected or documented environmental problem, and
 - (d) the site does not have active control equipment requiring continuing maintenance or monitoring.
 2. A permit will be required because one or more of the above criteria were not met. The notice shall identify the problems or areas of concern and contain a permit application. A closure plan (or an update to a previous closure plan) must be submitted along with the other items listed in the proposed rules, except that no financial assurance plan will be required. The plan and application will be jointly reviewed by region and division staff and the permit issued.
- B. Sites that will close before 1989. The permittee will be notified that he must apply for a closure permit prior to January 31, 1984. The application must include a closure plan and either a financial assurance plan or a demonstration that the site meets the exemption criteria, and must include the other requirements found in the proposed rules. The region and division staff will jointly review the application.
- C. Sites that will close after 1989. The permit holder must apply for a closure permit 5 years before anticipated closure. The process will follow that outlined in B above.

Financial Assurance

The Department will determine whether or not a site is exempt from the financial assurance requirements based on existing information, inspection reports, monitoring data, the potential for adverse impact and any other information submitted by the applicant. The amount of financial assurance, if any, will be negotiated with the permittee as outlined in the law. The financial assurance plan must comply with the proposed rules.

The approach that the Department will take at all sites (including those exempt from financial assurance requirements) is to encourage "close as you go" operation. The impact to the environment during the life of the site will be minimized and so will the cost of closing the remaining area when the site stops receiving waste.

The permittee must demonstrate in the financial assurance plan how he will accumulate funds and use them for the "close as you go" activities (typically out of daily cash flow). The Department will not require a great deal of security for these funds so long as the operator continues to keep to the agreed schedule for closure activities.

The Department will require a much more secure form of financial assurance to guarantee performance or to finance all closure and post-closure activities that occur after the site stops receiving waste. The concern here is that there is no longer any income to the site and use of the funds must be controlled to ensure that the intent of the law is carried out. The financial assurance for the "final closure" and post-closure maintenance will be accumulated at a rate and in the form approved by the Department during the last 5 years of site operation. Typically, we are looking at liquid assets in a trust account held by an authorized financial institution with Department sign-off for use of the funds. There may also be other acceptable forms such as an irrevocable letter of credit, a performance bond or ?. The important thing to keep in mind when looking at other "creative" forms of financial assurance is not to allow the creation of the illusion of funds when, in fact, none exist.

Supervision of Compliance at Disposal Sites

There was considerable discussion on the importance of consistent and continuing enforcement activities by the Department. All sites must have well conceived operational plans and the Department must visit every site frequently to be sure that the operational plans are being followed. That way operators know what is expected of them and problems can be caught before they get too serious.

The "close as you go" approach will absolutely mandate the Department to visit the sites and work with the operators very frequently. There will be no need for a high level of security (requiring a great deal of Department time to audit, authorize payments, etc.) for the financial assurance funds covering the closure activities that go on while the site is in operation, if the Department makes sure that the work is actually done as scheduled. Essentially the Department's enforcement efforts are the "security."

The proposed rules require the permittee to submit an annual report detailing progress on closing the site and adherence to the financial assurance plan. These reports will be made during the last 4 years of site operation and continue annually after the site closes as long as the permit is in effect. The Department will have to visit each site in conjunction with the review of these reports. For some sites, the annual review will be adequate, but as the complexity and cost of the on-going closure increases, so will the need to inspect the sites more frequently.

It is important that the Department not allow an incentive for operators to circumvent the landfill closure and financial assurance requirements. If an operator fails to adequately close parts of the landfill as scheduled, or fails to set aside funds in the form and at the frequency agreed to, or uses financial assurance funds for unauthorized purposes, the Department must levy civil penalties. The Department must also require that the amount of financial assurance be adjusted to cover any increased costs for final closure and must require that all financial assurance be in a very secure form.

Those permit holders, who are exempt from filing a financial assurance plan, still are responsible for closing and maintaining their sites. Civil penalty assessment is the method of enforcing that those responsibilities are fulfilled.

GROUNDWATER SESSION

Participants

Neil Mullane - Leader
Kent Ashbaker
Bill Bartholomew
John Borden
John Charles
Steve Gardels
Tom Lucas
Sherm Olson
Andy Schaedel
Tim Spencer
Bill Webber

Introduction

The groundwater session had three primary objectives:

- 1) Reach an understanding of the approaches being utilized by the Water Quality and Solid Waste Programs to identify, monitor, and prevent groundwater problems;
- 2) Develop recommendations for improving the Department's groundwater program and the methods used to evaluate and project the impacts to groundwater from the various sources; and
- 3) Propose enhancements to the existing groundwater policy.

I. PROGRAM APPROACHES

Participants with program responsibilities to protect groundwater presented overviews of their particular program from a problem identification, monitoring, and prevention perspective. Following each presentation there was a discussion and question and answer session. Following are very brief summaries of the presentations.

Hazardous Waste. Rich Reiter presented the current hazardous waste program which is now a joint federal/state program. The state will soon assume full delegation of the program. He discussed the five hazardous waste storage classification categories which include: 1) landfill trenches; 2) surface impoundments; 3) waste piles on impervious pads; 4) underground storage tanks holding hazardous wastes; and 5) underground injection. The Department is presently developing rules for storage tanks, i.e., double wall, double lined. The required monitoring for detection, compliance, and remedial actions was discussed but the federal program limits monitoring to the upper aquifer. Rich mentioned serious deficiencies in the hazardous waste regulations, i.e., there is no preventive program for storage of hazardous materials and the difficulty of defining and/or setting standards for hazardous wastes.

Special Reports. Neil Mullane gave an overview of the groundwater projects carried out by the Water Quality Planning Section under Sections 208 and 205(j) of the federal Clean Water Act. These were very intensive and successful special studies directed at known or suspected problems. Emphasis has been given to nitrates and bacteria. Five studies have been completed under the 208 Program, including North Florence (around Clear Lake), Clatsop Plains, East Multnomah County, LaPine area, and River Road/Santa Clara near Eugene. These studies have specified outputs to define and correct the problem and develop groundwater protection plans to prevent future problems. These plans include specified best management practices, sewerage, density requirements for housing and commercial activities, and often include geographic area rules and moratoriums on new development. Two new or continuing projects are now being funded with 205(j) funds in North Florence on Clear Lake and some limited work in East Multnomah County.

Underground Injection. Kent Ashbaker gave an overview of the UIC Program. Basically, it is an outgrowth of the Safe Drinking Water Act and EPA involvement in UIC for protection of groundwater. The Department is finalizing an application to EPA for primacy in the UIC Program. Once we have primacy, we have three years to investigate the situation and develop what needs to be done, e.g., geothermal reinjection. The UIC has five classes of disposal wells. The UIC program defines an injection well as anything deeper than it is wide.

- 1) Wells that dispose of wastes below the groundwater aquifer -- DEQ prohibits this by rule.
- 2) Petroleum exploration and storage wells. This covers the reinjection of salt basins during oil and gas exploration and production, the reinjection of oil for the purpose of storage, and the pumping of fluids into a formation to enhance recovery of a product -- DEQ prohibits this by rule.
- 3) In situ mining (e.g., injecting cyanide into a formation to recover minerals -- DEQ prohibits by rule but may modify in the future.
- 4) Disposal of hazardous wastes to underground aquifers -- EPA and DEQ prohibit by rule.
- 5) Everything else (main focus of UIC Program)
 - geothermal reinjection
 - seepage pits
 - air conditioning wastes
 - agricultural drains
 - storm drainage
 - groundwater recharge
 - saltwater barrier

An inventory of injection practices was completed by OSU but this has to be reviewed and updated. Kent stated that future needs will be to decide on how to classify and permit groundwater recharge and the reinjection of lower temperature geothermal water.

On-Site Waste Disposal. Sherm Olson gave an overview of the on-site sewage disposal program. The program has been ongoing for 10 years and is largely preventive in nature. The program is implemented through applicable rules, e.g., placement of disposal tile, soil elevations, etc. There are also rules for ARBA specific controls such as geographic area rules and moratoriums. The rules for siting criteria are used to set separation limits between the disposal trench and the water table to protect the groundwater. Moratorium and geographic area rules have been used to protect groundwater in large areas like the North Florence area and Clatsop Plains.

Solid Waste. Tim Spencer gave an overview of the solid waste program as it relates to the protection of groundwater. The program is divided into requirements for new sites and those for existing sites. For new sites, considerable investigation is carried out including preliminary and detailed feasibility studies, hydrological investigations, monitoring, risk analysis, geotechnical studies, etc., all aimed at ensuring protection of groundwater. All new landfills require clay liners and leachate collection and treatment systems. Work on existing sites is much more difficult. Monitoring is unreliable in these situations to detect problems. Monitoring data has to be carefully screened and is often unreliable. Problem identification and correction is, therefore, difficult. Tim identified the need to update the design specification for monitoring wells and the need to clearly define what data is needed, how it will be used and what followup would take place if problems are identified.

Region's Perspective. John Borden gave an overview of three serious groundwater problems in the mid-Willamette Valley Region, including River Road/Santa Clara, Mission Bottom, and the North Florence Dunal Aquifer. The River Road/Santa Clara is a traditional sewerage problem with 27,000 people on septic tanks. The aquifer suffers from fecal contamination and nitrates. The solution is mandatory sewer construction and treatment at the new regional sewage treatment facility now under construction. Although the solution is straightforward technically, political and jurisdictional problems make it very difficult to implement. The Mission Bottom area has a serious nitrate problem because of the combined use of sewage sludge and commercial fertilizers on crops without a reduction in the rate of commercial fertilizer application to factor in the nitrate load from the sewage sludge. A program is now underway to substantially reduce the nitrates applied to the soil. Agricultural interests are reducing the irrigation water applied with commercial fertilizer and have stopped dumping the fertilizers down wells. The City of Salem is no longer applying sewage sludge to lands in Mission Bottom. The North Florence Dunal Aquifer program is aimed at protecting Clear Lake. It

is a very clean lake now and is used as a drinking water source for Florence. A very restrictive policy is needed to protect Clear Lake since as few as three more homesites would destroy the clarity of the lake.

Steve Gardels discussed groundwater problems in Eastern Oregon. They are serious and include: oil contamination problems in LaGrande, dry well problems around Ontario, animal waste problems, and contamination from sugar mills in Nyssa, etc. Steve commented that most groundwater problems in Eastern Oregon are point source oriented and that the groundwater policy is primarily nonpoint source oriented. Steve recommended strict application of current statutes (ORS 468.720) to prevent discharge of pollutants to the ground. He also discussed the problem of not having standards to judge sources against, or specific direction on drill holes, and that the basic groundwater background document needed to be updated with information on streams that lose water to the groundwater.

Monitoring Program. Andy Schaedel gave an overview of the groundwater monitoring program. Basically, it is a support function to both solid waste and water quality. Groundwater monitoring is well integrated into the lab program but is somewhat underfunded. Most of the monitoring is site specific (solid waste sites or specified aquifers) rather than regional or statewide. Andy discussed many of the problems associated with the groundwater monitoring. It is not systematic, as compared to the ambient program on surface waters. The parameters are more difficult to analyze. There is a need for more quality assurance, i.e., split sampling. The data is difficult to interpret and often is useless. In addition, it is hard to maintain well integrity, over time, wells simply disappear. Andy indicated that more emphasis is being given to groundwater and that this may result in some decreased effort in the surface water program. A point that Andy brought up for the future is that the monitoring program should be prioritized based on beneficial use of aquifers.

Water Resources. Bill Bartholomew gave an overview of groundwater from a resource or quantity perspective, described the basic programs of the Water Resources Department, the primary divisions of work, and discussed how the WRD or DEQ could integrate their work. Bill mentioned that there isn't a substantial program for groundwater at WRD; and that there are now only three groundwater hydrologists covering the entire state. There are 17 known areas of the state with serious declining groundwater areas.

II. RECOMMENDATIONS FOR IMPROVEMENT

The following recommendations were made for improving the Department's groundwater program:

- 1) Recommend that the water quality program adopt guidance similar to that utilized by the solid waste program in OAR 340-61-040 for evaluating the impact of new sources.

- 2) Recommend that the Department should implement an ongoing process so when groundwater problems are identified and prioritized, solutions are developed and implemented. Solutions to include best management practices for NPS and point source controls as appropriate.
- 3) Recommend that the Department should improve staff training on groundwater contamination problems through annual groundwater workshops and professional seminars. The Department should pass along what it has learned from various case studies and problem solving efforts by amending the present groundwater background document and including new case studies.
- 4) Recommend that the Department develop guidance, recommendations, specifications for monitoring well construction, maintenance, and sampling and monitoring program design for distribution.
- 5) Recommend that all groundwater monitoring data should be collected with a use in mind, submitted in a usable format and used .

III. POLICY ENHANCEMENTS

The participants unanimously agreed that the above recommendations can be implemented without changes to the current groundwater policy.

LONG RANGE STRATEGIC WATER PLANNING

Water program personnel participated in a one-day session to discuss long-range water planning strategies and other program issues. Hal Sawyer was the team leader.

Hal opened the session by handing out a draft outline for a proposed long-range strategic water planning program. He briefed the participants on the legislative background (Senate Bill 523), the proposed budget, and conceptually outlined the process for carrying out the proposed work. He emphasized the lack of sound data, particularly groundwater data for sound water resource management decisions. In addition, the 75 recommended minimum streamflow points, pursuant to Senate Bill 225, were handed out and briefly discussed.

Comments and discussion were solicited from the participants concerning what the water program should be doing to prepare for the long-range planning effort. Responses and discussion included the need for better flow gaging and flow information, monitoring, modeling (simple models, mass balance, sediment transport), toxics, need to improve assessment capabilities, particularly NPS, need to improve the data base, need to better define groundwater aquifers, and agriculture NPS pollution.

The afternoon session was opened for a general discussion of water program issues. Topics included a continued discussion of data needs and, in particular, source self-monitoring reports, chlorination, infiltration/inflow, toxics, placer mines, and the need for better communication.

It was agreed that several standing committees would be formed to address key topics. The topics and respective committee leaders include:

- 1) Leader: Dick Nichols
Topic: Evaluate source self-monitoring reports - data requirements, needs, usefulness, ways to improve, etc.
- 2) Leader: Larry Patterson
Topic: Organize session on hazardous wastes; who should be involved and why, rules, types of analysis.
- 3) Leader: Kent Ashbaker
Topic: Review the chlorination issue, particularly with respect to municipal sources.
- 4) Leader: Kent Ashbaker
Topic: Organize ongoing staff meetings including schedule, topics, participants.

TJL:g
TG2949
11-16-83

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Ernest A. Schmidt through
Richard P. Reiter

DATE: November 15, 1983

FROM: G. D. Baesler *GD*

SUBJECT: Significant Issues Workshop, November 1983

Hazardous Waste Inspection Frequency

Participants:

Fred Bromfeld, Leader
Jerry Bell, Lab
Frank Deaver, Tektronix
Lloyd Kostow, AQ
Greg Baesler, NWR

Issue: How frequently should hazardous waste generators be inspected?

Initially, the group looked at four criteria for determining inspection frequency:

- (1) Complaints and spills,
- (2) Previous compliance record,
- (3) Volume of hazardous wastes,
- (4) Category of hazardous waste,
 - (a) Toxicity of wastes to people/environment,
 - (b) Handling difficulty due to ignitability/reactivity.

With an unlimited staff, the group discussed three possibilities. The first was that an inspection be made four (4) times per year of each registered generator. The second proposed schedule was an annual inspection for each registered generator and the third possibility combined an annual inspection with the criteria established for inspection frequency. After discussion, the group concluded that the best use of resources given unlimited staff would be one inspection per year with follow-up or additional inspections based on the criteria in the order listed. (It was determined that a minimum 400 registered generator inspections per year would be required just using the previous compliance record criteria).

The group concluded that with a limited staff the criteria (1 through 3) previously presented should be used to determine

which generator gets inspected. Using the criteria, flexibility is built into inspection frequency, given the number of staff available through time.

Issue: Beginning July 1, 1984, it may be necessary to assess annual generator fees to offset declining federal revenue. What criteria should be used to design an equitable generator fee schedule?

The group discussed the following four (4) options for funding the hazardous waste program (assuming = \$150,000/year required):

- (1) Flat fee for all generators,
- (2) Fee based on total amount of hazardous waste generated,
- (3) Fee based on size of company,
- (4) Fee based on services rendered.

After considerable discussion our group agreed that, in order to lessen the financial burden on small industry, the most equitable way to generate money to fund the hazardous waste program would be to charge both a flat fee (\$100/generator) for all registered hazardous waste generators in combination with a sliding fee scale based on the amount of hazardous waste generated to make up the remainder.

The group felt the above conclusion to be the most reasonable if hazardous waste generators alone fund the program. There was a consensus, however, that a gate fee at Oregon's permitted hazardous waste disposal site should be charged to offset the financial burden on Oregon companies. This gate fee would give everyone using the disposal site the opportunity to recompense for the impairment of Oregon's environment.

GDB:b

RB349

cc: Fred Bromfeld
Jerry Bell
Frank Deaver
Lloyd Kostow

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
SIGNIFICANT ISSUES WORKSHOP
SLUDGE MANAGEMENT
NOVEMBER 6, 1983

The Sludge Management Group met at Menucha with all members present.

The objective of the group was determined to be as follows:

"To move the Sludge Management Program from the "guideline" stage to a regulated program as soon as possible."

Highlights of recent state legislation passed in the form of HB 2240 and EPA sludge task force activity were discussed. There followed a lengthy discussion of perceived problems associated with the solid waste and water quality programs dealing with the same issue. There appears to be a lack of uniformity with respect to the manner in which some sludges, primarily septage, is handled in the various regions of the state.

Potential problems in the type of permit required i.e., solid waste or NPDES/WPCF were discussed. The lack of sludge management rules and methods of processing, reviewing and approving sludge management requests were noted. Concern was expressed over the lack of sludge management site monitoring by DEQ. It was noted that the public is sensitive to the concept of land application of human waste sludges. Also, there may be inadequate notification to the public of proposed sludge application sites.

The problem of septic tank pumpings, chemical and vault toilet wastes was discussed at great length. The concerns expressed in HB 2240 were reviewed along with portions of the draft rules provided the committee members prior to the meeting. The responsibility of the state regulatory agency, the sludge generators and applicators was discussed. The need for a public information program to accurately portray both the benefits and the risks associated with land application of treated sludge was emphasized. There should be a review of the permit and compliance determination fee schedule to determine if they should be changed in order to adequately monitor sludge management sites.

From the foregoing discussion, the Sludge Management Findings were determined to be:

1. Two divisions in DEQ have sludge management responsibility.
2. There are no adopted unified sludge management rules.
3. There is a need to require a sludge management plan from all generators.
4. DEQ has no unified method of processing, reviewing and approving sludge management requests.
5. There is a lack of sludge management site monitoring by DEQ.
6. There are inadequate resources available to monitor sites.

7. The public is sensitive to land application of human waste sludges.
8. There may be inadequate public notification for potential sludge management sites.
9. There are not enough acceptable disposal alternatives for septage.

Recommendations:

1. Responsibility for all sludge management regulations should be assigned to the Water Quality program.
 - . Most, if not all, sludges are derived from Water Quality sources.
 - . Some potential impacts of sludge mismanagement are water quality related.
 - . Septic tank pumpers are licensed by Water Quality.
 - . ORS 459 is not an impediment to implementation.
 - . Sludge management is fragmented under two programs.
2. Prepare for adoption, a unified set of Administrative Rules that include the following:
 - . Purpose and definitions.
 - . Distinguish between digested and undigested sewage sludge.
 - . Limitations and restricted uses.
 - . Define and prioritize acceptable sludge management alternatives.
 - . Define the extent of generator responsibility.
 - . Set forth minimum site selection criteria by category.
 - . Establish minimum standards for sampling, analyzing and reporting.
 - . Develop minimum standards for landowner/permittee agreements.
 - . Require submittal of a long-term sludge management plan.
 - . Provide for adequate public notification.
 - . Develop performance standards adequate to protect surface water, groundwater, public health and soil productivity.

3. DEQ should determine the need and scope for a septic tank pumping disposal program.
4. DEQ should adopt a uniform sludge and septage application form and site review procedure.
5. The review and inspection of sludge management facilities should be performed in conjunction with waste water facilities inspections.
6. Evaluate alternatives for recovering costs of site evaluations and sludge management plan reviews - i.e., separate fees or increase existing permit compliance fees.
7. Develop public information materials to promote the beneficial uses of sewage sludge.

Implementation

Water Quality, Source Control Section will take the lead on implementing No. 2; Regional Operations and On-Site Sewage Systems Nos. 3 and 4; Regional Operations and Source Control No. 5; Regional Operations, Solid Waste, and Source Control No. 6; and Public Information No. 7.

Signed



E. R. Lynd

ERL:1
WL2893

AGENCY MANAGEMENT PROGRAM

AGENCY MANAGEMENT
SIGNIFICANT ISSUES WORKSHOP SUMMARY
November, 1983

The Significant Issues Workshop for Agency Management was held November 22 and 23, 1983 at Silver Falls Conference Center. Thirty-three Department staff from all programs attended the workshop. The goal of this session was to discuss issues relating to the centralized services offered by Agency Management and to obtain input from the other programs it serves.

Two subgroup sessions of three subgroups each were conducted. This gave every participant the opportunity to attend two subgroup sessions. This new format worked well and was received enthusiastically by participants.

Following are the subgroups and the issues they addressed. Further explanation of the subgroup discussions and the recommendations and conclusions that were reached is attached.

Subgroup Session I

Hearings/Intergovernmental Coordination

- What is an effective penalty strategy for this agency?
- Does DEQ need to prepare more in-depth Land Use Compatibility Statements and assure that they are done properly and when necessary?
- Does DEQ need to seek any changes in the tax credit legislation?

Support Services (Word Processing and Mail Room/Copy Center)

- What direction should we pursue in the next five years with word processing?
- Is workload leveling a problem? (Between word processing satellite stations on each floor.)
- What should be done with the dictation system?
- What direction should we pursue in the next five years in the mail room/copy center?

Personnel

- How can the Personnel staff enhance, improve and/or change the delivery of personnel service within the agency?

Subgroup Session II

Data Processing

- What services does the Data Processing Center provide?
- What roles do the DP Advisory and Management Committees play and who are on the committees?
- Why is the DP center investigating new technology? Why is the DP staff not satisfied with available resources?

Accounting/Budget

- What is the most effective method for managing the Pollution Control Bond Fund and Sinking Fund to ensure the solvency of the funds and their ability to meet the associated debt service requirements?
- Will the solid waste permit fees authorized by the 62nd Legislative Session be implemented soon enough to generate sufficient revenue to meet the level required in the '83-'85 solid waste program budget?
- Several items that are and will continue to impact the operation of the agency during the '83-'85 biennium were discussed:
 - Telecommunications
 - Oil Settlement (Warner) Funds
 - Capital Outlay
 - Operating Budgets
- What process should be developed to coordinate contract procedures for the agency?
- Are the agency's space requirements currently being satisfactorily met? Should we begin actively seeking new quarters?

Public Affairs

- Ranking of public affairs priorities.
- Recommendations on existing and new public affairs programs, activities, etc.
- Workload/resource balancing.

SIGNIFICANT ISSUES

PENALTIES

Issue Presented for Goals and Objectives Discussion:

What is an effective penalty strategy for this agency?

Description:

Civil penalties are one of the agency's enforcement tools. Under current practice, DEQ's enforcement group recommends a specific penalty amount for a particular incident at the time it presents the Director with its request for authorization to take formal enforcement action. Having available only the staff view of the case facts, the Director must select a penalty amount. This amount, which is stated in the assessment notice, sets the upper limit for the penalty in the case. The Director is particularly guided by ORS 468.130(2); 468.140; and OAR 340-12-045(1).

After hearing from both sides, the hearings officer may find that the Department has failed to prove its case and may not collect any penalty; or, that the penalty amount should be adjusted downward; or, that the penalty should stay as levied. Then, the Commission, reviewing the decision of the hearings officer, has the same three choices. OAR 340-12-045(2) also direct the Commission in imposing penalties subsequent to a hearing.

Prosecution is costly. Defense is costly. Sometimes the parties bypass the contested case process and agree to a compromise settlement which is submitted for EQC approval. Sometimes Respondents simply pay the penalty assessed.

At the conclusion of the contested case process, Department may obtain a judgment which it may file as a lien on Respondent's property. Collection of judgment liens is facilitated by use of the Oregon Department of Revenue's extraordinary authority to withhold and apply to satisfaction of the judgment the tax refunds otherwise available to Respondents. Monies collected go to the general fund.

Problem:

Penalty factors are set out in statute and rule. However, the law does not show how the factor should be applied. Department has been criticized for its practice of compromise and conciliation. That posture permeates the review process. It is difficult to know whether the penalty authority is being wielded wisely. Should there be consistency in the processes by which the Director, hearings officer and EQC determine penalty amounts? If not, what are appropriate considerations for each? Are any extra-regulatory considerations possible?

Product Desired:

Discussion about the methods for balancing the considerations involved in use of civil penalties.

Results of Goals and Objectives Discussion:

This hour-long discussion began by addressing the use of penalties at the different enforcement levels. The discussion quickly recognized that the broader issue of agency compliance assumptions, policies and practices needed examination.

Agency enforcement policy is a product of legislative direction and of philosophy developed by the Commission and staff. There has been heavy emphasis on encouraging voluntary compliance. Conciliation has been an important enforcement tool. The discussion identified a need to evaluate the premise that an enforcement program stressing conciliation and voluntary compliance remains the most effective and desirable enforcement mode for the near future. The broader issue of what was an effective enforcement strategy for the agency was developed. The group recommended that the agency begin an interstaff review of present policies and alternatives. Regional managers and division administrators should be involved. Elements to start discussion may include:

1. Enforcement goal: compliance, e.g., punish, deter, educate, gain voluntary compliance.
2. Characteristics of a good enforcement program: e.g., systematic, uniform.
3. Cost effectiveness: short and long view.
Considerations: political, personnel, educational, out-of-pocket costs.
4. Use of Commission stature: cite municipalities to show cause before the Commission.
5. Administrative procedures -- escalating process.
6. Reliance on self-monitoring.
7. Collection policies.
8. Enforcement reflecting economic climate.

The Commission should be involved in these discussions to the extent and at the juncture it wishes to participate.

Significant Issues

LAND USE COORDINATION

1. Issue: Does DEQ need to prepare more in-depth Land Use Compatibility Statements and assure that they are done properly and when necessary?

Description: Land Use Compatibility Statements identifying compliance with the local comprehensive plans and state land use planning goals are required for all DEQ actions affecting land use. Due to the recent popularity of court cases involving the adequacy of land use compatibility statements, the Department needs to determine if we need to change our approach to making these statements.

Problem: If land use compatibility statements are not done properly and in all cases where required, DEQ is subject to having permits challenged in court on this basis. However, more employee time and permit issuance time would be required to do more thorough land use compatibility statements.

Product Desired: Recommendation on the following:

- a. With reference to the content of the land use compatibility statement, should DEQ:
 - (1) Continue to require minimal compatibility statements with detailed findings for certain important permits?
 - (2) Require more detailed findings for all permits?
- b. Should we develop a check system to assure that the land use compatibility statements are being done properly and when necessary?

Recommendations:

- a. Require somewhat more detailed Land Use Compatibility Statements for all permits with more extensive findings for those permits more subject to challenge.
 - b. "Audit" the Land Use Compatibility Statements from time to time, especially during the next year, to assure that they are being done properly and when necessary.
2. Issue: How will DEQ participate in periodic comprehensive plan reviews?

Description: New land use statutes require a full review of acknowledged comprehensive plans to begin in 1984. Agencies are intended to be involved in the review process, however, rules have not yet been developed determining how extensive this involvement will be. When plans were acknowledged for the first time, DEQ did a full review of plans, providing technical assistance to

jurisdictions as necessary to bring plans into compliance with the goals. Some sort of review and technical assistance must be provided by DEQ for plan updates.

Problem Areas: The less involved DEQ is in plan update, the less we can expect jurisdictions to consider environmental issues in comprehensive plan development.

Product Desired: Recommendations on the following:

- a. As plans are updated should DEQ:
 - (1) Review all amended plans?
 - (2) Review only those city and county plans where DEQ has targeted problems?
 - (3) Review only plans of cities with certain minimum populations?
- b. Should the agency send technical information to jurisdictions before the plans are updated indicating what DEQ hopes to see in the plan?

Recommendations:

- a. As plans are updated, DEQ should generally review all plans to assure that they reflect changes in DEQ policies, programs and standards, with special focus on those city and county plans where DEQ staff has targeted new environmental problems.
- b. Begin participation in comprehensive plan updates before they are finalized by sending technical information to the jurisdictions and reviewing draft plan updates.

Significant Issues

TAX CREDIT PROGRAM

1. Issues: Does DEQ need to seek any changes in the tax credit legislation?

Description: By statute, the present tax credit program will sunset in 1988. Within the next two years the agency needs to determine whether to recommend that the program continue in its present form, be expanded, or be cut back. This might involve a full evaluation of the program and its effectiveness.

If the program is to be continued, should we attempt to get further fine-tuning of the statute.

Problem: Industry would be distressed at having to implement pollution control mechanisms without tax credits.

Product Desired: Recommendations on the following:

- a. Should the tax credit program extend beyond the 1988 sunset date?
- b. Should further changes be made to the statute or operating procedures?

Recommendations:

- a. Continuation of tax program

Three major viewpoints were expressed with more support exhibited for second and third position.

Position 1 - Continue tax credit program under existing legislation at DEQ.

The existing program helps promote voluntary compliance, economic development and good public relations with energy, so should be continued under DEQ authority.

Position 2 - End tax credit program or transfer it to another agency for administration.

The program has outlived its usefulness since the purpose of helping industry retrofit to bring old facilities into compliance with DEQ standards has been accomplished. If there is a concern about promoting economic development through a tax credit program, such a program should be undertaken by another agency whose interest is in economic, rather than environmental concerns.

Position 3 - Continue tax credit program with modification of program purpose.

The following directions were suggested as possible focuses of the program.

- A. To promote improvement of the environmental quality above and beyond the DEQ standards by providing tax credits for pollution control devices which result in less emissions or effluent than DEQ standards require and by providing tax credit for control of pollution not presently regulated by DEQ standards.
 - B. To only allow tax credits for retrofitting of existing industries to meet new DEQ standards with new pollution control facilities or to upgrade existing pollution control facilities before they are fully amortized.
 - C. To target specific areas where new programs are generally being developed to promote voluntary compliance and public involvement (e.g. woodstoves, backyard burning).
- b. Suggested amendments to existing tax credit legislation.
1. Replacement facilities - Currently no tax credit is allowed for replacement of pollution control facilities previously given tax credits. This practice should continue. Additional tax credits for these facilities should only be given if upgrading is required.
 2. Qualify certain types of pollution control facilities and practices which presently do not qualify. There are certain types of pollution control facilities and practices which may not be eligible for tax credit under the "principal purpose" or "sole purpose" definition (i.e. garbage burners). These should be targeted and made eligible for tax credits under the statute.

Significant Issues

WORD PROCESSING

1. Issue: What direction should we pursue in the next five years with word processing?

Description: The Jacquard word processing equipment has been used by the Department for five years. It is one of the more advanced systems. There are word processing satellites with two operators on each floor.

Problem Areas: Although the Jacquard equipment is advanced the response time is often slow. Authors need to give realistic deadlines.

Product Desired: Recommendations on the following:

- a. Do we need new equipment?
- b. Should the present equipment be upgraded?
- c. Should there be two shifts?
- d. Should we look into microcomputers?

RECOMMENDATIONS:

- a. First priority is to assist the regional offices assess the need for memory typewriters/word processors. The Willamette Valley Region is currently looking into a microcomputer, which has word processing and data processing capabilities.

The present word processing equipment at Headquarters is adequate for our needs, but will need to be upgraded for additional memory.

b. Task Forces:

- (1) Is there justifiable need for authors to input own data into word processing equipment/microcomputer?
- (2) Microfiche for agency files.

c. Improve communications:

- (1) Send information to employes on Jacquard equipment capabilities.
- (2) Send memo to authors re: giving realistic deadlines; informing word processing coordinator of rush jobs requiring less than 8-hour turnaround.
- (3) Inform author when deadlines cannot be met.

Significant Issues

WORK LOAD LEVELING

2. Issue: Is work load leveling a problem?

Description: Each word processing satellite is responsible for the work for the entire floor. The work load of the satellites is unequal. Currently, the work load leveling is left up to the word processing coordinator of each floor. It is the responsibility of the coordinators to contact each other to offer or ask for assistance.

Problem Areas: The word processing coordinators do not contact each other as often as they should. Some word processing operators are given other duties such as filing or they take vacation leave while the other word processing operators have enough work that they can use help.

Product Desired: Recommendations on the following:

- a. If work load leveling is a problem, how can it be improved?
- b. Should there be one person responsible for coordinating the work between floors?
- c. Should we reorganize?

RECOMMENDATIONS:

- a. Leave current word processing organization as is (satellites). Authors are satisfied with the turnaround time they are receiving. They are not aware of any work load leveling problems.
- b. The word processing coordinators should meet on a regular basis and offer/request assistance more.

Significant Issues

DICTATION EQUIPMENT

3. Issue: What should be done with the dictation system?

Description: There are 11 endless loop recorders and one cassette recorder. Two or three recorders are assigned to each floor. The cassette recorder is used by everyone for priority dictation.

Problem Areas: There are approximately only 20 authors who use the dictation equipment.

Product Desired: Recommendations on the following:

- a. Should we cut back on the dictation equipment?
- b. Should we change to a different dictation system? What type?
- c. If we retain present system, how can we encourage utilization?

RECOMMENDATIONS:

- a. Keep present dictation system. The cost savings from eliminating a portion of the dictation equipment would be minimal. It is better to have the capability to expand.
- b. All authors cannot be forced to use the dictation equipment; but those authors who turn in illegible material should be encouraged to dictate.
- c. Offer dictation training on an individual basis to those authors who want it.

Significant Issues

MAIL ROOM/COPY CENTER

4. Issues: What direction should we pursue in the next five years in the mail room/copy center?

Description: There are two employes in the mail room/copy center. Mail is processed centrally. Large volumes (up to 15,000 units) and specialized photocopying such as reduction, cut and paste, etc. are done in the copy center.

Problem Areas: Some work orders are not filled out completely. More advance notice should be given for large mailings.

Product Desired: Recommendations on the following?

- a. Should we replace the Xerox 9200?
- b. Should we replace the convenience copiers?
- c. Should we get new mail handling equipment?
- d. Should there be changes in service?

RECOMMENDATIONS:

- a. Keep the Xerox 9200.
- b. Look into upgrading convenience copiers for better quality and different copying features for each copier.
- c. Look into acquiring a new folder/insertter.
- d. Send Ambience out to be mailed by Media Services. It would be less hassle for the mail room and would not be very costly.
- e. Look into the possibility of leaving the mail room open until 5:30 p.m.
- f. Look into finding an alternative to receptionist backup.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Mike Downs, Acting Director

DATE: December 22, 1983

FROM: Sue Payseno, Personnel *Sue*

SUBJECT: Goals and Objectives Summary

The significant issue before the Personnel subgroup was:

How can the Personnel staff enhance, improve and/or change the delivery of personnel service within the agency?

The Personnel Office is responsible for the management of personnel programs of the Department of Environmental Quality. These programs include employee relations, recruitment and selection, training and career mobility, affirmative action, safety, policy and procedure, personnel records and allocation. The Personnel staff is striving to provide resources and tools for the agency to meet personnel management responsibilities in these areas.

Several factors (such as changes in Personnel Managers, the total number of personnel staff and accompanying workload, as well as comments received from managers and employees) have contributed to the necessity to evaluate the delivery of personnel services at DEQ.

The product desired from the subgroup was:

1. Evaluation through discussion about current service delivery. Is the service delivery meeting the needs and requirements of individual sections or divisions? Specifically, what way(s) are those needs being met or not being met?
2. What do you believe the agency can do to assist personnel staff in development of recommendations, suggestions, ideas -- a plan as to how the personnel staff might help the agency and the agency help the personnel staff in service delivery?

Summary

The subgroup met and offered several general and specific perceptions regarding the delivery of Personnel services. They are:

- The Personnel Office does what we, managers, do not have time to do or that which we do not want to do.
- The Personnel Office is viewed as the enforcer.
- The Personnel Office is recognized as providing valuable tools for managers. However, the efforts of managers were not appreciated. Questions were raised over what is the objective of a specific task or procedure, for example, work plans and performance appraisals.

Goals and Objectives Summary

December 22, 1983

Page 2

Group members noted that the exchanges at times with the Personnel Office are often dictatorial in tone. Specifically, memos from Personnel are unclear. The purpose and content are subject to several interpretations.

Perceptions specific to program responsibilities were:

Affirmative Action

The group acknowledged this policy was in place; however, it appeared to have a low priority. A question was raised as to how managers are to implement the affirmative action policy.

Employee Relations

The perception exists that the Personnel Office is an advocate, a mediator and "someone to turn to" for direction and assistance for all employees. The Personnel Office was encouraged to publicize that role. However, there exist observations contrary to that -- the Personnel Office is one-sided, taking on management's position in employee relations discussions.

A general comment was offered that the employee termination process is lengthy and quite cumbersome to managers.

Safety

A general observation was made that relatively little is going on in this area. Greater safety awareness and visibility is needed with attention given to safety in the office, at spills, in the lab and in the regions.

Training

The subgroup noted a need for a policy and procedure that is clear and understandable. Generally, an emphasis must be placed on enhancing communication skills of all staff members and team-building. Professional and support staff were identified as employee groups in need of training workshops and seminars.

Career Mobility

An agency career mobility plan was unclear to participants of the group. A recommendation was made to enhance and improve the visibility and effectiveness of this effort.

Several recommendations for improving the delivery of Personnel Services were identified. The group suggested a clarification and identification of the role and responsibilities of the Personnel Office. Accompanying this clarification, a description of duties of the individual staff members and an identification of priorities of the Personnel Office were recommended. The group suggested emphasis on the subject of employee relations in describing the duties and responsibilities of the Personnel Office.

Of a general note, it was recommended that Personnel Office be direct and straightforward in communications. Specifically, in written communication, the group suggested clear identification of a memo's purpose, followed by a complete and understandable explanation. In relation to the communications from the Personnel Office, it was recommended that the staff be open and accessible to employees, as well as positive in emphasis and orientation.

General suggestions regarding the manner in which personnel services were delivered were offered. A "can do" attitude and an attitude of help and problem-solving were specifically encouraged. A general orientation of providing service, primarily one-on-one, was highly recommended. Largely, suggestions in this area were recognized as ongoing, with increased awareness of the agency's needs on a daily basis.

A second part of the service delivery improvement plan focused upon how the agency could provide assistance to the Personnel Office. Suggestions offered were:

- The Personnel staff conduct on-site visits to the agency's regional offices, the lab, and to employees' work locations. These visits are aimed to improve understanding and to create a greater awareness of specific jobs at DEQ. Ultimately, this effort would enhance employee relations efforts.
- When asking questions, employees are encouraged to provide all of the information surrounding the request as well as an identification of the purpose for which such information will be used. Both points regarding questions would provide the Personnel staff with a better understanding of what specific information is needed.

It was also suggested that managers identify again for all employees the location of all policy and procedure manuals; this identification would be the first step for employees in finding answers to questions.

- Agency managers were requested to submit completed staff work to the Personnel Office. Specifically, managers would assist the Personnel staff greatly if all requests or memos were accompanied by appropriate reference material and examples. Managers were encouraged to present problems, concerns and requests with recommendations for action.
- And, on a lighter note, consensus of the group was a request for a agency coffee shop. A meeting place that would be convenient, comfortable and compatible to conversation was determined to be needed. The group noted the current location was not particularly convenient or conducive to conversation.

Significant Issues

Data Processing

1. Issue: What services does the Data Processing (DP) Center provide?

Description:

Area 1 - Computer Operations - Highest priority service

Ensure that the hardware (the computer itself and all computer equipment) is operational.

Ensure that the system software (vendor's utilities and operating system programs) are operational according to their functions.

Submit all errors and malfunctions to the vendor in writing.

Assist users with their computer operational problems.

Area 2 - Systems and Programming

Priority 1:

Correct any problems as soon as possible that occur with any AQ computer applications which were brought in-house and adapted to the Harris Computer 1-1/2 years ago (except for AQ models, which are Pat Hanrahan's responsibility).

Priority 2:

Modify existing applications on Harris Computer on request from the division.

Define, design, develop and implement new computer applications or major enhancements to existing applications on request from the division. Requests are prioritized by the DEQ DP Management Committee. User involvement and commitment is essential during all phases of development.

Plan and schedule all work and activities according to time tables acceptable for request originators.

Identify manpower, equipment and software tool requirements to computerize any project upon request from the division.

Recommendations:

More effective user - DP staff team is needed to define computer applications and its requirements.

The DP staff is currently learning new techniques to enable them to be better members of the user - DP team. DP guidance will be more structured.

2. Issue: What roles do the DP Advisory and Management Committee play and who are on the committees?

Description:

The DP Advisory Committee is comprised of division representatives appointed by the respective administrators. It serves as a link between the DP Center and the DP Management Committee. Each member assists their administrator by explaining issues dealing with data processing and suggesting alternative courses of action.

The DP Management Committee is comprised of the Agency Director and Division Administrators. It makes decisions regarding DP issues and prioritizes new agency-wide computer DP programs and major enhancements to existing applications. The DP center follows those priorities.

Recommendations:

Division programs and subprograms should be actively involved in long-term planning of computer data processing needs.

The DP Advisory Committee members should inform their respective divisions about what is happening in the DP Computer Center and discuss DP Management/Advisory Committee meeting minutes at division staff meetings.

3. Issue: Why is the DP Center investigating new technology? Why is the DP staff not satisfied with available resources?

Description:

The DP staff is very satisfied with the computer equipment and technology purchased 2-1/2 years ago. The agency bought quality equipment and technology appropriate for the agency-known needs at that time. However, agency needs and expectations have increased substantially in those 2-1/2 years and have exceeded the capacity of our current equipment.

The DP staff has investigated and evaluated Data Base Management Systems (DBMS) available for the Harris Computer at the request of the WQ Division upon completion of defining their expectations for their recently designed source information system.

A DBMS is a software tool for DP staff and users that increases productivity.

The features and capabilities necessary for the WQ Source Information System cannot be provided at the present time because the DP Center does not have the right technology, expertise, and manpower available.

Recommendation:

Agency-wide long-term planning is needed to better estimate future DP software tools and equipment needs. The long-term plan should identify and define projects for computerization with required completion dates for DP agency-wide prioritization. Procedures have been developed to facilitate the DP long-term planning.

Significant Issues

POLLUTION CONTROL BOND FUND/SINKING FUND

1. Issue: What is the most effective method for managing the pollution control bond fund and sinking fund to ensure the solvency of the funds and their ability to meet the Associated Debt service requirements?

Background: At present both the water quality program and the solid waste program deal with potential demand and real demand for support from the bond fund separately. Some coordination occurs through efforts of agency management, but it is primarily reactionary rather than anticipatory.

Tracking of the numerous activities related to our sale of bonds and repayments thereof, as well as our bond purchases and loans and repayments to us is accomplished through several unrelated systems.

Potential demand is sketchy and difficult to pinpoint. Determining the timing of demand for funds on a coordinated basis and consequently the need for our sale of bonds is handled in a very loose, unstructured fashion.

Problem Areas:

Improving the system for anticipating potential demand.

Integrating the numerous systems which provide information fund balances, repayments, debt service, maturity schedules, total bond purchases and loans, etc.

Determining what financial instruments should be the vehicle for distributing the funds.

How to time sales and purchases to minimize potential arbitrage problems.

Product Desired: Recommendations on the following:

1. Improving the system for tracking potential demand.
2. Requirements of integrating the numerous components.
3. Whether or not instruments other than G.O. bonds (i.e. revenue bonds) should be purchased.
4. Timing and size of bond sales to minimize arbitrage impacts.
5. Tracking: improve communication within the agency. Review the existing list of potential borrowers quarterly. Due to the high degree of uncertainty of any particular entity pursuing borrowing through the election process, at any specific time, the process that is currently used is probably as good as can be developed.

6. Proceed with the integration of the numerous groups of information currently used for tracking the status of bond fund/sinking fund activity (i.e. maturity schedules, repayment schedules, debt service schedules, sinking fund analysis schedules).
7. E.Q.C. and legislative guidance at this time preclude use of any financial instrument other than G.O. bonds without special consideration.

Determine the status of the report commissioned from Pacific Economica on potential methods of financing pollution control facilities.

8. When possible, coordinate bond sales with equivalent bond purchases to eliminate time period during which interest being earned is different than interest cost being incurred.

When bond sales must be made without firm commitments from potential borrowers minimize the size of the sale.

Significant Issues

SOLID WASTE PERMIT FEES

2. Issue: Will the solid waste permit fees authorized by the 62nd Legislative session be implemented soon enough to generate sufficient revenue to meet the level required in the '83-'85 solid waste program budget?

Background: The solid waste program budget for the '83-'85 biennium assumed that a certain portion of the solid waste activity would be paid for with revenue generated by solid waste permit fees. Expenditures related to this activity would begin before any fee revenue is generated. The general fund would be used to subsidize these costs until revenue was collected. If the fee is not implemented in a timely manner, the solid waste program general fund will be overexpended.

Problem Areas:

Development of an acceptable fee schedule.

Timing of an emergency board request approving the recommended fee schedule.

Timely collection of the revenue.

Product Desired:

Status report on -

The work underway to finalize the fee schedule.

The need for and anticipated timing of an emergency board request.

The adequacy of the level of revenue to be generate .

Status:

1. The solid waste advisory committee is in the process of making final revisions to the fee schedule.
2. The emergency board request for approval of the fee schedule will be made later in the biennium.
3. Assurances were made that the revenue, under the approved fee schedule, would be adequate to cover those costs being subsidized by the general fund.

Significant Issues

OTHER

3. Issue: Several items that are and will continue to impact the operation of the agency during the '83-'85 biennium were discussed. They were as follows:

- A. Telecommunications
- B. Oil settlement (Warner) funds
- C. Capital outlay
- D. Operating budgets

A. Telecommunications

Problem - the state will be purchasing its own system to reduce the impact of rising costs. All agency telephone equipment and data lines will be replaced by the selected vendor. If the agency desires to end up with equipment (capabilities) different than what presently exists, then General Services must be advised of what our needs will be.

Recommendation - a task force should be formed with representatives from all divisions. Also, representatives from the Field Burning and Motor Vehicle Inspection sections of the air quality program should possibly be included. The task force would contact General Services and confirm a time frame for our responding to their need for information. The task force would then proceed to determine the agency's requirements.

B. Oil Settlement (Warner) Funds

Problem - incorporate the one time revenue from oil settlement funds into the agency's '83-'85 biennial budget and comply with the reporting requirements which must be met to qualify for the funds.

Recommendation - Proceed with completion of the agreement between DEQ and the Oregon Department of Energy, which will result in the transfer of the funds to DEQ. Determine the specific reporting requirements and disseminate the information to the air quality program (Woodstove activity) and the solid waste program (resource recovery, recycling, oil recycling activities)

C. Capital Outlay

Problem - the single item limit of \$100 is too low. The effort involved with controlling acquisitions of this size is too great for the amount of benefit derived.

Recommendation - try to change the limit to some higher level (e.g. \$500) by contacting General Services and seeing how receptive they might be to a change. Determine what the process (to bring about a change in the limit) would be if General

Services is receptive. Include sufficient capital outlay limitation in the budget during the preparation process.

D. Operating Budgets

Problem - monitoring budget performance without detailed without operating budget reports.

Recommendation - use the operating budget reports that are presently being used for each section of each program. These reports have been developed for most sections/divisions at this time by the Budget staff (Richard Lawrence) and will be updated quarterly.

Significant Issues

CONTRACT PROCEDURES

Issue: What process should be developed to coordinate contract procedures for the agency?

Background: The 1981 Legislature revised the personal service contracting statute (ORS 291.021) because it wanted, according to the Executive Department, structured procedures to be followed by agencies; competitive selection procedures; an accounting of dollars spent on contracts; to know if contractors are performing services historically performed by state employees; and to know the extent of contracting activity by each agency. As a result, the Executive Department revised the personal service contract rules.

The federal government has also recently revised contract and procurement rules. Accordingly, the DEQ's contract procedures must be updated to meet both state and federal requirements.

Problem Areas: Timing is critical. Currently contracts are written by program staff and sent to the Business Office for review. Coordination between all parties (program personnel, business office, Attorney General's office, and Executive Department) is needed.

Standard contract language has been modified and expanded and must be incorporated into all new contracts.

Product Desired: Recommendations on the following:

1. How best to coordinate procedures between programs, Business office, Attorney General's office and Executive Department.
2. Determination if all contracts and agreements should be treated in the same manner regardless of type or dollar amount.
3. Determination as to when Attorney General's office should be involved.

Recommendations:

The group quickly agreed on the need for coordination of the Department's contract procedures and that the business office should take the lead in formalizing existing procedures. To that end, the following activities were suggested and will be performed:

The Business Office will:

1. Solicit from each program an inventory of the contracts currently in effect;
2. Prepare a general checklist of procedures for program personnel to follow, including such things as timing requirements, both in-house and with the Attorney General's office and Executive Department; differences between types of contracts/agreements; etc.;
3. Prepare standardized contract language and put on word processing for easy access;
4. Provide a "fill-in-the-blanks" type worksheet for each program personnel to use when drafting contracts;
5. Review all contracts written and coordinate with the Attorney General's office and Executive Department; and
6. Establish a centralized contract tickler file to insure that all renewable contracts are processed timely.

Significant Issues

SPACE REQUIREMENTS

Issue: Are the agency's space requirements currently being satisfactorily met? Should we begin actively seeking new quarters?

Background: DEQ's current lease runs for an additional two years. Overall office vacancy rate in downtown Portland is approximately 25-30%.

We have received a number of complaints from other tenants about the DEQ's use of the 14th floor conference room and adjacent lobby space. Melvin Mark representatives have proposed that we move the conference room to space on the 6th floor which they would renovate.

Problem Areas: Storage space is limited. Some areas seem crowded; others do not. Complaints from other tenants regarding DEQ use of 14th floor conference room persist.

Product Desired: Recommendations on the following:

1. How vigorously should we be looking for new space at this time?
2. Should we consider renegotiating the lease at the Yeon Building?
3. Should we pursue the proposal to move the conference room to the 6th floor?
4. Should we redesign the existing space to more effectively utilize what we have?

Recommendations:

There was general agreement that the Yeon Building is adequate and that it is not advisable to seek a new location at this time. However, a consensus was reached that we can more effectively use the existing space. Therefore, it was proposed that a committee, with representation from each area, be established to do the following:

1. Work with Melvin Mark representatives to follow-up on their suggestion of renovating the 6th floor for a new conference room to replace the existing room on the 14th floor;
2. Consider finding a new location for the 7th floor lunchroom; and
3. Redesign existing space for better efficiency and more adequate storage.

Public Affairs 1983 Goals/Objectives Session

Outline Summary

I. Highest Public Affairs Priorities (not ranked)

- Spill Response
- Media Relations
- Public Information/Education
- Legislative Affairs

II. Program Recommendations

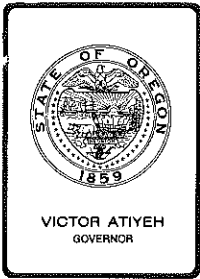
A. Existing Public Affairs Activities

- 1) Greater delegation of non-info rep work from info reps to Support staff
- 2) Develop guidelines for quality control on programs' written material for public distribution
- 3) Evaluate Ambience
 - reduce length of articles, increase number of articles
 - evaluate purpose of newsletter
 - combine with Beyond Waste ? or
 - distribute separate newsletters
 - review mailing list
 - target audiences
 - a) educators and educatees
 - b) legislators
 - c) local officials
 - d) interest groups
 - e) interested individuals
- 4) Continue the Daily Planet as is
- 5) Provide public speaking training to staff

B. New Public Affairs programs, activities, etc.

- 1) Seek commitment of resources from Water Quality program to Public Affairs
 - sludge, minimum stream flows, toxics, spill response, schools, public information and education
- 2) Place a new emphasis on schools
 - seek resources from each program to support an inter-program effort
- 3) Investigate value of The Party Line
 - One-page weekly memo to employees
 - highlighting key issues of the week
 - utilizing information for Governor's weekly Cabinet meeting

- 4) Enhance staff skill levels in the administration of Advisory Committees/Task Forces
 - 5) Backyard Burning
 - major Public Affairs impact anticipated
 - a) meeting notice
 - b) distribution of staff recommendation
 - c) response to media/public inquiries
 - d) public defense of Staff/EQC decisions
 - e) public notification of decision
 - f) public education of the need
 - g) public education/motivation of/to alternatives
 - h) etc.
 - immediate need to notify local Fire Districts of EQC action
 - next involvement pending completion of staff report
 - 6) Recycling
 - major Public Affairs workload anticipated
 - must work with local government
 - keep regional staff informed of activities planned for the region
 - 7) Potential Speakers' Bureau
 - Recycling
 - Woodstoves
 - Hazardous Waste
 - Videotape equipment needed for this effort
 - 8) Inform Department staff of functions and major activities of the Public Affairs section
 - 9) Seek alternative funding for short-term Public Affairs projects
- C) Workload/Resource balancing
- What current work should be terminated or reduced if necessary to provide for the new/expanded activities listed above???



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Agenda Item No. B, January 6, 1984, EQC Meeting
October and November 1983 Program Activity Reports

Discussion

Attached are the October and November 1983 Program Activity Reports.

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

Water Quality and Solid Waste facility plans and specifications approvals or disapprovals and issuance, denials, modifications and revocations of air, water and solid waste permits are prescribed by statutes to be functions of the Department, subject to appeal to the Commission.

The purposes of this report are:

1. To provide information to the Commission regarding the status of reported activities and an historical record of project plan and permit actions;
2. To obtain confirming approval from the Commission on actions taken by the Department relative to air contaminant source plans and specifications; and
3. To provide logs of civil penalties assessed and status of DEQ/EQC contested cases.

Recommendation

It is the Director's recommendation that the Commission take notice of the reported program activities and contested cases, giving confirming approval to the air contaminant source plans and specifications.

Michael J. Downs

CASplettstaszer:d
MD26
229-6484
Attachments



Contains
Recycled
Materials

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Reports

October and November 1983

Table of Contents

	<u>October</u> <u>Page</u>	<u>November</u> <u>Page</u>
<u>Air Quality Division</u>		
Summary of Plan Actions	1	24
Listing of Plan Actions Completed	2	25
Summary of Permit Actions	3	26
Listing of Permit Actions Completed	4	27
<u>Water Quality Division</u>		
Summary of Plan Actions	1	24
Listing of Plan Actions Completed	6	29
Summary of Permit Actions	10	31
Listing of Permit Actions Completed	11	32
<u>Solid Wastes Management Division</u>		
Summary of Plan Actions	1	24
Summary of Solid and Hazardous Waste Permit Actions	13	33
Listing of Solid Waste Permit Actions Completed	14	34
Listing of Hazardous Waste Disposal Requests	15	35
<u>Noise Control Section</u>		
Summary of Noise Control Actions	21	38
Listing of Noise Control Actions Completed	22	39
<u>Enforcement Section</u>		
Civil Penalties Assessed	23	40
<u>Hearings Section</u>		
Contested Case Log	41	41
1983 Appeals to EQC	44	44

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions
(Reporting Unit)

October 1983
(Month and Year)

SUMMARY OF PLAN ACTIONS

	<u>Plans Received</u>		<u>Plans Approved</u>		<u>Plans Disapproved</u>		<u>Plans Pending</u>
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	
<u>Air</u>							
Direct Sources	5	97	1	91	0	1	25
Small Gasoline Storage Tanks Vapor Controls	0	0	0	0	0	0	0
Total	5	97	1	91	0	1	25
 <u>Water</u>							
Municipal	14	58	22	68	1	1	9
Industrial	8	22	2	25	0	0	12
Total	22	80	24	93	1	1	21
 <u>Solid Waste</u>							
Gen. Refuse	1	9	2	9	0	0	6
Demolition	0	1	0	0	0	0	1
Industrial	2	4	3	4	0	0	2
Sludge	0	0	0	2	0	0	0
Total	3	14	5	15	0	0	9
 <u>Hazardous Wastes</u>							
	1	4	3	6	0	0	0
 <u>GRAND TOTAL</u>							
	31	195	33	205	1	2	55

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
DOUGLAS	921	D R JOHNSON LUMBER CO.	WELLONS FURNACE & COLLECTOR	10/13/83	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES				1	

20

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October, 1983
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	3	12	8	14	16		
Existing	2	5	2	5	14		
Renewals	30	62	8	40	106		
Modifications	<u>1</u>	<u>10</u>	<u>6</u>	<u>18</u>	<u>14</u>		
Total	36	89	24	77	150	1634	1664
<u>Indirect Sources</u>							
New	4	9	1	1	9		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>4</u>	<u>9</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>207</u>	<u>216</u>
<u>GRAND TOTALS</u>	40	98	25	78	159	1841	1880

Number of
Pending Permits

Comments

46	To be reviewed by Northwest Region
22	To be reviewed by Willamette Valley Region
24	To be reviewed by Southwest Region
4	To be reviewed by Central Region
12	To be reviewed by Eastern Region
21	To be reviewed by Program Operations Section
0	To be reviewed by Planning & Development Section
18	Awaiting Public Notice
<u>3</u>	Awaiting end of 30-day Notice Period
150	

MAR.5 (8/79)
AZ428

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL. PSEL
COLUMBIA	BOISE CASCADE PAPERS	05	1849	00/00/00 PERMIT ISSUED	09/29/83	MOD
DOUGLAS	GLIDE LUMBER PROD INC.	10	0021	00/00/00 PERMIT ISSUED	09/29/83	MOD
MULTNOMAH	SIMPSON TIMBER CO	26	3009	00/00/00 PERMIT ISSUED	09/29/83	MOD
POLK	DALLAS CO-OP	27	6019	00/00/00 PERMIT ISSUED	09/30/83	MOD
JACKSON	NORTHWOOD INC.	15	0044	00/00/00 PERMIT ISSUED	10/04/83	MOD
CLACKAMAS	ESTACADA ROCK PRODUCTS	03	1934	07/06/83 PERMIT ISSUED	10/05/83	RNW
CLACKAMAS	WILSONVILLE CONCRETE	03	2475	09/06/83 PERMIT ISSUED	10/05/83	RNW
DOUGLAS	SUN STUDS, INC	10	0030	03/29/83 PERMIT ISSUED	10/05/83	RNW
MARION	NEWBERG READY MIX COMPANY	24	3503	09/02/83 PERMIT ISSUED	10/05/83	RNW
MULTNOMAH	STEINER CORPORATION	26	3107	01/27/83 PERMIT ISSUED	10/05/83	NEW
POLK	VALLEY CONCRETE & GRAVEL	27	4093	08/03/83 PERMIT ISSUED	10/05/83	RNW
UNION	CRISSTAD ENTERPRISES INC	31	0036	06/29/83 PERMIT ISSUED	10/05/83	NEW
LINN	LESTER SHINGLE CO	22	7063	09/09/83 PERMIT ISSUED	10/06/83	RNW
BENTON	LEADING PLYWOOD CORP	02	2479	10/13/83 PERMIT ISSUED	10/14/83	MOD
DESCHUTES	MORELOCK WOOD PRDCTS INC	09	0069	07/18/83 PERMIT ISSUED	10/17/83	NEW
LINCOLN	MORSE BROS INC	21	0028	08/22/83 PERMIT ISSUED	10/17/83	RNW
WASHINGTON	C.W. HARRISON COMPANY	34	2656	05/23/83 PERMIT ISSUED	10/17/83	EXT N
PORT.SOURCE	CASCADE CRUSCHING INC	37	0260	05/23/83 PERMIT ISSUED	10/17/83	NEW
PORT.SOURCE	JEFFERSON COUNTY RD DEPT	37	0267	07/28/83 PERMIT ISSUED	10/17/83	NEW
PORT.SOURCE	TIDEWATER CONTRACTORS INC	37	0277	10/03/83 PERMIT ISSUED	10/17/83	RNW
PORT.SOURCE	EMPCO	37	0303	05/26/83 PERMIT ISSUED	10/17/83	NEW
PORT.SOURCE	AFAB, INC.	37	0305	06/22/83 PERMIT ISSUED	10/17/83	NEW
PORT.SOURCE	BAY VIEW TRANSITK MIX, IN	37	0306	07/07/83 PERMIT ISSUED	10/17/83	NEW
PORT.SOURCE	BRUNDIGE & POPKKE	37	0309	06/03/83 PERMIT ISSUED	10/17/83	EXT

TOTAL NUMBER QUICK LOOK REPORT LINES 24

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division	October, 1983
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Multnomah	Sandy/Parkrose Park & Ride Lot, 288 Spaces, File No. 26-8302	10/07/83	Final Permit Issued
-----------	--	----------	---------------------

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

PLAN ACTIONS COMPLETED 24

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

MUNICIPAL WASTE SOURCES 22

Lane	Veneta Babb's Center Sewer Extension	10/7/83	P.A.
Marion	Salem Fairview Industrial Park Interceptor Sewer	10/7/83	P.A.
Clackamas	Lake Oswego L.I.D. #211 Olson Avenue/Court	10/7/83	P.A.
Jackson	BCVSA Project No. 82-4 (Area North of Huener Lane)	10/7/83	P.A.
Clackamas	Tri-City S.D. McLean Properties Off-Site Sanitary Sewer	10/7/83	P.A.
Tillamook	Netarts-Oceanside S.D. Arthur Piculell Sewer Extension	10/7/83	P.A.
Lane	Creswell Lagoon Expansion Project	10/11/83	P.A.
Douglas	RUSA Sewer Extension West from N.W. Kline St.	10/25/83	P.A.
Douglas	RUSA Garden Terrace Subdivision Sewers	10/25/83	P.A.
Deschutes	Redmond Effluent Disposal System Modification Project	10/27/83	P.A.
Columbia	St. Helens Harper Lane Sewer Project	10/28/83	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Clackamas	Wilsonville Fairway Village Sanitary Sewers	10/28/83	P.A.	
Clackamas	Lake Oswego Kruse Way Plaza Sanitary Sewers	10/28/83	P.A.	
Polk	Monmouth, Oak Grove Estates-I Sanitary Sewers	10/28/83	P.A.	
Hood River	Hood River Sanitary Sewer District No. 2, Div. 15	10/28/83	P.A.	
Clackamas	Lake Oswego L.I.D. #212 Hoodview Lane	10/28/83	P.A.	
Jackson	Trail Christian Fellowship Church Septic System	10/28/83	P.A.	
Tillamook	Netarts-Oceanside Revised Sewer Plan for Lateral A-2.4.2.	10/31/83	P.A.	
Curry	Harbor Sanitary District Ocean View Mobile Estates Sewage Pump and Pressure Sewer	11/2/83	Rejected	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Clackamas	Clackamas Co. S.D. No. 6 (Fischer's Forest Park) Sanitary Sewer Improvements	11/2/83	P.A.	
Jackson	BCVSA White City/Medford Water Quality Control Plant Intertie	11/3/83	P.A.	
Wasco	Mosier Hypochlorinator Addition	11/4/83	P.A.	

P.A. = Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

PLAN ACTIONS COMPLETED 24

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

INDUSTRIAL WASTE SOURCES 2

Clackamas	PGE, Three Lynx Transformer Oil Level Alarms Clackamas	10-11-83	Approved
Jackson	PP & L, Oil Spill Containment System Medford	10-21-83	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	Fis.Yr.	Month	Fis.Yr.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
<u>Municipal</u>							
New	2 /2	3 /7	0 /2	3 /5	2 /7		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	4 /1	19 /7	4 /2	14 /7	36 /7		
Modifications	0 /0	0 /0	0 /0	0 /0	0 /0		
Total	6 /3	22 /14	4 /4	17 /12	38 /14	239/131	241/138
<u>Industrial</u>							
New	0 /2	3 /2	0 /1	0 /4	5 /4		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	3 /5	8 /11	3 /1	5 /4	37 /22		
Modifications	0 /0	1 /0	0 /0	0 /0	1 /0		
Total	3 /7	12 /13	3 /2	5 /8	43 /27	194/165	199/170
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 /0	0 /0	0 /0	0 /0	0 /0		
Existing	0 /0	0 /0	0 /0	0 /0	0 /0		
Renewals	0 /0	0 /0	0 /0	0 /0	0 /3		
Modifications	0 /0	0 /0	0 /0	0 /0	0 /0		
Total	0 /0	0 /0	0 /0	0 /0	0 /3	2 /14	2 /14
<u>GRAND TOTALS</u>	9 /10	34 /27	7 /6	22 /20	81 /44	435/310	442/322

* NPDES Permits

** State Permits

1 General Permit Granted

Number of sources under permit has been adjusted by subtracting the 306 General Permits.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1983
(Month and Year)

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES

NPDES (7)

Clackamas	SP Anodizing, Inc. Portland	10-13-83	Permit Renewed
Clackamas	Caffall Bros. Forest Products Inc. Oregon City	10-28-83	Permit Renewed
Multnomah	Centennial School Dist. Pleasant Valley School, STP	10-28-83	Permit Renewed
Clackamas	D & R Development Co. Mt. Hood Golf Club Terrace STP	10-28-83	Permit Renewed
Coos	City of Myrtle Point STP	10-28-83	Permit Renewed
Clackamas	City of Sandy STP	10-28-83	Permit Renewed
Coos	Weyerhaeuser Co. Container Board Division North Bend	10-28-83	Permit Renewed

MUNICIPAL AND INDUSTRIAL SOURCES - STATE

(6)

Deschutes	Oregon Water Wonderland Redmond, STP	10-25-83	Permit Renewed
Clackamas	UMCO Inc Liberal Plant	10-25-83	Permit Renewed
Deschutes	USDA, Deschutes National Forest, Redmond Air Center STP	10-25-83	Permit Issued
Lincoln	Whalers Rest at Lost Creek Depoe Bay, STP	10-25-83	Permit Issued

MAR.6 (5/79)

WG2701

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

October 1983

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES - STATE (Continued)

Clackamas	ZigZag Village Home Owners Assoc., STP	10-25-83	Permit Renewed
Multnomah	Alpenrose Dairy, Inc. Portland	10-28-83	Permit Issued

MUNICIPAL AND INDUSTRIAL SOURCES GENERAL PERMITS (1)

Seafood Processing, Permit 0900J, File 32585 (1)

Coos	ORCA, Pacific Products, Inc. Charleston	10-17-83	General Permit
------	---	----------	----------------

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 1983
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	1	3	1	2	1		
Existing	-	-	-	-	-		
Renewals	-	4	-	3	7		
Modifications	-	3	-	4	1		
Total	1	10	1	9	9	174	174
<u>Demolition</u>							
New	-	-	-	-	-		
Existing	-	-	-	-	-		
Renewals	1	3	-	-	3		
Modifications	1	1	-	-	1		
Total	2	4	0	0	4	17	17
<u>Industrial</u>							
New	-	1	1	1	3		
Existing	-	-	-	-	-		
Renewals	3	4	-	1	14		
Modifications	-	-	-	-	-		
Total	3	5	1	2	17	103	103
<u>Sludge Disposal</u>							
New	-	-	-	-	-		
Existing	-	-	-	-	-		
Renewals	-	6	1	3	3		
Modifications	-	-	-	1	-		
Total	0	6	1	4	3	16	16
<u>Hazardous Waste</u>							
New	-	-	-	1	5		
Authorizations	82	454	82	454	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	82	454	82	455	6	13	18
<u>GRAND TOTALS</u>	88	479	85	470	39	323	328

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division	October 1983
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Lane	Bloomberg Sludge Site Existing facility	9/22/83*	Letter authorization renewed	
Lane	McKenzie Bridge T.S. New transfer station	10/28/83	Permit issued	
Yamhill	Publishers, Newberg New landfill	10/28/83	Permit issued	

* Not reported for September

SC1289.D
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 1983
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

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

TOTAL DISPOSAL REQUESTS GRANTED - 82

OREGON - 17

9/26	Sulfuric acid solution	Electronic co.	--	20 drums	
9/26	Caustic electroless copper solution	" "	--	1,000 gal.	
9/30	Salt bath containing sodium and barium chloride	Metal fabrication	--	10 drums	
9/30	2,4-D, MCPP and MCPA contaminated materials	Herbicide mfg.	--	10 to 20 drums	
9/30	Herbicide manuf. waste containing 2,4-D and MCPA	" "	--	30 drums	
9/30	PCB transformers	Fed. facility	390 gal.	--	
9/30	Dilute solution of tetrachlorophenol in water	Lumber co.	--	750 gal.	
9/30	Tetrachlorophenol contaminated filters and gloves	" "	--	500 lb.	
9/30	Decanted gasoline fraction	Oil co.	--	40 drums	
10/4	Outdated chromium compound product	Chemical co.	--	22 drums	

* Date *	Type	Source	Present	Quantity Future
10/4	Sodium dichromate water treatment chemical	Chemical co.	--	4 drums
10/4	PCB capacitors	Electric util.	--	3,000 lb.
10/10	Paint sludge	Paint mfg.	--	1,000 gal.
10/10	Petroleum slack wax	Transportn. co.	--	25 drums
10/10	Chrome sludge	Electroplating	10 drums	--
10/24	PCB-contaminated solids	Electric util.	--	25 drums
10/24	Transformer fluids with less than 500 ppm PCBs	" "	--	25 drums

WASHINGTON - 54

9/26	Spent electrolytic pot lining	Aluminum smelting	--	1,950 tons
9/27	Silane-contaminated lube oil	Silane prod.	--	5 to 20 drums
9/27	Calcium fluoride filter cake	Polysilicon etching	--	100 drums
9/29	Soil fumigant Vapam	Local gov't agency	20 gal.	--
9/29	Herbicide Diquate	" "	20 gal.	--
9/29	Weather shield chemical	" "	20 gal.	--
9/29	Wetting agent	" "	1 drum	--
9/29	Diazinon insecticide	" "	10 gal.	--
9/29	Growtard - 29% ethano- lamine	" "	27 gal.	--
9/29	UL 244 - 9% 2,4-D	" "	1 drum	--
9/29	Selective Weed Killer 16% 2,4-D	" "	40 gal.	--
9/29	Vegikill - 1% 2,4-D	" "	40 gal.	--

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* *
	9/29	Zep Weed Killer - 40% ammonium sulfamate	Local gov't agency	40 gal.	--	
	9/27	Methylene chloride sludge	Electronic co.	--	7,500 gal.	
	9/27	Lead-contaminated organic acid containing IPA	" "	--	500 gal.	
	9/27	Lead-contaminated tinning fluid/soldering oil	" "	--	1,000 gal.	
	9/29	Ink sludge	Ink mfg.	--	12 drums	
	9/29	PCB transformers	Electric util.	--	25 units	
	9/30	Corrosive liquid	City gov't.	55 gal.	--	
	10/4	Transformers containing liquids with less than 500 ppm PCBs	Oil co.	6 cu.ft.	--	
	10/4	Transformers containing liquids with greater than 500 ppm PCBs	" "	16 cu.ft.	--	
	10/6	Solvents and organic reagents in lab packs	Fed. laboratory	1 drum	--	
	10/6	Organic acids in lab pack	" "	1 drum	--	
	10/6	Toxic organic reagents in lab packs	" "	1 drum	--	
	10/6	Ethion-contaminated rinse water	Pesticide formulation	2,400 gal.	--	
	10/12	Acid cleaner solution	Electronic co.	--	200 drums	
	10/12	Caustic film stripping solution	" "	--	100 drums	
	10/12	Sulfuric acid solder stripping solution	" "	--	50 drums	
	10/12	98% H ₂ SO ₄ etch solution	" "	--	300 drums	

* * Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* *
10/12	Sodium chlorite/NaOH solution	Electronic co.	--	50 drums	
10/12	2% acid cleaner soln.	" "	--	100 drums	
10/12	Ammonium persulfate solution	" "	--	200 drums	
10/12	Ammonium bifluoride/HCl solution	" "	--	200 drums	
10/12	Copper cleaner conditioner with monoethanolamine	" "	--	150 drums	
10/12	Ethanolamine/glycol ether solution	" "	--	100 drums	
10/12	Nitric acid solution	" "	--	200 drums	
10/12	Caustic-formaldehyde solution	" "	--	200 drums	
10/12	Lead fluoborate soln.	" "	--	100 drums	
10/12	Muriatic acid	" "	--	50 drums	
10/12	Stannous chloride/HCl solution	" "	--	50 drums	
10/12	Sulfuric acid/H ₂ O ₂ solution	" "	--	100 drums	
10/12	CuSO ₄ /H ₂ SO ₄ /HCl soln.	" "	--	150 drums	
10/17	PCB transformers	Copper smelting	--	2 units	
10/17	PCB liquids	" "	--	14 drums	
10/17	Drained PCB transfor.	" "	--	8 units	
10/18	PCB capacitors	Elect. maint.	--	1 drum	
10/18	Misc. lab chemicals	Chem. lab	--	4 drums	
10/18	Spent acetonitrile HPLC containing CH ₃ OH, CH ₃ CN, p-dioxane, water	University research lab	--	5 drums	
10/21	Agitene metal cleaning solvent	Chemical co.	--	1 drum	

* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Date	Type	Source	Present	Quantity	Future		
10/21	Lead-contaminated soil	Chemical co.	--	10 drums			
10/21	Clothing and plastic articles contaminated with chlorinated hydrocarbons	" "	--	5 drums			
10/21	Chlorinated hydrocarbons contaminated insulation	" "	--	5 drums			
10/21	Outdated chemical reagents in lab pack	" "	--	1 drum			
10/21	Outdated lab reagents in lab pack	" "	--	1 drum			
OTHER STATES - 11							
9/26	Sump water contaminated with xylene and oil	Shipyard (HI)	--	100 drums			
9/27	Solder flux containing organic acids and IPA	Electronic co. (ID)	--	770 gal.			
9/27	Mixed solvents of xylene, aryl alcohol, butyl cellosolve, stoddard solvent and paraffins	" "	---	800 gal.			
9/27	Disc grinding fluid of mineral oil, fatty acids, organic esters and kerosene	" "	--	100 gal.			
9/27	Tri-acid bath consisting of HF, HNO ₃ , and H ₂ SO ₄	" "	--	600 gal.			
9/27	Solder flux tinning fluid polyglycol ether	" "	--	1,000 gal.			
10/6	Caustic water with Hg, Zn and Cu	Grain lab (B.C.)	4 drums	50 drums			
10/6	Electrocleaner sludge 80% caustic	Mfg. of glass containers (B.C.)	--	4 drums			

* * *	* Date *	* Type *	* Source *	* Present *	* <u>Quantity</u> * Future *	* *
	10/18	Salt water containing 2,000 ppm sodium chromate	Construction (B.C.)	20 drums	--	
	10/24	Various pesticides	Ag. research (MT)	8 drums	--	
	11/3	Dilute hydrochloric acid	Copper electro- plating (Edmonton, Alberta)	10 drums	--	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

October, 1983
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	7	44	2	33	124	119
Airports	0	0	1	5		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program

October, 1983

(Reporting Unit)

(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Lincoln	M.Kaufman Crushing, Inc. Kernville	10/83	In Compliance
Marion	Walling Sand & Gravel Salem	10/83	In Compliance
Klamath	Barnes Valley Airport Klamath County	10/83	Boundary Approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1983

CIVIL PENALTIES ASSESSED DURING MONTH OF OCTOBER, 1983:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Clearwater Industries, Inc. Multnomah and Washington Counties	SS-NWR-83-82 Performing sewage disposal services without a DEQ license.	10-5-83	\$1,000	Hearing request and answer filed on 10-11-83.
Comco Construction, Oreg. Ltd. dba/Salem Road & Driveway Co. Cascade Locks, Oregon	WQ-NWR-83-86 Breached containment dike and discharged turbid and oily waste water into Columbia River.	10-25-83	\$2,500	Paid 10-28-83.

Other Significant Actions Issued in October:

<u>Name and Location of Violation</u>	<u>Type of Violation</u>	<u>Date Issued</u>	<u>Status</u>
McInnis Enterprises, Ltd., dba/Shultz Sanitation Portland, Oregon	Notice of Intent to Revoke Sewage Disposal Service License No. 33290P-5 for improper disposal of sewage pumpings and other violations of OAR Chapter 340, Division 71.	10-13-83	Hearing request and answer filed on 10/25/83.

VAK:b
GB2754

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Division
(Reporting Unit)

November 1983
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	
<u>Air</u>							
Direct Sources	6	103	11	102	0	1	20
Small Gasoline							
Storage Tanks							
Vapor Controls	0	0	0	0	0	0	0
Total	6	103	11	102	0	1	20
<u>Water</u>							
Municipal	14	72	5	73	1	2	16
Industrial	3	25	8	33	0	0	7
Total	17	97	13	106	1	2	23
<u>Solid Waste</u>							
Gen. Refuse	6	15	1	10	0	0	10
Demolition	2	3	2	2	0	0	1
Industrial	0	4	0	4	0	0	2
Sludge	1	1	1	3	0	0	0
Total	9	23	4	19	0	0	13
<u>Hazardous Wastes</u>	0	4	0	6	0	0	0
<u>GRAND TOTAL</u>	32	227	28	233	1	3	56

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

November, 1983
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	1	13	2	16	14		
Existing	1	6	0	5	14		
Renewals	26	87	11	51	122		
Modifications	<u>0</u>	<u>10</u>	<u>1</u>	<u>19</u>	<u>13</u>		
Total	28	116	14	91	163	1636	1666
<u>Indirect Sources</u>							
New	1	10	4	5	6		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>1</u>	<u>10</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>211</u>	<u>217</u>
<u>GRAND TOTALS</u>	29	126	18	96	169	1847	1883

Number of
Pending Permits

Comments

42	To be reviewed by Northwest Region
28	To be reviewed by Willamette Valley Region
23	To be reviewed by Southwest Region
2	To be reviewed by Central Region
13	To be reviewed by Eastern Region
28	To be reviewed by Program Operations Section
19	Awaiting Public Notice
<u>8</u>	Awaiting end of 30-day Notice Period
163	

MAR.5 (8/79)
AZ456

DEPARTMENT OF ENVIRONMENTAL QUALITY
 AIR QUALITY DIVISION
 MONTHLY ACTIVITY REPORT
 DIRECT SOURCES
 PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL.	PSEL
KLAMATH	HENDERSON MILLWORK	18	0028 08/03/83	PERMIT ISSUED	10/25/83	RNW	
LINN	MORSE BROTHERS INC	22	4033 10/11/83	PERMIT ISSUED	10/23/83	RNW	
MULTNOMAH	FREIGHTLINER CORP	26	3106 12/15/82	PERMIT ISSUED	11/01/83	NEW	
PORT.SOURCE	WINDSOR ISLD SAND & GRVL	37	0169 05/29/83	PERMIT ISSUED	11/01/83	RNW	
DOUGLAS	BOHEMIA LGR BOLON ISLAND	10	0039 03/02/83	PERMIT ISSUED	11/10/83	RNW	
MULTNOMAH	EMANUEL HOSPITAL	26	1803 10/11/83	PERMIT ISSUED	11/10/83	RNW	
JACKSON	WINKLEMAN OIL CO.	15	0141 09/15/83	PERMIT ISSUED	11/16/83	NEW	
CLACKAMAS	PORTABLE EQUIPMENT SLVG	03	2079 08/01/83	PERMIT ISSUED	11/21/83	RNW	
CURRY	PACIFIC READY MIX	08	0021 10/18/82	PERMIT ISSUED	11/22/83	RNW	
LAKE	DAME LUMBER & MOULDING CO	19	0005 07/01/83	PERMIT ISSUED	11/22/83	RNW	
PORT.SOURCE	WEATHERS CRUSHING	37	0210 09/09/83	PERMIT ISSUED	11/22/83	RNW	
MULTNOMAH	HOLY REDEEMER CHURCH	26	2781 10/24/83	PERMIT ISSUED	11/23/83	RNW	
MULTNOMAH	CONTAINER CORP OF AMERICA	26	2797 10/26/83	PERMIT ISSUED	11/23/83	RNW	
POLK	BOISE CASCADE CORP	27	4078 07/26/83	PERMIT ISSUED	11/23/83	MOD	

TOTAL NUMBER QUICK LOOK REPORT LINES 14

27

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit)	November, 1983 (Month and Year)
--	------------------------------------

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Washington	Cornell Road - East Main to Hillsboro ECL, File No. 34-8303	11/28/83	Final Permit Issued	
Washington	Sunset Hwy - Beaverton/ Tigard Hwy Interchange, File No. 34-8304	11/29/83	Final Permit Issued	
Washington	Tualatin Valley Hwy - SW 185th Interchange, File No. 34-8305	11/29/83	Final Permit Issued	
Multnomah	Highland Fair Center, 307 Spaces, File No. 26-8306	11/22/83	Final Permit Issued	

MAR.6 (5/79)
AZ459

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

November 1983
(Month and Year)

PLAN ACTIONS COMPLETED 14

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

MUNICIPAL WASTE SOURCES 6

Umatilla	Milton-Freewater Seaquist Subdivision Sewers, Second Phase	11-9-83	P.A.
Clatsop	Gearhart Clubhouse Condos Alternate Septic Tank Construction Method	11-14-83	P.A.
Clackamas	Subsurface Sewage Plans Rolling Hills Community Church	11-22-83	Rejected
Grant	John Day Industrial Utility Sewer Extensions	11-25-83	P.A.
Multnomah	Central County S.D. Russellville Pump Station	11-25-83	P.A.
Clatsop	Sports Acres R.V. Park Revised Construction Plans Eighteen Subsurface Systems	12-2-83	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

November 1983
(Month and Year)

PLAN ACTIONS COMPLETED 14

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

INDUSTRIAL WASTE SOURCES 8

Josephine	Spalding & Sons, Inc. Pentachlorophenol Dip Control System Grants Pass	11-1-83	Approved	
Clackamas	Bakana Management, Inc. Rabbit Processing Waste Water Disposal System	11-3-83	Approved	
Benton	Evans Products Nutrient Metering System Corvallis	11-7-83	Approved	
Linn	National Fruit Canning Co. Pump Station, Holding Pond, and Irrigation Site Albany	11-8-83	Approved	
Lane	Swanson Brothers Lmbr. Co. Filling Old Log Pond Noti	11-10-83	Approved	
Washington	Delta Engineering & Mfg. Metals Pretreatment System, Portland	11-18-83	Approved	
Washington	Intel Corp. pH Neutralization System Aloha	11-18-83	Approved	
Washington	Permapost Co. Concrete Drip Pad, Sump and Pumps Aloha	11-21-83	Approved	

MAR.3 (5/79) WG3019

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

November 1983
(Month and Year)

SUMMARY OF WATER PERMIT ACTIONS

	Permit Actions Received				Permit Actions Completed				Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits	
	Month		Fis. Yr.		Month		Fis. Yr.					
	*	**	*	**	*	**	*	**				
<u>Municipal</u>												
New	0	/0	3	/7	0	/0	3	/5	2	/7		
Existing	0	/0	0	/0	0	/0	0	/0	0	/0		
Renewals	4	/2	23	/9	0	/0	14	/7	40	/9		
Modifications	0	/1	0	/1	0	/1	0	/1	0	/0		
Total	4	/3	26	/17	0	/1	17	/13	42	/16	237/131	239/138
<u>Industrial</u>												
New	0	/0	3	/2	2	/0	2	/4	3	/4		
Existing	0	/0	0	/0	0	/0	0	/0	0	/0		
Renewals	2	/2	10	/13	4	/0	9	/4	35	/25		
Modifications	1	/0	2	/0	0	/0	0	/0	2	/0		
Total	3	/2	15	/15	6	/0	11	/8	40	/29	196/164	199/168
<u>Agricultural (Hatcheries, Dairies, etc.)</u>												
New	0	/0	0	/0	0	/0	0	/0	0	/0		
Existing	0	/0	0	/0	0	/0	0	/0	0	/0		
Renewals	0	/0	0	/0	0	/0	0	/0	0	/3		
Modifications	0	/0	0	/0	0	/0	0	/0	0	/0		
Total	0	/0	0	/0	0	/0	0	/0	0	/3	2 /11	2 /11
<u>GRAND TOTALS</u>	7	/5	41	/32	6	/1	28	/21	82	/48	435/306	440/317

* NPDES Permits

** State Permits

2 General Permits Granted

Number of sources under permit adjusted by subtracting 308 General Permits and deleting 4 permits which had expired.

MAR.5W (8/79) WG2986

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

November 1983
(Month and Year)

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES NPDES (6)

Curry	Port of Gold Beach Gold Beach Sea Foods, Inc.	11-17-83	Permit Renewed
Linn	Willamette Industries, Inc. Duraflake Division Albany	11-17-83	Permit Renewed
Coos	Union Oil Co. of CA Coos Bay Terminal	11-30-83	Permit Renewed
Clatsop	Crown Zellerbach Corp. Wauna Division	11-30-83	Permit Renewed
Coos	Oregon International Port of Coos Bay Graving Dock	11-30-83	Permit Issued
Multnomah	Western Pacific Const. Materials Co. Portland	11-30-83	Permit Issued

MUNICIPAL AND INDUSTRIAL SOURCES MODIFICATIONS (1)

Lane	Lane County Housing Auth. and Community Services Dexter Park	11-16-83	Modified Schedule B
------	--	----------	---------------------

MUNICIPAL AND INDUSTRIAL SOURCES GENERAL PERMITS (2)

Filter Backwash, Permit 0200J, File 32555 (1)

Douglas	City of Drain WTP	11-3-83	General Permit Granted
---------	----------------------	---------	---------------------------

Gold Mining, Permit 0600, File 32580 (1)

Jackson	Morgan G. Holloman Wolf Creek	11-15-83	General Permit Granted
---------	----------------------------------	----------	---------------------------

MAR.6 (5/79)

WG2701

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

November 1983
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	3	6	-	2	4		
Existing	-	-	-	-	-		
Renewals	2	6	-	3	9		
Modifications	-	3	1	5	-		
Total	5	15	1	10	13	174	174
<u>Demolition</u>							
New	2	2	2	2	-		
Existing	-	-	-	-	-		
Renewals	-	3	-	-	3		
Modifications	-	1	1	1	-		
Total	2	6	3	3	3	17	17
<u>Industrial</u>							
New	-	1	1	2	2		
Existing	-	-	-	-	-		
Renewals	-	4	2	3	12		
Modifications	-	-	-	-	-		
Total	0	5	3	5	14	104	104
<u>Sludge Disposal</u>							
New	-	-	-	-	-		
Existing	-	-	-	-	-		
Renewals	-	6	-	3	3		
Modifications	-	-	-	1	-		
Total	0	6	0	4	3	16	16
<u>Hazardous Waste</u>							
New	1	1	1	2	5		
Authorizations	39	493	39	493	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	40	494	39	494	6	14	19
<u>GRAND TOTALS</u>							
	47	526	46	516	39	325	330

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit)	November 1983 (Month and Year)
--	-----------------------------------

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Klamath	Langell Valley Existing landfill.	11-3-83	Permit amended.	*
Klamath	Weyerhaeuser, Klamath Falls Existing landfill.	11-3-83	Permit renewed.	*
Lane	Oakridge Existing landfill.	11-3-83	Permit amended.	*
Linn	Freres Lumber Co. New landfill.	11-3-83	Permit issued.	*
Tillamook	Crown Zellerbach Hallinan Road landfill. Existing facility.	11-3-83	Permit renewed.	*
Lincoln	Oregon Highway Division New landfill.	11-22-83	Letter authorization issued.	*
Lincoln	Mervin Ropp New landfill.	11-22-83	Letter authorization issued.	*

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

November 1983
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

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

TOTAL DISPOSAL REQUESTS GRANTED - 39

OREGON - 12

11/9	Transformers containing coolants with 50 to 500 ppm PCBs	Electric util.	1,382 gal.	0	
11/16	Caustic sludge containing KOH, NaOH, sand and water	Site cleanup	20,000 gal.	0	
11/16	Ethyl alcohol-contaminated sand	" "	50 drums	0	
11/16	Caustic solids with sand	" "	600 drums	0	
11/16	Sand/dirt contaminated with caustic and alcohol	" "	40 tons	0	
11/16	Caustic-contaminated containers	" "	100 empty drums	0	
11/16	Caustic sludge with sand and a proprietary chemical	" "	600 drums	0	
11/18	PCB-contaminated articles	Al smelting	10 drums	10 drums	
11/18	PCB-contaminated hydraulic oil	" "	4 drums	4 drums	
11/21	Contaminated phenol	Chemical co.	20 gal.	0	
11/21	Phenol-contaminated debris	Spill cleanup	10 cu.yd.	0	

SC1317.E

MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
11/21	Sawdust contaminated with polyether polyol and diphenylmethane diisocyanate	" "	7 drums	0	
WASHINGTON - 16					
11/16	Chlorate sludge with 2,000 ppm Cr ⁺⁶	Chemical co.	4,000 gal.	0	
11/16	Sand and gravel mixed with phenolic tar	" "	1,000 cu.yd.	0	
11/16	Caustic XL camera plate developer and activator	Photoprinting	0	440 gal.	
11/16	Float coat oil-contaminated sand and adsorbent materials	Spill cleanup	0	20 cu.yd.	
11/17	Cleaning solvent: methylene chloride, methyl alcohol, ammonia and phenol	Metal fabricat.	0	500 gal.	
11/17	Cleaning solvent: acetone, toluene, methylene chloride with chlorinated hydrocarbon	Industrial fiberglass mfg.	0	2,000 gal.	
11/17	Urethane Foam Part B	Mat'l. found on co. property	1 drum	0	
11/17	Urethane Foam Part A	" "	4 drums	0	
11/17	Latex paint sludge	Paint mfg.	0	1,500 gal.	
11/18	Heavy metal-contaminated sand, gravel and water	EPA	550 gal.	0	
11/18	PCB capacitors	Wood production	0.3 cu.yd.	0	
11/18	Mixed solvents, acetone, ethanol, methanol, benzene, xylene, etc.	Chemical co.	0	400 gal.	
11/18	Isocyanates (Urethane Foam Component A)	" "	0	100 gal.	

SC1317.E
MAR.15 (1/82)

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* *
	11/18	PCB-contaminated mat'l.	Al rod rolling mill	0	168 drums	
	11/21	PCB capacitors and contaminated solids	Paper co.	2,000 lb.	0	
	11/23	Gasoline tank bottoms	Oil co.	5,500 gal.	5,500 gal.	
OTHER STATES - 11						
	11/9	Mixed acids: chromic, hydrofluoric and nitric	Anodized Al products (B.C.)	17 drums	17 drums	
	11/17	Decontaminated PCB transformers	Paper co. (MT)	8 units	0	
	11/17	Liquids with over 500 ppm PCBs	" "	15 drums	0	
	11/17	PCB-contaminated dirt, rags, etc.	" "	2 drums	0	
	11/17	Flushing solvent with over 500 ppm PCBs	" "	13 drums	0	
	11/17	Leaky PCB capacitor	" "	1 drum	0	
	11/17	PCB transformer	" "	1 unit	0	
	11/21	PCB capacitors and contaminated solids	" "	2,000 lb.	0	
	11/21	Empty pesticide container	Chemical co. (HI)	7.4 cu.ft.	0	
	11/21	Mineral oil with less than 500 ppm PCBs	Mfg. of mining equipment (ID)	2 drums	0	
	11/21	PCB-contaminated cleanup materials	" "	1 drum	0	

SC1317.E
MAR.15 (1/82)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

November, 1983
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	6	50	3	36	127	124
Airports			1	6		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program	November, 1983
(Reporting Unit)	(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	* * Name of Source and Location	* * Date	* * Action
Multnomah	Rub-A-Dub Wash, SE 10th & Powell Portland	11/83	No Violation
Douglas	Jeffries Timber, Canyonville	11/83	Source Closed
Josephine	Southwest Forest Industries, #4, Grants Pass	11/83	In Compliance
Lane	Western Lane Hospital Helistop, Florence	11/83	Exception Approved

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1983

CIVIL PENALTIES ASSESSED DURING MONTH OF NOVEMBER, 1983:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Chick Sales Co. Umatilla County	SS-ER-83-88 Performing sewage disposal services without a DEQ license.	11-1-83	\$1,000	Default Order and Judgment issued on 12-9-83.
Arthur L. Griffiths dba/Valley Septic Service Multnomah County	SS-NWR-83-98 Constructed an on-site sewage system without obtaining a permit.	11-10-83	\$ 500	In default 12-15-83.
R. B. Browns Trucking Co. Jackson County	AQOB-SWR-83-100 Open burned commercial waste.	11-10-83	\$ 100	Paid 11-14-83.

GB2823

OCTOBER-NOVEMBER 1983
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	5	5
Discovery	1	0
Settlement Action	1	3
Hearing to be scheduled	6	5
Hearing scheduled	2	0
HO's Decision Due	5	4
Briefing	0	1
Inactive	4	4
SUBTOTAL of cases before hearings officer.	<u>24</u>	<u>22</u>
HO's Decision Out/Option for EQC Appeal	0	2
Appealed to EQC	0	0
EQC Appeal Complete/Option for Court Review	0	0
Court Review Option Pending or Taken	0	0
Case Closed	3	4
TOTAL Cases	<u>27</u>	<u>28</u>

15-AQ-NWR-81-178 15th Hearing Section case in 1981 involving Air Quality Division violation in Northwest Region jurisdiction in 1981; 178th enforcement action in the Department in 1981.

§ Civil Penalty Amount

ACDP Air Contaminant Discharge Permit

AGL Attorney General 1

AQ Air Quality Division

AQOB Air Quality, Open Burning

CR Central Region

DEC Date Date of either a proposed decision of hearings officer or a decision by Commission

ER Eastern Region

FB Field Burning

FWO Frank Ostrander, Assistant Attorney General

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

Hrngrs Hearings Section

LMS Larry Schurr, Enforcement Section

NP Noise Pollution

NPDES National Pollutant Discharge Elimination System wastewater discharge permit.

NWR Northwest Region

OSS On-Site Sewage Section

P Litigation over permit or its conditions

Prtys All parties involved

RLH Robert L. Haskins, Assistant Attorney General

Rem Order Remedial Action Order

Resp Code Source of next expected activity in case

SS Subsurface Sewage (now OSS)

SW Solid Waste Division

SWR Southwest Region

T Litigation over tax credit matter

Transcr Transcript being made of case

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

VAK Van Kollias, Enforcement Section

WQ Water Quality Division

WVR Willamette Valley Region

CONTES.B

October-November 1983

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78	RLH		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78	RLH		Prtys	03-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
M/V TOYOTA MARU No. 10	12/10/79	12/12/79	RLH		Prtys	17-WQ-NWR-79-127 Oil Spill Civil Penalty of \$5,000	<u>Attorneys to report on settlement posture by 12/20/83.</u>
PULLEN, Arthur W. dba/Foley Lakes Mobile Home Park	07/15/81	07/15/81	RLH		Prtys	16-WQ-CR-81-60 Violation of EQC Order, Civil Penalty of \$500	Dept. does not wish to actively pursue further enforcement action pending expected progress in establishing a community sewage facility.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	LMS	03/17/83	Hrngrs	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	Decision due.
PULLEN, Arthur dba/Foley Lakes Mobile Home Park	03/16/82	03/29/82	RLH		Prtys	28-WQ-CR-82-16 Violation of EQC Order, Civil Penalty of \$4,500	See companion case above.
OLINGER, Bill Inc.	09/10/82	09/13/82	RLH	<u>10/20-21/83</u> <u>11/2-4/83</u> <u>11/14-15/83</u>	Resp	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	<u>Post-hearing legal issues (privilege).</u>
TOEDTMEIER, Norman	09/10/82	09/13/82	LMS	07/14/83	Hrngrs	34-AQOB-WVR-82-65 OB Civil Penalty of \$250	Decision due.
SYLER, Richard E.	09/20/82	09/28/82	VAK	05/24/83	Hrngrs	35-AQOB-WVR-82-76 OB Civil Penalty of \$100.	Decision due.
TIPPET, James	12/02/82	12/06/82	LMS	09/15/83	<u>Prtys</u>	39-AQ-FB-82-AG1 Ag. Burning Civil Penalty of \$50	<u>Decision issued 12/9/83. Appeal to EQC due 1/9/84.</u>
GIANELLA, Vermont	12/17/82	12/28/82	VAK	09/20/83	Hrngrs	41-AQ-FB-82-08 FB Civil Penalty of \$1,000	Decision due.
SCHLEGEL, George L.	12/30/82	01/03/83	VAK		Hrngrs	43-AQ-FB-82-05 FB Civil Penalty of \$400	To be scheduled.
FAXON, Jay dba/Faxon Farms	01/03/83	01/07/83	LMS		Hrngrs	44-AQ-FB-82-07 FB Civil Penalty of \$1,000	To be scheduled.
MARCA, Gerald	01/06/83	01/11/83	LMS	11/09/83	<u>Resp</u>	45-SS-SWR-82-101 SS Civil Penalty of \$500, 46-SS-SWR-82-114 Remedial Action Order.	<u>Scheduled hearing postponed pending implementation of agreed compliance plan.</u>
ALTHAUSER, Glenn L.	01/28/83	02/03/83	LMS		<u>Resp</u>	47-SW-NWR-82-111 Solid Waste Civil Penalty of \$350	<u>Order of dismissal issued 12/13/83.</u>
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83			<u>Hrngrs</u>	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	To be scheduled.
GREGON-SUN-RANCH	04/04/83	04/12/83	RLH		Prtys	51-AQ-CR-83-33 AQ Civil Penalty of \$500	Penalty mitigated to \$250. Case closed by stipulated order.
McINNIS ENT.	06/17/83	06/21/83	LMS		<u>Hrngrs</u>	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500.	<u>To be scheduled.</u>
TELEDYNE WAH CHANGE ALBANY	09/07/83	09/08/83	RLH		Prtys	53-AQOB-WVR-83-73 OB Civil Penalty of \$4000	Preliminary issues.

October-November 1983

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	DEQ Atty	Hrng Date	Resp Code	Case Type & No.	Case Status
CRAWFORD, Raymond, M.	09/15/83	09/16/83	LMS		Prtys	54-AQOB-NWR-83-63 OB Civil Penalty of \$2000	To be scheduled.
MID-OREGON CRUSHING	09/19/83	09/27/83	RLH		Prtys	55-AQ-CR-83-74 AQ Civil Penalty of \$4500	Preliminary issues.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83	RLH		<u>Prtys</u>	56-WQ-NWR-83-79 WQ Civil Penalty of \$14,500	Preliminary issues/ discovery.
WARRENTON, City of	8/18/83	10/05/83	RLH		<u>Prtys</u>	57-SW-NWR-PMT-120 SW Permit Appeal	<u>Prtys discussing informal resolution.</u>
CLEARWATER IND., Inc.	10/11/83	10/17/83	RLH		Prtys	58-SS-NWR-83-82 SS Civil Penalty of \$1000	Preliminary issues.
<u>McINNIS, ENTERPRISES, LTD.</u>	<u>10/25/83</u>	<u>10/26/83</u>	<u>RLH</u>		<u>Prtys</u>	<u>59-SS-NWR-83-33290P-5 SS License Revocation</u>	<u>Ordered consolidated w/56-WQ-NWR-83-79 (McInnis, et al.)</u>

Average time elapsed between filing of appeal to contested case conclusion in 1983 was 16 months. Average time was skewed by DEQ v. Powell, opened in 1977 and closed in 1983, and DEQ v. Hayworth which opened in 1980 and closed in 1983. Excluding these cases, average time was 11 months.

Average time in 1982 was 10 months.

Average time in 1981 was 13 months. This included the Faydrex cases which opened in 1977 and closed in 1981.

Average time in 1980 was 14 months.

Average time in 1979 was 25 months. This was the first year in which case records were kept and action was taken to close files.

Excluded from the averages are cases which opened and closed without any significant time or activity.

1983 APPEALS TO EQC

Hayworth, John W.
33-AQ-WVR-80-187

On 4/8/83 the EQC allowed Respondent's appeal and dismissed the case.

Adams, Galen
33-SS-NWR-82-51

On 4/8/83 the EQC affirmed the hearing officer's order assessing a \$100 civil penalty for installing a portion of an on-site sewage system without first obtaining a permit. Mr. Adams paid the penalty.

Moore, Dale
40-SS-NWR-82

On 4/8/83 the EQC reversed the variance officer's order and authorized a variance from on-site sewage rules.

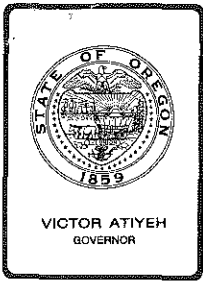
Oregon Environmental
Council.
48-Petition for
Declaratory Ruling

On 4/8/83 the EQC denied OEC's petition for declaratory ruling on applicability of certain statutes and rules to DEQ's jurisdiction over the spraying of the pesticide Sevin into Tillamook Bay.

Frank, Victor
19-AQFB-81-05

On 7/8/83 the EQC upheld the hearing officer's order assessing a \$1,000 civil penalty for violating DEQ's field burning rules. Mr. Frank paid the penalty.

MD144



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission
From: Acting Director
Subject: Agenda Item C, January 6, 1984, EQC Meeting

TAX CREDIT APPLICATIONS

Acting Director's Recommendation

It is recommended the Commission approve the following tax credit applications:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1649	Mt. Jefferson Farms	Underground tile drainage installation
T-1650	Mt. Jefferson Farms	Underground tile drainage installation
T-1655	States Industries, Inc.	Sand-air-filter system
T-1656	Teledyne Wah Chang Albany	Emission collection and transport system

Michael J. Downs
Michael J. Downs

CASplettstaszer
229-6484
12/16/83
Attachments

Agenda Item C
January 6, 1984, EQC Meeting
Page 2

PROPOSED JANUARY 1984 TOTALS

Air Quality	\$ 382,060
Water Quality	-0-
Solid/Hazardous Waste	-0-
Noise	-0-
	<hr/>
	\$ 382,060

1983 CALENDAR YEAR TOTALS

Air Quality	\$33,104,304
Water Quality	36,140,016
Solid/Hazardous Waste	1,329,526
Noise	11,840
	<hr/>
	\$70,585,686

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Walter R. Miller
Mt. Jefferson Farms
P.O. Box 12395
Salem, OR 97309

The applicant owns and farms annual ryegrass crops and open burns fields in the Scio Fire District.

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

2. Description of Claimed Facility

The facility described in this application is an underground tile drainage installation which will so improve soil drainage characteristics as to allow alternative cropping (e.g., sweet corn, beans) and eliminate annual open burning. The specific field is identified 110 acres located 1.5 miles west of Shelburn, Oregon, on the north side of Jefferson-Scio Drive, Linn County, tax lot no. 1200-9S-2W-35.

Request for Preliminary Certification for Tax Credit was made on September 22, 1983 and approved on September 23, 1983.

Construction was initiated on the claimed facility on October 3, 1983 completed on October 6, 1983 and the facility was placed into operation on October 6, 1983.

Facility cost: \$35,570.00 (Complete documentation by copies of invoices was provided).

3. Evaluation of Application

The installation of drain tiles complies with the provisions of OAR 340-26-030(2)(b)(E) as an approved alternative (field burning) facility eligible for pollution control tax credit. The tiled acreage will be placed in alternative crop (non-grass seed) production eliminating annual open burning. The applicant understands and agrees that should use of the field change, or field burning resumes, the Department would be notified and the tax credit revoked.

The percent allocable was derived based on estimated annual return from the facility for its estimated 20-year life.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is eligible as an alternative field sanitation method pursuant to ORS 468.150 and the rules of Chapter 340, Division 26.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$35,570.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1649.

Sean K. O'Connell:pd
(503)686-7837
December 14, 1983

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Walter R. Miller
Mt. Jefferson Farms
P.O. Box 12395
Salem, OR 97309

The applicant owns and farms annual ryegrass crops and open burns fields in the Scio Fire District.

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

2. Description of Claimed Facility

The facility described in this application is an underground tile drainage installation which will improve soil drainage characteristics as to allow alternative cropping (e.g., sweet corn, beans) and eliminate annual open burning. The specific field is identified as 85 acres located 1.6 miles west of Shelburn, Oregon, Linn Co., on the north side of Jefferson-Scio Drive, tax lot no.1000,1001-10S-2W-2.

Request for Preliminary Certification for Tax Credit was made on October 3, 1983 and approved on October 4, 1983.

Construction was initiated on the claimed facility on October 6, 1983 completed on October 10, 1983 and the facility was placed into operation on October 11, 1983.

Facility Cost: \$19,738.50 (Complete documentation by copies of invoices was provided)

3. Evaluation of Application

The installation of drain tiles complies with the provisions of OAR 340-26-030(2)(b)(E) as an approved alternative (field burning) facility eligible for pollution control tax credit. The tiled acreage will be placed in alternative crop (non-grass seed) production eliminating annual open burning. The applicant understands and agrees that should use of the field change, or field burning resumes, the Department would be notified and the tax credit revoked.

The percent allocable was derived based on estimated annual return from the facility for its estimated 20-year life.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is eligible as an alternative field sanitation method pursuant to ORS 468.150 and the rules of Chapter 340, Division 26.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$19,738.50 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1650.

Sean K. O'Connell:pd
(503)686-7837
December 14, 1983

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

States Industries, Inc.
P. O. Box 7037
Eugene, OR 97401

The applicant owns and operates a veneer processing and plywood plant at Eugene.

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

2. Description of Claimed Facility

The facility described in this application is a Rader sand-air-filter system to control emissions to the atmosphere from two veneer dryers.

Plans and specifications were reviewed and approved by Lane Regional Air Pollution Authority.

Request for Preliminary Certification for Tax Credit was made on January 16, 1981, and approved on January 14, 1982.

Construction was initiated on the claimed facility on January 4, 1982, completed on March 25, 1982, and the facility was placed into operation on March 29, 1982.

Facility Cost: \$308,693.00 (Accountant's Certification was provided).

3. Evaluation of Application

Application of a Rader sand-air-filter to control particulate emissions from veneer dryers has proven to be highly successful. States Industries, Inc. installed a sand-air-filter to control emission from their two veneer dryers at the Enid Road plant. The facility has been certified in compliance with emission standards by Lane Regional Air Pollution Authority.

A Georgia-Pacific scrubber, at a cost of about the same as the installed Rader sand-air-filter, was an alternate emission control device considered by the Company.

The total claimed cost of the facility was \$308,693. The primary purpose of the project was for air pollution control and there is no identified economic advantage, therefore 80% or more of the claimed cost is allowable to pollution control.

The application was received on November 23, 1983, and considered complete on November 28, 1983.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$308,693.00 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1655.

D.Neff:ahe
(503) 229-6480
December 12, 1983
AZ465

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Teledyne Industries, Inc.
Teledyne Wah Chang Albany
1600 Old Salem Road/P.O.Box 460
Albany, OR 97321

The applicant owns and operates a zirconium, hafnium, tantalum and niobium production plant at 1600 Old Salem Road in Millersburg.

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

2. Description of Claimed Facility

The facility described in this application includes ductwork, associated valves and special fittings which collect and transport emissions from the reduction retort loading station to the previously existing West reduction venturi scrubber. (The West reduction venturi scrubber is not included in this application.)

Request for Preliminary Certification for Tax Credit was made on March 17, 1977, and approved on April 8, 1977.

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

Facility Cost: \$18,059 (Complete documentation by copies of invoices was provided.)

3. Evaluation of Application

The claimed facility was installed to control fugitive emissions during the loading of reduction retorts with chloride material as required by the applicant's air contaminant discharge permit. Inspection results indicate that the claimed facility operates satisfactorily.

Since no economic benefits result from the claimed facility, it is concluded that its purpose is pollution control and 80% or more of the installed cost is allocable to pollution control.

The application was received on November 11, 1983, additional information was received on November 30, 1983, and the application was considered complete on November 30, 1983.

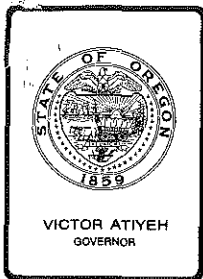
4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$18,059 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1656

F. A. Skirvin:ahe
(503) 229-6415
December 12, 1983
AZ468



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Agenda Item No. D , January 6, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing to Amend Rules for Open Burning, OAR Chapter 340, Division 23, to Ban Burning of Yard Debris in the Portland Metropolitan Area, to Add Regulation of 4th Priority Agricultural Open Burning in the Willamette Valley, and to Amend the State Implementation Plan.

Background

At the November 18, 1983 meeting, the EQC found that a ban on backyard burning in the Portland Metro area was necessary to meet air quality standards and that alternatives to burning were reasonably available to a substantial majority of the people in the affected area. The EQC directed the Department to proceed toward a ban by bringing proposed rules, which include a hardship burning permit provision, back to the EQC for hearing authorization at the January meeting. The EQC also indicated they wanted the facts documenting the need for a ban and the availability of alternatives restated so that they could confirm their findings.

While developing the proposed changes to the Department's open burning rules, it has been concluded that it would also be an appropriate time to make a housekeeping change affecting 4th priority agricultural open burning provisions in the Willamette Valley.

Need to Ban Burning to Meet Air Quality Standards

About 35% or about 85,000 of the households in the Portland area open burn an average of about one cubic yard of yard debris per year. This burning results in release of smoke or particulate air pollution totaling about 300 tons per year. This particulate is predominantly in a size range and of a chemical composition which most adversely affect health and visibility.



Contains
Recycled
Materials

Backyard burning takes place within an allowed 3 1/2 month spring burn period and a 2 1/2 month fall burn period. Burning is restricted during these periods to favorable ventilation conditions. About 60 allowed burn days occur per year without rain. Burning is generally concentrated at the beginnings of burn seasons, during weekends, periods of high yard debris generation, and fair weather gardening periods.

On an annual average basis, particulate pollution from backyard burning is a small contributor to Portland's particulate air quality problem. It contributes less than 1% to total annual particulate emissions and it is considered an insignificant contributor to violation of annual particulate air quality standards.

On days when backyard burning occurs, it becomes a much greater contributor to Portland's particulate air quality problem. The maximum measured impact attributable to backyard burning on a particulate standard violation day in downtown Portland was 19 ug/m³ for a 24-hour average (11% of the total sample weight). Four other days have been clearly identified with measured backyard burning impacts varying from 10 to 19 ug/m³ for a 24 hour average. These measured impacts have been used to calibrate the Portland airshed model for purposes of predicting backyard burning impacts in areas which do not have ambient air monitoring sites. Such modeling has projected backyard burning impacts up to 90 ug/m³ - 24 hour average in certain residential areas.

Although backyard burning impacts can be, in some cases, clearly separated out from impacts of other sources, in most cases it cannot because of its chemical similarity to other sources such as woodheating and slash burning. Of the 63 exceedances of daily particulate standards in the Portland area during the burning seasons from 1976 through April 1982, 23 of these occurred on days when backyard burning was allowed. It is believed that backyard burning significantly contributed to many of these 23 violations which are listed below.

Exceedances of 150 ug/m³ - 24 hr average Particulate Standard
(1976 through April, 1982)

(Days with Allowed Open Burning)

<u>Date</u>	<u>Area</u>
04-24-76	Lake Oswego
04-30-76	S. E. Portland
05-06-76	S. E. Portland
12-16-76	Downtown Portland
05-02-78	S. E. Portland
05-06-78	S. E. Portland

05-08-78	S. E. Portland
05-08-78	Downtown Portland
11-10-78	Lake Oswego
11-22-78	S. E. Portland
11-22-78	Milwaukie
11-22-78	Oregon City
11-22-78	Lake Oswego
11-22-78	East Portland (Gateway area)
11-22-78	Downtown Portland
02-14-79	Downtown Portland
03-02-80	Lake Oswego
03-05-81	East Portland (Gateway area)
03-06-82	East Portland (Gateway area)
03-06-82	Beaverton
03-06-82	S. E. Portland (Ross Island area)
03-06-82	Lake Oswego
03-06-82	S. E. Portland (south of Mt. Tabor)

The fact that backyard burning contributes to violation of particulate standards on certain days despite a tightly regulated meteorological program which limits burning to good ventilation days may be explained by periodic higher than average burn rates and the inability to forecast weather conditions with 100% accuracy.

The Portland area particulate control strategy which is part of the State Implementation Plan targeted compliance with standards by 1987. Based on current information, the 1987 particulate levels and source contributions at the critical downtown receptor for a worst case spring/fall backyard burning day are projected below. The backyard burning impact and total particulate level in this table are very similar to levels previously measured.

1987 Particulate Source Contributions - Fall/Spring Day
 (Downtown Portland)

<u>Source</u>	<u>Particulate - ug/m³ - 24-hr. average</u>
Dust	89
Open Burning	19
Wood Heating	12
Industrial Sources	7
Motor Vehicles	5
Heavy Oil Burning	3
Background - miscellaneous	<u>33</u>
TOTAL	168 (Air Quality Standard = 150)

Control strategies are projected to reduce motor vehicles impacts by 1 ug/m³

and wood heat by 2-4 ug/m³ by 1987. The strategy also anticipated a significant reduction in dust through control of road dust. Unfortunately, an extensive study of road dust sweeping techniques conducted by the City of Portland concluded that sweeping affects are negligible with respect to improving air quality. Based on the above, no other control strategy other than a ban on burning or control of background sources would attain standards on such days at the downtown site. Effective control of background sources like slash burning and remote industrial sources is considered extremely difficult at this point; thus, a ban on backyard burning would appear necessary to meet particulate air quality standards for these conditions.

Other critical sites in S. E. Portland and S. W. Portland are projected to have particulate levels above those in downtown. A ban on burning will make significant progress towards attainment of standards but other additional strategies will be needed to attain standards at these sites.

Available Alternatives to Backyard Burning

Surveys indicate that about 676,000 cubic yards of yard debris are generated each year in the Portland area. Only 13% of this is open burned. The majority of yard debris is currently being disposed of by many non-burning means as shown in the following table.

Yard Debris Disposal Practices in the Portland Area

Composting on Site	28%
Picked up with Garbage	26%
Self-hauled to Landfill	19%
Open Burned	13%
Miscellaneous (chipped, put in street, etc.)	14%

The non-burning disposal practices identified above are available to virtually all residences in the Portland area for the material presently being burned; although, of course, additional work and/or costs would be required to use them.

Through efforts of the Metropolitan Service District, an additional alternative of hauling yard debris to recyclers has been developed. Three recycling sites are available in the metro area within a 20 minute drive of a substantial majority of the population at a slightly lower cost than landfill disposal.

A complete list of available alternative disposal methods for yard debris and estimated costs are listed below. The costs include transportation and tipping fees.

Available Alternative Yard Debris Disposal Techniques

<u>Technique</u>	<u>Average Cost (\$/cubic yard)</u>
Composting on Site	Free
Self-haul to Recycling Centers (three available)	\$3.40
Self-haul to Disposal Sites (three available)	4.75
Drop Box (to recycler)	4.40 (20 cubic yard box basis)
Drop Box (to disposal site)	4.80 (20 cubic yard box basis)
Curbside pick up (to recyclers)	5.60 (not generally available)
Curbside pick up (to disposal site)	5.99
On-site Chipping (\$26/4 hr rental)	---

Some of the above alternatives have minimum charges ranging from \$5.60 for one recycling center to \$17.50 for a 2 cubic yard drop box.

Considering the average amount burned per household is about 1 cubic yard, it would cost the average household in the range of \$6 per year to dispose of their yard debris by non-burning methods.

Other Experiences

Case studies of other areas in the Northwest where backyard burning is restricted indicates that alternatives similar to those in the Portland area are available and able to adequately handle yard debris. Portland has the added option of recycling of yard debris.

In the City of Eugene where backyard burning has been banned since 1969, the only special service is a separate leaf pick up during the fall. All woody wastes must be self-hauled or picked up at curbside and disposed of at the area landfill at the householders expense. In Seattle, where burning is not banned, the fire districts require a \$30 permit to burn. Only 300-500 permits are issued per year. Curbside pick up and self-haul to landfill disposal sites are used in Seattle as well as in Spokane where a burn ban is in effect.

In Ontario, Oregon, the city recently imposed a \$17/year burning permit in an attempt to reduce the use of some 1200 burn barrels. Only about 300 burn barrels are now in use and no special disposal systems were developed to handle wastes.

Some jurisdictions in the Portland area have special yard debris pick up programs like the City of Gladstone which requires haulers to pick up all yard debris. Cost of the program is paid from property tax revenue. Some Portland area neighborhoods like King City and Scott Mountain subdivision ban burning. Some like Scott Mountain subdivision and Sellwood-Moreland Improvement League provide drop box service through neighborhood association fees or other revenue.

There has been concern in the past about the impact on Portland area landfills of diverting yard debris which is presently burned. With the present existence of commercial yard debris recyclers, all of the yard debris presently burned could be diverted to these recyclers. This added volume would help assure their continued existence. Even if some or all of the yard debris presently burned did end up going to landfills, Metro staff has projected that it would only decrease landfill life 5 days/year at a maximum.

Recommended Burn Ban Program

Ban Date

A burn ban could not be adopted before the spring 1984 burn season which begins on March 1 because of the administrative time needed to adopt new rules. Considering that alternative disposal methods are currently available, a ban beginning with the end of the spring burn period (June 16, 1984) is possible. An alternative for jurisdictions which would like additional time to develop additional alternative disposal programs like neighborhood drop box systems, separate curbside pick up and disposal through recyclers, or tax base supported curbside pick up, etc. might be to grant them a 12 month extension upon approval by DEQ of an acceptable work plan. Enforcement of a burn ban under such an extension program would likely be somewhat difficult in those areas where an extension was not requested due to equity and boundary questions and such a program is not recommended; thus, an open burning ban beginning after the spring 1984 season (June 16, 1984) is recommended.

Hardship Permits

There will likely be some situations where non-burning alternatives would not be reasonably available to some households. These situations could include inaccessibility of the site, physical nature of the material, volume of the material, and physical limitations of the householders. For these conditions, a hardship burn permit subject to the present burn season and meteorological control conditions would be appropriate. The Department is not budgeted for conducting such a program; thus, fees would have to be charged to cover costs of permit issuance, field inspections, and

enforcement. If field inspections were conducted for every permit, costs of the permits would have to be relatively high, probably over \$50. If only random field inspections and enforcement were conducted, costs could be reduced down to the \$20 range for a seasonal permit or \$30 for an annual permit. Such a cost would be significantly above the average cost of \$6/year for disposal of yard debris through non-burning techniques. Thus, it would be expected that burning would be substantially reduced. Permits would be subject to civil penalties, non-renewal, or revocation upon random field inspection or complaint investigation that found burning conditions required by the permit were not being adhered to or information supplied in the permit application was false.

Based on experiences in Seattle and Ontario where a permit fee program is imposed, a few thousand permits per year might be expected in the Portland. This would result in at least a 95% reduction in burning. The Department would intend to hire temporary compliance assurance staff in proportion to the amount of permit applications and revenue received to effectively administer the program.

Ban Area Boundary

In January 1981, a proposal was presented for a "burning ban area" in Clackamas, Multnomah, and Washington Counties. At that time, an extensive effort was made to select a suitable "ban boundary." Because it is necessary to work through the fire permitting authority of fire districts to regulate open burning, the fire districts were thoroughly consulted in developing the boundaries. For the most part, the proposed boundaries in Table 1-A of Attachment 1 are the same as those worked out in January of 1981. After consultation with the fire districts involved, minor adjustments have been made in areas dividing Multnomah County Fire District No. 10, Clackamas County Fire District No. 71, and Tualatin Fire District to better divide the more heavily populated areas from the more rural areas. The boundary which divides Washington County Fire Districts No. 1 and 2 were judged to be adequate after consultation with representatives of those districts and were not changed. The remainder of the "ban boundary" follows fire district boundaries and has not been adjusted.

Agricultural Fourth Priority

Fourth priority burning is all agricultural burning except field burning. Fourth priority agricultural burning is currently treated in OAR Chapter 340, Division 23 for all areas of the State, except the Willamette Valley. For the Willamette Valley, this type of burning has been treated in OAR Chapter 340, Division 26 rules, which are currently being revised to regulate open field burning only. The proposed changes would place all fourth priority burning in the State in a single set of rules under

Division 23 in coordination with proposed changes in Division 26. There is no change proposed in the administrative handling of this type of burning.

The proposed new rule changes are in Attachment 1. The Statement of Need and Public Hearing Notice are contained in Attachment 2.

Summation


1. Backyard burning in the Portland metro area contributes up to a measured 19 ug/m^3 (11%) to exceedance of daily particulate standards. Modeled impacts range up to 90 ug/m^3 . These impacts occur despite a stringent meteorological control program which limits burning to forecasted good ventilation days.
2. Attainment of particulate standards by the 1987 target date in the Portland area control strategy at certain sites such as downtown Portland cannot be achieved without banning burning. No other alternative control strategies are practical or effective for other sources such as road dust which contribute to exceedances.
3. Numerous alternative disposal techniques for yard debris are available to a substantial majority of the households in the Portland area. These include:
 - On-site composting
 - On-site chipping
 - Self-haul to landfills
 - Self-haul to commercial recyclers
 - Curbside pick up by garbage haulers
 - Dropbox service by garbage haulers
4. Costs for the above alternatives average about \$4 to \$6 per cubic yard of yard debris. With the average household burning about 1 cubic yard of yard debris per year, non-burning disposal costs appear reasonable for a substantial majority of the households in the Portland area.
5. Provisions for a \$20 seasonal or \$30 annual hardship permit for those households which do not have reasonable alternative disposal methods available because of site access, nature of debris, volume of debris, or physical limitations of household members would insure availability of reasonable disposal means for yard debris for all households in the Portland area.
6. A ban on yard debris burning in the highly urbanized Portland metro area beginning after the spring 1984 burn season (i.e. June 16, 1984) is practical considering the administrative time necessary to revise

open burning rules, the time for adequate notice to the public and the availability of alternative disposal methods.

7. Adding fourth priority agricultural burning in the Willamette Valley to Division 23 rules will consolidate all such rules into one Division but result in no change in the actual administration of the program.

Recommendation

Based on the Summation, the Acting Director recommends that the EQC authorize the Department to proceed to rule-making hearing with revised open burning rules (Attachment 1) which would ban backyard burning in the Portland metro area beginning June 16, 1984 with provisions for a hardship burning permit for those households which do not have reasonable alternative disposal means available.


Michael J. Downs

Attachments:

1. Proposed Revised Open Burning Rules
2. Statement of Need and Public Hearing Notice

JFKowalczyk:ahe
229-6459
December 23, 1983
AZ480

DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 340

DIVISION 23

**How to use these Open Burning Rules
340-23-022**

- (1) These rules classify all open burning into one of seven classes: Agricultural, Commercial, Construction, Demolition (which includes land clearing), Domestic (which includes burning commonly called "backyard burning" and burning of yard debris), Industrial or Slash. Except for field burning within the Willamette Valley and slash burning which is controlled by the forest practices smoke management plan administered by the Oregon Department of Forestry, these rules prescribe requirements for and prohibitions of open burning for every location in the state. Generally, if a class of open burning is not specifically prohibited in a give location, then it is authorized subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. In addition, some practices specifically mentioned in OAR 340-23-035 are exempted from regulation under these rules.
- (2) Organization of rules
 - (a) OAR 340-23-025 is the Policy statement of the Environmental Quality Commission setting forth the goals of these rules.
 - (b) OAR 340-23-030 contains definitions of terms which have specialized meanings within the context of these rules.
 - (c) OAR 340-23-035 lists specific types of open burning and practices which are not governed by these rules.
 - (d) OAR 340-23-040 lists general requirements which are usually applicable to any open burning governed by these rules.
 - (e) OAR 340-23-042 lists general prohibitions which apply to most open burning.
 - (f) OAR 340-23-043 establishes the open burning schedule based on air quality and meterological conditions as required by ORS 468.450.
 - (g) OAR 340-23-045 indexes each county of the state to a specific rule giving specific restrictions for each class of open burning applicable in the county.
 - (h) OAR 340-23-055 through 340-23-090 are rules which give specific restrictions to open burning for each class of open burning in the counties named in each rule.
 - (i) OAR 340-23-100 provides for a letter permit authorization for open burning under certain circumstances which otherwise would be prohibited.

- (j) OAR 340-23-105 establishes criteria for use of forced-air-pit incineration.
- (k) OAR 340-23-110 requires fire permit issuing agencies to keep records and reports.
- (l) OAR 340-23-115 contains the legal description of Open Burning Control areas and maps which generally depict these areas.
- (3) Use of these rules will be made easier by using the following procedures:
 - (a) Read OAR 340-23-040 and OAR 340-23-042 to understand general requirements and prohibitions which apply to all burning which is governed by these rules.
 - (b) In OAR 340-23-030 read the definitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning plus the definitions of land clearing and yard debris to determine the type of burning of concern. Also read OAR 340-23-035 to determine if the type of burning is exempted from these rules.
 - (c) Locate the rule (OAR 340-23-055 through OAR 340-23-090) which governs the county in which burning is to take place. OAR 340-23-045 is an index of the county rules.
 - (d) Read the sections of the county rules which apply to the type of burning to be accomplished.
 - (e) If not prohibited by these rules, obtain a fire permit from the fire district, county court or county commissioners before conducting any burning.
 - (f) If the type of burning proposed is prohibited by these rules, refer to OAR 340-23-100 (Letter Permits) or OAR 340-23-105 (Forced Air Pit Incinerators) for a possible alternative.

Policy

- 340-23-025** In order to restore and maintain the quality of the air resources of the state in a condition as free from air pollution as is practicable, consistent with the overall public welfare of the state, it is the policy of the Environmental Quality Commission:
- (1) to eliminate open burning disposal practices where alternative disposal methods are feasible and practicable;
 - (2) to encourage the development of alternative disposal methods;
 - (3) to emphasize resource recovery;
 - (4) to regulate specified types of open burning;
 - (5) to encourage utilization of the highest and best practicable burning methods to minimize emissions where other disposal practices are not feasible; and
 - (6) to require specific programs and timetables for compliance with these rules.

Definitions

340-23-030 As used in these rules unless otherwise required by context:

- (1) "Agricultural Operation" means an activity on land currently used or intended to be used primarily for the purpose of obtaining a profit in money by raising, harvesting and selling crops

or by the raising and sale of livestock or poultry, or the produce thereof, which activity is necessary to serve that purpose; it does not include the construction and use of dwellings customarily provided in conjunction with the agricultural operation.

- (2) "Agricultural open burning" means the open burning of any agricultural waste.
- (3) "Agricultural waste" means any material actually generated or used by an agricultural operation but excluding those materials described in OAR 340-23-042(2).
- (4) "Auxiliary Combustion Equipment" includes, but is not limited to, fans or air curtain incinerators.
- (5) "Combustion Promoting Materials" include, but are not limited to, propane, diesel oil, or jellied diesel.
- (6) "Commercial open burning" means the open burning of any commercial waste.
- (7) "Commercial Waste" means:
 - (a) Any material except
 - (A) Agricultural waste,
 - (B) Construction waste,
 - (C) Demolition waste,
 - (D) Domestic waste,
 - (E) Industrial waste and
 - (F) Slash.
 - (b) Examples of commercial waste are material from offices, wholesale or retail yards and outlets, warehouses, restaurants, mobile home parks, and dwellings containing more than four family living units such as apartments, condominiums, hotels, motels or dormitories.
- (8) "Commission" means the Environmental Quality Commission.
- (9) "Construction open burning" means the open burning of any construction waste.
- (10) "Construction waste" means any material actually resulting from or produced by a building or construction project. Examples of construction waste are wood, lumber, paper, crating and packing materials used during construction, materials left after completion of construction and materials collected during cleanup of a construction site.
- (11) "Demolition open burning" means the open burning of demolition waste.
- (12) "Demolition waste" means any material actually resulting from or produced by the complete or partial destruction or tearing down of any man-made structure or the clearing of any site for land improvement or cleanup excluding yard debris (domestic waste) and agricultural waste.
- (13) "Department" means the Department of Environmental Quality.
- (14) "Director" means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).
- (15) "Domestic open burning" means the open burning of any domestic waste.
- (16) "Domestic Waste" means household material, which includes paper, cardboard, clothing, yard debris, or other material, actually generated in or around a dwelling of four (4) or fewer family

living units, or on the real property appurtenant to the dwelling. Such materials actually generated in or around a dwelling or more than four (4) family living units are commercial wastes. Once domestic waste is removed from the property of origin it becomes commercial waste.

- (17) "Fire Hazard" means the presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare, or to adjacent lands.
- (18) "Forced-air Pit Incineration" means any method or device by which burning is [done] accomplished in a subsurface pit or above ground enclosure using:

- (a) Combustion air supplied under positive draft by an air curtain, and
- (b) Combustion air controlled in such a manner as to optimize combustion efficiency and minimize the emission of air contaminants.[and done]

[(c) in a subsurface pit or above ground enclosure.]

- (19) "Industrial open burning" means the open burning of any industrial waste.
- (20) "Industrial Waste" means any material, including process waste, produced as the direct result of any manufacturing or industrial process.
- (21) "Land clearing" means the removal of trees, brush, logs, stumps, debris or man made structures for the purpose of site clean-up or site preparation. All material generated by land clearing is demolition waste except those materials which are included in the definitions of agricultural wastes, yard debris (domestic waste), and slash.
- (22) "Letter Permit" means an Air Contaminant Discharge Permit issued pursuant to OAR 340-23-100.

- (23) [(22)] "Local jurisdiction" means
- (a) the local fire permit issuing authority or
- (b) local governmental entity with authority to regulate by law or ordinance.

- (24) [(23)] "Open Burning" includes burning in
- (a) Open outdoor fires,
- (b) Burn barrels,
- (c) Incinerators which do not meet the emission limitations specified for refuse burning equipment in OAR 340-21-025 and
- (d) any other burning which occurs in such a manner that combustion air is not effectively controlled and combustion products are not effectively vented through a stack or chimney.

- (25) [(24)] "Open Burning Control Area" means an area established to control specific open burning practices or to maintain specific open burning standards which may be more stringent than those established for other areas of the state. Open burning control areas in the State are described in OAR 340-23-115.

The open burning control areas in the state are:

- (a) All areas in or within three (3) miles of the corporate city limits of cities having a population of four thousand (4000) or more, as further described in OAR 340-23-115(1) and generally shown in Figure 2 thereof.
- (b) The Coos Bay open burning control area as described in OAR 340-23-115(2) and generally shown in Figure 3 thereof.
- (c) The Rogue Basin open burning control area as described in OAR 340-23-115(3) and generally shown in Figure 4 thereof.
- (d) The Umpqua Basin open burning control area as described in OAR 340-23-115(4) and generally shown in Figure 5 thereof.
- (e) The Willamette Valley open burning control area as described in OAR 340-23-115(5) and generally shown in Figure 2 thereof.

(26) [(25)] "Person" means any individual, corporation, association, firm, partnership, joint stock company, public or municipal corporation, political subdivision, the state or any agency thereof, or the federal government or any agency thereof.

(27) [(26)] "Population" means the annual population estimate of incorporated cities within the State of Oregon issued by the Center for Population Research and Census, Portland State University, Portland, Oregon.

(28) "Responsible person" means each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned. Any person who causes or allows open burning to be initiated or maintained shall also be considered a responsible person.

(29) [(27)] "Slash" means forest debris or woody vegetation to be burned under the Oregon Smoke Management Plan administered by the Oregon Department of Forestry pursuant to ORS 477.515. The burning of such slash is related to the management of forest land and does not include the burning of any other material created by land clearing.

(30) [(28)] "Ventilation index" means a number calculated by the Department relating to the ability of the atmosphere to disperse pollutants. The ventilation index is the product of the measured or estimated meteorological mixing depth in hundreds of feet and the measured or estimated average wind speed through the mixed layer in knots.

(31) [(29)] "Waste" includes any useless or discarded materials.

Each waste is categorized in these rules as one and only one of the following types:

- (a) Agricultural,
- (b) Commercial,
- (c) Construction,
- (d) Demolition,
- (e) Domestic,
- (f) Industrial, or
- (g) Slash.

(32) [(30)] "Yard debris" means wood, needle or leaf materials from

trees, shrubs or plants from the real property appurtenant to a dwelling of not more than four (4) family living units so long as such debris remains on the property of origin. Once yard debris is removed from the property of origin it becomes commercial waste. Yard debris is included in the definition of domestic waste.

Exemptions, Statewide

340-23-035 The rules in this Division 23 shall not apply to:

- (1) Fires set for traditional recreational purposes and traditional ceremonial occasions for which a fire is appropriate, provided that no materials which may emit dense smoke or noxious odors as prohibited in section 340-23-042(2) are burned.
- (2) The operation of any barbecue equipment.
- (3) Fires set or permitted by any public agency when such fire is set or permitted in the performance of its official duty for the purpose of weed abatement, prevention or elimination of a fire hazard, or a hazard to public health or safety or instruction of employes in the methods of fire fighting, which in the opinion of the agency is necessary.
- (4) Agricultural open burning conducted east of the crest of the Cascade Mountains including all of Hood River and Klamath Counties.
- (5) Agricultural open field burning in the Willamette Valley between the crests of the Cascade and Coast Ranges so long as it is in compliance with OAR Chapter 340, Division 26, [Agricultural Operations] Rules for Open Field Burning (Willamette Valley).
- (6) Open burning on forest land permitted under the forest practices Smoke Management Plan filed with the Secretary of State pursuant to ORS 477.515.
- (7) Fires set pursuant to permit for the purpose of instruction of employes of private industrial concerns in methods of fire fighting, or for civil defense instruction.

General Requirements Statewide

340-23-040

This rule applies to all open burning within the purview of these rules whether authorized, permitted or prohibited by the rules in this Division 23, (unless expressly limited therein), or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction.

- (1) All Open burning shall be constantly attended by a responsible person or an expressly authorized agent until extinguished.
- [(2) Each person who is in ownership, control or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, shall be considered a responsible person for the open burning. Any person who causes or allows open burning to be initiated or maintained shall also be considered a responsible person.]

(2) [(3)] It shall be the duty of each responsible person to promptly extinguish any burning which is in violation of any rule of the Commission or of any permit issued by the Department unless the Department has given written approval to such responsible person to use auxiliary combustion equipment or combustion promoting materials to minimize smoke production and the responsible person complies with the requirements in the written approval. However, nothing in this section shall be construed to authorize any violation of OAR 340-23-042(1) or (2).

(3) [(4)] To promote efficient burning and prevent excessive emissions of smoke, each responsible person shall, except where inappropriate to agricultural open burning:

- (a) Assure that all combustible material is dried to the extent practicable. This action shall include covering the combustible material when practicable to protect the material from deposition of moisture in any form, including precipitation or dew. However, nothing in this section shall be construed to authorize any violation of OAR 340-23-042(1) or (2).
- (b) Loosely stack or windrow the combustible material in such a manner as to eliminate dirt, rocks and other non-combustible material and promote an adequate air supply to the burning pile, and provide the necessary tools and equipment for the purpose.
- (c) Periodically restack or feed the burning pile and insure that combustion is essentially completed and smoldering fires are prevented and provide the necessary tools and equipment for the purpose.

(4) [(5)] Open burning in compliance with the rules in this Division 23 does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order, or decree of this or any other governmental entity having jurisdiction.

General Prohibitions Statewide

340-23-042 This Rule applies to all open burning within the purview of these rules whether authorized, permitted or prohibited by the rules in this Division 23 (unless expressly limited therein), or by any other rule, regulation, permit, ordinance, order or decree of the Commission or other agency having jurisdiction.

- (1) No person shall cause or allow to be initiated or maintained any open burning which creates any of the following:
 - (a) A private nuisance;
 - (b) A public nuisance;
 - (c) A hazard to public safety.
- (2) No person shall cause or allow to be initiated or maintained any open burning of any wet garbage, plastic, wire insulation, automobile part, asphalt, petroleum product, petroleum treated

material, rubber product, animal remains, or animal or vegetable matter resulting from the handling, preparation, cooking, or service of food or of any other material which normally emits dense smoke or noxious odors.

- (3) No person shall cause or allow to be initiated or maintained any open burning of any material in any part of the state on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions pursuant to OAR 340-23-043.
- (4) No fire permit issuing agency shall issue any fire permit which purports to authorize any open burning of any material at any location on any day or at any time if the Department has notified the State Fire Marshal that such open burning is prohibited because of meteorological or air quality conditions. However, the failure of any fire permit issuing agency to comply shall not excuse any person from complying with this section.
- (5) No person shall cause or allow to be initiated or maintained any open burning authorized by the rules in this Division 23 during hours other than specified by the Department.
- (6) No person shall cause or allow to be initiated or maintained any open burning at any solid waste disposal site unless authorized by a Solid Waste Permit issued pursuant to OAR 340-61-005 through 340-61-085.

Open Burning Schedule

340-23-043 Pursuant to ORS 468.450, 476.380, 477.520 and 478.960 the following open burning schedule shall be administered by the Department.

(1) Mandatory Prohibition Based on Adverse Air Quality Conditions.

(a) The Department shall notify the State Fire Marshal that all open burning shall be prohibited in all or a specified part of the state for the times and locations which the Department has declared:

- (A) A particulate or sulfur dioxide alert pursuant to OAR 340-27-010(2)(a), (b) or (c);
- (B) A particulate or sulfur dioxide warning pursuant to OAR 340-27-010(3)(a), (b), or (c); or
- (C) An emergency for any air contaminant pursuant to OAR 340-27-010(4).

(b) All open burning shall be prohibited until the Department notifies the State Fire Marshal that the episode and prohibition have been declared to have terminated.

(2) Discretionary Prohibition or Limitation Based on Meteorological Conditions.

(a) The Department may notify the State Fire Marshal that all or specified types of open burning shall be prohibited or limited in all or any specified parts of the state based on any one or more of the following criteria affecting that

part of the state:

- (A) An Air Stagnation Advisory issued by the National Weather Service;
 - (B) The daily maximum ventilation index calculated by the Department for the Willamette Valley Open Burning Control Area is less than 200;
 - (C) The daily maximum ventilation index calculated by the Department for the Rogue Basin or Umpqua Basin open burning control area is less than 200;
 - (D) The daily maximum ventilation index calculated by the Department for any area outside the Willamette Valley, Rogue Basin and Umpqua Basin open burning control areas is less than 150; or
 - (E) Any other relevant factor.
- (b) All open burning so prohibited or limited shall be prohibited or limited until the Department notifies the State Fire Marshal that the prohibition or limitation has been terminated.
- (c) In making the determination of whether or not to prohibit or limit open burning pursuant to this section the Department shall consider:
- (A) The policy of the state set forth in ORS 468.280;
 - (B) The relevant criteria set forth in ORS 468.295(2);
 - (C) The extent and types of materials available to be open burned;
 - (D) In the case of Agricultural open burning, the recommendations received from any local agricultural smoke management organization; and
 - (E) Any other relevant factor.
- (d) In making the determination of whether or not to prohibit or limit any open burning pursuant to this section the Department shall give first priority to the burning of perennial grass seed crop used for grass seed production, second priority for annual grass seed crop used for grass seed production, third priority to grain crop burning and fourth priority to all other burning.
- (3) Unless and until prohibited or limited pursuant to sections (1) or (2) of this rule, open burning shall be allowed during a day, so long as it is not prohibited by, and is conducted consistent with the other rules in this Division 23 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

County Listing of Specific Open Burning Rules

340-23-045

Except as otherwise provided, in addition to the general requirements and prohibitions listed in OAR 340-23-040 and 340-23-042, specific prohibitions of Agricultural, Commercial, Construction, Demolition, Domestic and Industrial open burning are listed in separate rules for each county. The following list identifies the Rule where

prohibitions of specific types of open burning applicable to a given county may be found.

County	OAR Rule Number	County	OAR Rule Number
Baker	340-23-055	Lake	340-23-055
Benton	340-23-060	Lane	340-23-085
Clackamas	340-23-065	Lincoln	340-23-055
Clatsop	340-23-055	Linn	340-23-060
Columbia	340-23-080	Malheur	340-23-055
Coos	340-23-090	Marion	340-23-060
Crook	340-23-055	Morrow	340-23-055
Curry	340-23-055	Multnomah	340-23-070
Deschutes	340-23-055	Polk	340-23-060
Douglas	340-23-090	Sherman	340-23-055
Gilliam	340-23-055	Tillamook	340-23-055
Grant	340-23-055	Umatilla	340-23-055
Harney	340-23-055	Union	340-23-055
Hood River	340-23-055	Wallowa	340-23-055
Jackson	340-23-090	Wasco	340-23-055
Jefferson	340-23-055	Washington	340-23-075
Josephine	340-23-090	Wheeler	340-23-055
Klamath	340-23-055	Yamhill	340-23-060

340-23-050 [Renumbered to 340-23-110)

Open Burning Prohibitions

Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grants, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

340-23-055 Open burning prohibitions for the counties of Baker, Clatsop, Crook, Curry, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Lincoln, Malheur, Morrow, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco and Wheeler:

- (1) Industrial open burning is prohibited except as provided in OAR 340-23-100.
- (2) Agricultural open burning
 - (a) In Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler Counties, agricultural open burning is exempted from regulation under these rules.
 - (b) In Clatsop, Curry, Lincoln and Tillamook Counties agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (3) Commercial open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal, except that all

commercial open burning is prohibited in or within three (3) miles of the corporate city limits of the following cities unless authorized pursuant to OAR 340-23-100:

- (a) In Baker County, the city of Baker.
 - (b) In Clatsop County, the cities of Astoria and Seaside.
 - (c) In Crook County, the city of Prineville.
 - (d) In Deschutes County, the cities of Bend and Redmond.
 - (e) In Hood River County, the city of Hood River.
 - (f) In Klamath County, the city of Klamath Falls.
 - (g) In Lincoln County, the cities of Lincoln City and Newport.
 - (h) In Malheur County, the city of Ontario.
 - (i) In Umatilla County, the cities of Hermiston, Milton-Freewater and Pendleton.
 - (j) In Union County, the city of La Grande.
 - (k) In Wasco County, the city of The Dalles.
- (4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042, except that Construction and Demolition open burning is prohibited in or within three (3) miles of the corporate city limits of the following cities unless authorized pursuant to OAR 340-23-100:

- (a) In Baker County, the city of Baker.
- (b) In Clatsop County, the city of Astoria.
- (c) In Crook County, the city of Prineville.
- (d) In Deschutes County, the cities of Bend and Redmond.
- (e) In Hood River County, the city of Hood River.
- (f) In Klamath County, the city of Klamath Falls.
- (g) In Malheur County, the city of Ontario.
- (h) In Umatilla County, the cities of Hermiston, Milton-Freewater and Pendleton.
- (i) In Union County, the city of La Grande.
- (j) In Wasco County, the city of The Dalles.

- (5) Domestic open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042.

Benton, Linn, Marion, Polk, and Yamhill Counties

340-23-060 Open burning prohibitions for Benton, Linn, Marion, Polk, and Yamhill counties which form a part of the Willamette Valley open burning control area described in OAR 340-23-115.

- (1) Industrial open burning is prohibited except as provided in OAR 340-23-100.
- (2) [Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030 (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.] Agricultural open field burning of grass and cereal grain fields for seed production is regulated by OAR Chapter 340, Division 26, Rules for Open Field Burning (Willamette Valley). All other agricultural open burning is allowed subject to OAR 340-23-040 and

340-23-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps may be allowed to burn after hours and shall be handled in accordance with OAR 340-23-040(4)(c) without addition of new waste material on prohibition condition days.

- (3) Commercial open burning is prohibited except as provided in OAR 340-23-100.
- (4) Construction and Demolition open burning is allowed subject to the requirements and prohibitions of local jurisdictions, the State Fire Marshal, OAR 340-23-040 and 340-23-042, except that unless authorized pursuant to 340-23-100, Construction and Demolition open burning is prohibited within special control areas including the following:
 - (a) Areas in or within six (6) miles of the corporate city limit of Salem in Marion and Polk Counties.
 - (b) Areas in or within three (3) miles of the corporate city limit of:
 - (A) In Benton County, the cities of Corvallis and Philomath.
 - (B) In Linn County, the cities of Albany, Brownsville, Harrisburg, Lebanon, Mill City and Sweet Home.
 - (C) In Marion County, the cities of Aumsville, Hubbard, Gervais, Jefferson, Mill City, Mt. Angel, Silverton, Stayton, Sublimity, Turner and Woodburn.
 - (D) In Polk County, the cities of Dallas, Independence and Monmouth.
 - (E) In Yamhill County, the cities of Amity, Carlton, Dayton, Dundee, Lafayette, McMinnville, Newberg, Sheridan and Willamina.
- (5) Domestic open burning
 - (a) As generally depicted in Figure 1 of OAR 340-23-115, domestic open burning is prohibited in the special control areas named in Section (4) of this Rule except that open burning of yard debris is allowed beginning March first and ending June fifteenth inclusive, and beginning October first and ending December fifteenth, inclusive, subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (b) Domestic open burning is allowed outside of special control areas named in Section (4) of this Rule subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (c) No person shall cause or allow to be initiated or

maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by the Department pursuant to OAR 340-23-043.

Clackamas County

340-23-065 Open Burning Prohibitions for Clackamas County:

- (1) Industrial open burning is prohibited except as provided in OAR 340-23-100.
- (2) [Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.] Agricultural open field burning of grass and cereal grain fields for seed production is regulated by OAR Chapter 340, Division 26, Rules for Open Field Burning (Willamette Valley). All other agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.
 - (b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps may be allowed to burn after hours and shall be handled in accordance with OAR 340-23-040(4)(c) without addition of new waste material on prohibition condition days.
- (3) Commercial open burning is prohibited except as may be provided by OAR 340-23-100. (4) Construction and Demolition open burning is
- (4) Construction and Demolition open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal except that unless authorized pursuant to OAR 340-23-100, Construction and Demolition open burning is prohibited within special control areas including the following:
 - (a) Areas in or within six (6) miles of the corporate city limits of Gladstone, Happy Valley, Lake Oswego, Milwaukie, Oregon City, Portland, Rivergrove and West Linn.
 - (b) Areas in or within three (3) miles of the corporate city limits of Canby, Estacada, Gresham, Molalla, Sandy and Wilsonville.
- (5) Domestic open burning
 - (a) As generally depicted in Figure 1A of OAR 340-23-115, domestic open burning is always prohibited within the following fire districts unless authorized pursuant to OAR 340-23-100: Clackamas County RFPD #1, that portion of Clackamas RFPD #71 which lies west of a line extending due north of the western tip of Beebe Island in the Clackamas River, Glenmorrie RFPD, #66, Gladstone, Lakegrove RFPD #57, Lake Oswego, Milwaukie, Oregon City, Oak Lodge, Portland, Riverdale RFPD #60, Rosemont RFPD #67, that part of Tualatin RFPD #64 which lies north of

I-205 and West Linn.

- (b) [(a) As] Areas of Clackamas County generally depicted in Figure 1 of OAR 340-23-115 and not included in the area where burning is prohibited by OAR 340-23-065(5)(a), domestic open burning is prohibited [within the following fire districts] except that open burning of yard debris is allowed within the following fire districts between March first and June fifteenth inclusive and between October first and December fifteenth inclusive, subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal: Beaver Creek RFPD #55, Boring RFPD #59, Canby, Canby RFPD #62, [Clackamas Co. RFPD #1,] Clackamas Co. RFPD #54, that portion of Clackamas RFPD #71 which lies east of a line extending due north of the western tip of Beebe Island in the Clackamas River, [Glenmorrie RFPD #66, Gladstone,] Happy Valley RFPD #65, [Lake Grove RFPD #57, Lake Oswego, Milwaukie, Oregon City, Oak Lodge, Portland, Riverdale RFPD #60, Rosemont RFPD #67] Sandy RFPD #72, that part of Tualatin RFPD #64 which lies south of I-205 [, West Linn].
- (c) [(b)] Domestic open burning is allowed in all other areas of Clackamas County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (d) [(c)] No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by the Department pursuant to OAR 340-23-043.

Multnomah County

340-23-070 Open Burning Prohibitions for Multnomah County.

- (1) Industrial open burning is prohibited except as provided in OAR 340-23-100.
- (2) [Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.] Agricultural open field burning of grass and cereal grain fields for seed production is regulated by OAR Chapter 340, Division 26, Rules for Open Field Burning (Willamette Valley). All other agricultural open burning is allowed subject to OAR 340-23-040 and 240-23-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.
 - (b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps may be allowed to burn after hours and shall be handled in accordance with OAR 340-23-040(4)(c) without addition of new waste material on prohibition condition days.

- (3) Commercial open burning is prohibited except as provided in OAR 340-23-100.
- (4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-23-100, is prohibited west of the Sandy River but is allowed east of the Sandy River subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Domestic open burning.
 - (a) As generally depicted in Figure 1A of OAR 340-23-115, open burning is always prohibited within the following area of Multnomah County unless authorized pursuant to OAR 340-23-100: west of a line beginning at the eastern most point where the Gresham city limit meets the Multnomah-Clackamas Counties line, thence northward and eastward along the Gresham city limits to the city limits of Troutdale, thence continuing eastward and northward along the Troutdale city limits to its northern most point in the Sandy River, and thence northward along the Sandy River to the Columbia River and the state line, but excluding that portion of western Multnomah County included in Skyline RFPR #20, Sauvie Island, Burlington Water District and all other areas in northwestern Multnomah County which is outside of a Fire Protection District.
 - (b) [(a)] As generally depicted in Figure 1 of OAR 340-23-115, domestic open burning is prohibited in areas of Multnomah County west of the Sandy River not included in the area where burning is prohibited by OAR 340-23-070(5)(a), except that open burning of yard debris is allowed from March first to June fifteenth inclusive and from October first to December fifteenth inclusive, subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (c) [(b)] Domestic open burning is allowed east of the Sandy River subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (d) [(c)] No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-23-043.

Washington County

340-23-075 Open Burning Prohibitions for Washington County.

- (1) Industrial open burning is prohibited except as provided in OAR 340-23-100.
- (2) [Agricultural open burning is allowed subject to OAR 340-26-005 through 340-26-030, (Agricultural Operations) and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.] Agricultural open field burning of grass and cereal grain fields for seed production is regulated by OAR Chapter 340, Division 26, Rules for Open Field Burning (Willamette Valley). All other agricultural open burning is allowed subject to OAR 340-

23-040 and 340-23-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps may be allowed to burn after hours and shall be handled in accordance with OAR 340-23-040(4)(c) without addition of new waste material on prohibition condition days.

- (3) Commercial open burning is prohibited except as may be provided by OAR 340-23-100.
- (4) Construction and Demolition open burning, unless authorized pursuant to OAR 340-23-100, is prohibited in all incorporated areas and areas within rural fire protection districts. Construction and Demolition open burning is allowed in all other areas subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Domestic open burning
- (a) As generally depicted in Figure 1A of OAR 340-23-115, open burning is always prohibited within the following area of Washington County unless authorized pursuant to OAR 340-23-100:
- (A) That portion of Tualatin RFPD north of I-205 plus the area including the cities of Tualatin, Durham, Tigard and King City, which is north of a line starting at the point where I-205 meets the Tualatin city limit, thence westward, southward, westward and finally northward along the Tualatin city limit to Highway 99W, thence northward along Highway 99W to the Tualatin River, thence westward along the Tualatin River to its intersection with the boundary of the Tualatin Rural Fire Protection District.
- (B) That part of Washington County Rural Fire Protection District #1 which is within the Metropolitan Service District.
- (C) That part of Washington County Rural Fire Protection District #2 starting at the point where Highway 26 crosses the eastern boundary of the fire district, then westward along Highway 26 to Cornelius Pass Road, thence northward along Cornelius Pass Road to West Union Road, thence eastward along West Union Road to the fire district boundary, thence southerly along the district boundary to the point of beginning.
- (b) [(a) As generally depicted in Figure 1 of OAR 340-23-115,] Excluding areas listed in OAR 340-23-075(5)(a) above, domestic open burning is prohibited in all municipal and rural fire protection districts of Washington Co., excluding the Tri-Cities RFPD as generally depicted in Figure 1 of OAR 340-23-115, except that open burning of yard debris is allowed between

March first and June fifteenth inclusive and between October first and December fifteenth inclusive, subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(c) [(b)] Domestic open burning is allowed in the Tri-Cities RFPD and in all unincorporated areas of Washington County outside of municipal or rural fire protection districts subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(d) [(c)] No person shall cause or allow to be initiated or maintained any domestic open burning other than during daylight hours between 7:30 a.m. and two hours before sunset unless otherwise specified by Department pursuant to OAR 340-23-043.

Columbia County

340-23-080 Open Burning Prohibitions for Columbia County.

- (1) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-100.
- (2) Agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (3) Commercial open burning is prohibited unless authorized pursuant to OAR 340-23-100.
- (4) Construction and Demolition open burning
 - (a) Unless authorized pursuant to OAR 340-23-100, Construction and Demolition open burning is prohibited in and within three (3) miles of the city limits of Clatskanie, Rainier, St. Helens, Scappoose and Vernonia.
 - (b) Construction and Demolition open burning is allowed in all other parts of Columbia County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Domestic open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

Lane County

340-23-085 Open Burning Prohibitions for Lane County. That portion of Lane County east of Range 7 West, Willamette Meridian, forms a part of the Willamette Valley open burning control area as generally described in OAR 340-23-115(5) and depicted in Figure 2.

- (1) The rules and regulations of the Lane Regional Air Pollution authority shall apply to all open burning in Lane County provided such rules are no less stringent than the provision of these rules except that the Lane Regional Air Pollution Authority may not regulate agricultural open burning.
- (2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-100.
- (3) [Agricultural open burning is allowed subject to OAR 340-26-005

through 340-26-030 (Agricultural Operations), and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.] Agricultural open field burning of grass and cereal grain fields for seed production is regulated by OAR Chapter 340, Division 26, Rules for Open Field Burning (Willamette Valley). All other agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042, and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

(a) Agricultural open burning within the purview of this rule will be prohibited between July 15 and September 15 unless specifically authorized by the Department on a particular day.

(b) Burning hours are during daylight hours unless otherwise set by the Department. Large piles of land clearing debris or stumps may be allowed to burn after hours and shall be handled in accordance with OAR 340-23-040(4)(c) without addition of new waste material on prohibition condition days.

- (4) Commercial open burning, unless authorized pursuant to OAR 340-23-100, is prohibited in Lane County east of Range 7 West, Willamette Meridian and in or within three (3) miles of the City limits of Florence on the coast. Commercial open burning is allowed in the remaining areas of Lane County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (5) Construction and Demolition open burning unless authorized pursuant to OAR 340-23-100 is prohibited within all fire districts and other areas specified in this section but is allowed elsewhere in Lane County subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. Areas where open burning of construction and demolition waste is prohibited include:
 - (a) Bailey-Spencer RFPD,
 - (b) Coburg RFPD,
 - (c) Cottage Grove,
 - (d) Creswell RFPD,
 - (e) Crow Valley RFPD,
 - (f) Dexter RFPD except that portion east of the Willamette Meridian,
 - (g) Elmira-Noti RFPD except that portion west of the line between Range 6 West and Range 7 West,
 - (h) Eugene Fire District,
 - (i) Eugene RFPD No. 1,
 - (j) Goshen RFPD,
 - (k) Junction City Fire District,
 - (l) Junction City RFPD,
 - (m) Lane RFPD No. 1,
 - (n) Lowell RFPD,
 - (o) Marcola RFPD,
 - (p) McKenzie RFPD except that portion east of the Willamette Meridian,

- (q) Monroe RFPD, only that portion within Lane County,
 - (r) Oakridge RFPD,
 - (s) Pleasant Hill RFPD,
 - (t) South Lane RFPD,
 - (u) Springfield Fire Department and those areas protected by the Springfield Fire Department,
 - (v) That portion of Western Lane Forest Protection District north of Section 11, [TWP. 19 South, RGE 4 West] T19S, R4W and bordering the city of Eugene and/or Crow Valley, Eugene #1, Goshen and Creswell RFPDs,
 - (w) Willakenzie RFPD,
 - (x) Zumwalt RFPD,
 - (y) Those unprotected areas which are surrounded by or are bordered on all sides by any of the above listed fire protection districts or by Eastern Lane Forest Protection District.
- (6) Domestic open burning.
- (a) Domestic open burning outside the fire districts listed in Section (5) of this Rule is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (b) Domestic open burning is prohibited within all fire districts listed in Section (5) of this Rule except that open burning of yard debris is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
 - (c) Refer to Lane Regional Air Pollution Authority open burning rules for specific seasons and hours for domestic open burning.

Coos, Douglas, Jackson and Josephine Counties

340-23-090 Open burning prohibitions for Coos, Douglas, Jackson and Josephine Counties.

- (1) Open burning control areas
 - (a) The Coos Bay open burning control area as generally described in OAR 340-23-115 and depicted in Figure 3 is located in Coos County.
 - (b) The Umpqua Basin open burning control area as generally described in OAR 340-23-115, and depicted in Figure 5, is located in Douglas County.
 - (c) The Rogue Basin open burning control area as generally described in OAR 340-23-115 and depicted in Figure 4, is located in Jackson and Josephine Counties.
- (2) Industrial open burning is prohibited unless authorized pursuant to OAR 340-23-100.
- (3) Agricultural open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (4) Commercial open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas and in or within three (3) miles of the corporate city limits of Coquille and

Reedsport unless authorized pursuant to OAR 340-23-100. Commercial open burning is allowed in all other areas of these counties subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

- (5) Construction and Demolition open burning is prohibited within the Coos Bay, Umpqua Basin and Rogue Basin open burning control areas unless authorized pursuant to OAR 340-23-100. Construction and Demolition open burning is allowed in other areas of these counties subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.
- (6) Domestic open burning is allowed subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal.

Letter Permits

- 340-23-100** (1) Open burning of commercial, industrial, construction or demolition waste on a singly occurring or infrequent basis or the open burning of yard debris which is otherwise prohibited, may be permitted by a letter permit issued by the Department in accordance with this rule and subject to OAR 340-23-040 and 340-23-042 and the requirements and prohibitions of local jurisdictions and the State Fire Marshal. OAR 340-14-025, [and] 340-20-140, and 340-20-150 through 340-20-185 shall not apply.
- (2) A letter permit may only be issued on the basis of a written application for disposal of material by burning which has been approved by the Department. Each application for a letter permit shall contain the following items:
 - (a) The quantity and type of material proposed to be burned,
 - (b) A listing of all alternative disposal methods and potential costs which have been identified or investigated,
 - (c) The expected amount of time which will be required to complete the burning[,], (not required for yard debris).
 - (d) The methods proposed to be used to insure complete and efficient combustion of the material,
 - (e) The location of the proposed burning site,
 - (f) A diagram showing the proposed burning site and the structures and facilities inhabited or used in the vicinity including distances thereto,
 - (g) The expected frequency of the need to dispose of similar materials by burning in the future,
 - (h) Any other information which the applicant considers relevant or which the Department may require.
 - (i) Payment of a permit fee in accordance with the schedule listed in section (11) of this rule.
 - (3) Upon receipt of a written application the Department may approve the application if it is satisfied that:
 - (a) The applicant has demonstrated that all reasonable

alternatives have been explored and no practicable alternative method for disposal of the materials exists; and

- (b) The proposed burning will not cause or contribute to significant degradation of air quality.
- (4) The Department also may deny an application for a letter permit or revoke or suspend an issued letter permit on any of the following grounds:
- (a) Any material misstatement or omission in the application;
 - (b) Any actual or projected violation of any statute, rule, regulations, order, permit, ordinance, judgement or decree.
- (5) In making its determination under section (3) above, the Department may consider:
- (a) The conditions of the airshed of the proposed burning.
 - (b) The other air pollution sources in the vicinity of the proposed burning;
 - (c) The availability of other methods of disposal, and special circumstances of conditions which may impose a hardship on an applicant;
 - (d) The frequency of the need to dispose of similar materials in the past and expected in the future;
 - (e) The applicant's prior violations, if any;
 - (f) The projected effect upon persons and property in the vicinity; and
 - (g) Any other relevant factor.
- (6) Each letter permit issued by the Department pursuant to section (2) of this Rule shall contain at least the following elements:
- (a) The location at which the burning is permitted to take place.
 - (b) The number of actual calendar days on which burning is permitted to take place, not to exceed seven (7), except that a permit for yard debris shall not contain such a limitation.
 - (c) The period during which the permit is valid, not to exceed a period of thirty (30) consecutive days, except a permit for yard debris. The actual period in the permit shall be specific to the needs of the applicant. A letter permit for yard debris shall be valid for a single burning season or a calendar year, as appropriate to the application and the fee paid pursuant to the schedule in OAR 340-23-100(11).
 - (d) Equipment and methods required to be used by the applicant to insure that the burning is accomplished in the most efficient manner over the shortest period of time to minimize smoke production.
 - (e) The limitations, if any, based on meteorological conditions required before burning may occur. Open burning under permits for yard debris shall be limited to the hours and times which limit seasonal domestic yard debris burning permitted in the county where the burning under the letter

permit is to occur.

- (f) Reporting requirements for both starting the fire each day and completion of the requested burning[.] (optional for permits for yard debris.)
 - (g) A statement that OAR 340-23-040 and 340-23-042 are fully applicable to all burning under the permit.
 - (h) Such other conditions as the Department considers to be desirable.
- (7) Regardless of the conditions in any letter permit, each letter permit , except permits for yard debris, shall be valid for not more than thirty (30) consecutive calendar days of which a maximum of seven (7) can be used for burning. The Department may issue specific letter permits for shorter periods.
- (8) Letter permits shall not be renewable. Any requests to conduct additional burning shall require a new application and a new permit.
- (9) For locations within Clackamas, [Columbia,] Multnomah and Washington Counties, letter permits may be issued only for the purpose of disposal of:
- (a) Material resulting from emergency occurrences including, but not limited to floods, storms or oil spills.
 - (b) Material originating as yard debris which has been collected and stored by governmental jurisdictions provided that no other reasonable means of disposal are available.
 - (c) Yard debris on the property of a private residence where the inability to burn creates a hardship due to volume or nature of the material, inaccessibility of the area or physical limitations of the applicant.
- (10) [Failure to conduct open burning according to the conditions, limitations, or terms of a letter permit, or any open burning in excess of that permitted by the letter permit shall be violation of the permit and shall be cause for assessment of civil penalties for each violation as provided in OAR 340-12-030, 340-12-035, 340-12-040(3)(b), 340-12-045, and 340-12-050(3), or for other enforcement action by the Department.] No person shall violate any condition, limitation, or term of a letter permit.
- (11) All applications for a letter permit for yard debris shall be accompanied by a permit fee which shall be payable to the Department and become non-refundable upon issuance of the permit. The fee to be submitted is:
- (a) For a single burning season, spring or fall; \$20.
 - (b) For a calendar year; \$30.

Forced Air Pit Incinerators

340-23-105 Forced air pit incineration may be approved as an alternative to open burning prohibited by these rules, provided that the following conditions shall be met:

- (1) The person requesting approval of forced air pit incineration shall demonstrate to the satisfaction of the Department that

no feasible or practicable alternative to forced-air pit incineration exists.

- (2) The forced-air pit incineration facility shall be designed, installed, and operated in such a manner that visible emissions do not exceed forty percent (40%) opacity for more than three (3) minutes out of any one (1) hour of operation following the initial thirty (30) minute startup period.
- (3) The person requesting approval of a force-air pit incineration facility shall be granted an approval of the facility only after a Notice of Construction and Application for Approval is submitted pursuant to OAR 340-20-020 through 340-20-030.
- (4) A forced-air pit permit for operation of a forced-air pit incineration facility shall be required and shall be based on the same conditions and requirements stipulated for letter permits in OAR 340-23-100, which is included here by reference, except that the term of the permit shall not be limited to thirty (30) days and the operation of the facility shall not be limited to seven (7) days, but both the term of the permit and the operation limit of the facility shall be specified in the permit and shall be appropriate to the purpose of the facility.

Records and Reports

340-23-110

As required by ORS 476.380(4) and 478.960(7), fire permit issuing agencies shall maintain records of open burning permits and the conditions thereof, and shall submit such records or summaries thereof to the Commission as may be required. Forms for any reports required under this section shall be provided by the Department.

Open Burning Control Areas

340-23-115

Generally areas around the more densely populated locations in the state and valleys or basins which restrict atmospheric ventilation are designated open burning control areas. The practice of open burning may be more restrictive in open burning control areas than in other areas of the state. The specific open burning restrictions associated with these Open Burning Control Areas are listed in OAR 340-23-055 through OAR 340-23-090 by county. The general locations of Open Burning Control Areas are depicted in Figure 2 through 5 of this rule. The Open Burning Control Areas of the state are defined as follows:

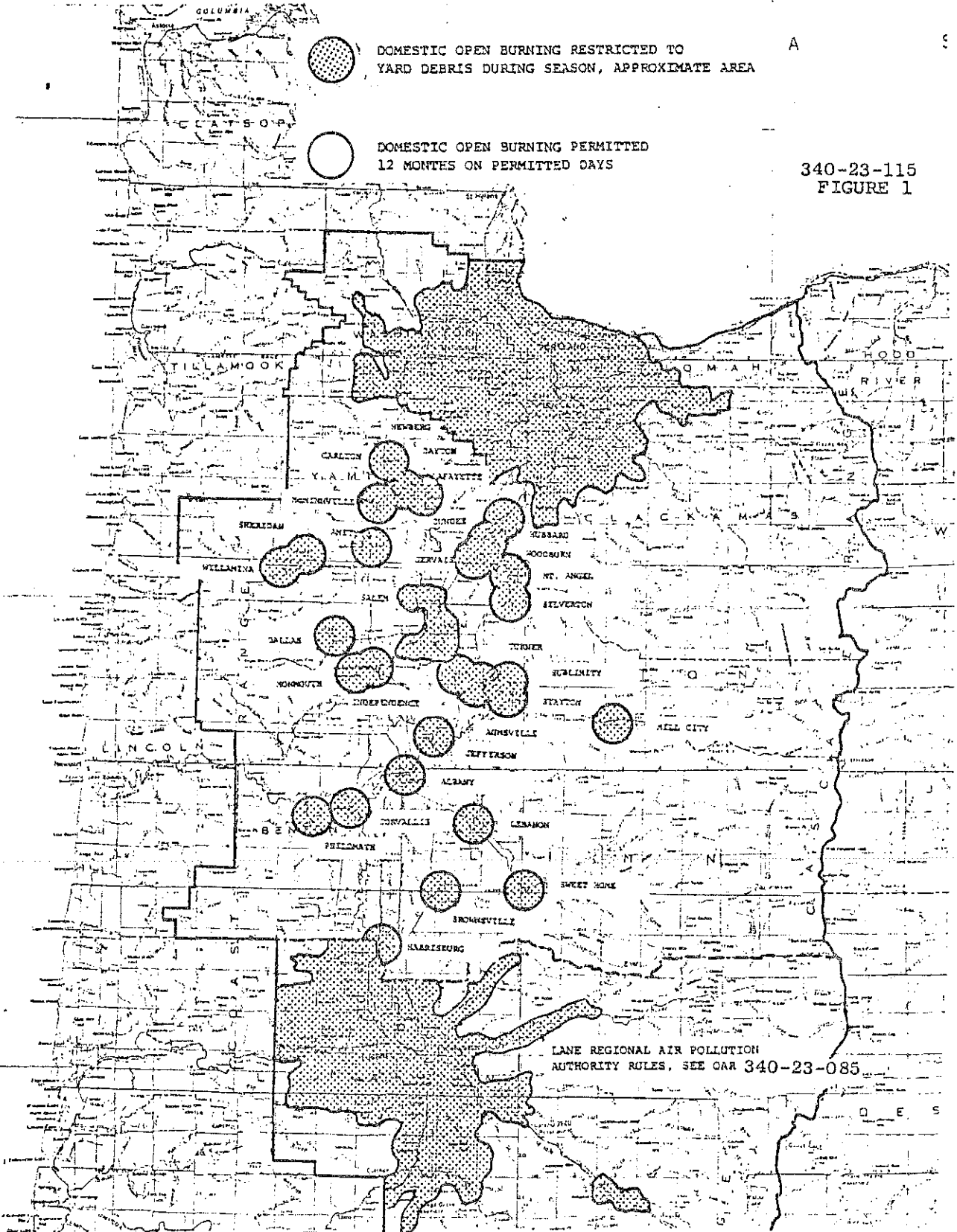
- (1) All areas in or within three miles of the incorporated city limits of all cities with a population of 4,000 or more.
- (2) The Coos Bay Open Burning Control Area is located in Coos County with boundaries as generally depicted in Figure 3 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles WNW of the City of North Bend, at the intersection of the north boundary of T25S, R13W, and the coast line of the Pacific Ocean; thence east to the NE corner of T25S, R12W; thence south to the SE corner of T26S, R12W; thence west

- to the intersection of the south boundary of T26S, R14W and the coastline of the Pacific Ocean; thence northerly and easterly along the coastline of the Pacific Ocean to its intersection with the north boundary of T25S, R13W, the point of beginning.
- (3) The Rogue Basin Open Burning Control Area is located in Jackson and Josephine Counties with boundaries as generally depicted in Figure 4 of this rule. The area is enclosed by a line beginning at a point approximately 4-1/2 miles NE of the City of Shady Cove at the NE corner of T34S, R1W, Willamette Meridian; thence south along the Willamette Meridian to the SW corner of T37S, R1W; thence east to the NE corner of T38S, R1E; thence south to the SE corner of T38S, R1E; thence east to the NE corner of T39S, R2E; thence south to the SE corner of T39S, R2E; thence west to the SW corner of T39S, R1E; thence NW along a line to the NW corner of T39S, R1W; thence west to the SW corner of T38S, R2W; thence north to the SW corner of T36S, R2W; thence west to the SW corner of T36S, R4W; thence south to the SE corner of T37S, R5W; thence west to the SW corner of T37S, R6W; thence east to the SW corner of T35S, R1W; thence north to the NW corner of T34S, R1W; thence east to the point of beginning.
- (4) The Umpqua Basin Open Burning Control Area is located in Douglas County with boundaries as generally depicted in Figure 5 of this rule. The area is enclosed by a line beginning at a point approximately 4 miles ENE of the City of Oakland, Douglas County, at the NE corner of T25S, R5W, Willamette Meridian; thence south to the SE corner of T25S, R5W; thence east to the NE corner of T26S, R4W; thence south to the SE corner of T27S, R4W; thence west to the SE corner of T27S, R5W; thence south to the SE corner of T30S, R5W; thence west to the SW corner of T30S, R6W; thence north to the NW corner of T29S, R6W; thence west to the SW corner of T28S, R7W; thence north to the NW corner of T27S, R7W; thence east to the NE corner of T27S, R7W; thence north to the NW corner of T26S, R6W; thence east to the NE corner of T26S, R6W; thence north to the NW corner of T25S, R5W; thence east to the point of beginning.
- (5) The boundaries of the Willamette Valley Open Burning Control Area are generally depicted in Figures 1 and 2 of this rule. The area includes all of Benton, Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Lane County east of Range 7 West.
- (6) Special control areas are established around cities within the Willamette Valley Open Burning Control Area. The boundaries of these special control areas are determined as follows:
- (a) Any area in or within three (3) miles of the boundary of any city or more than 1,000 but less than 45,000 population.
 - (b) Any area in or within six (6) miles of the boundary of any city of 45,000 or more population.
 - (c) Any area between areas established by this rule where the boundaries are separated by three (3) miles or less.

(d) Whenever two or more cities have a common boundary, the total population of these cities will determine the applicability of subsection (a) or (b) of this section and the municipal boundaries of each of the cities shall be used to determine the limit of the special control area.

(7) A domestic burning ban area around the Portland metropolitan area is generally depicted in Figure 1A. This area encompasses parts of the special control area in Clackamas, Multnomah and Washington Counties. Specific boundaries are listed in OAR 340-23-065(5), 340-23-070(5) and 340-23-075(5). Domestic burning is prohibited in this area except as allowed pursuant to OAR 340-23-100.

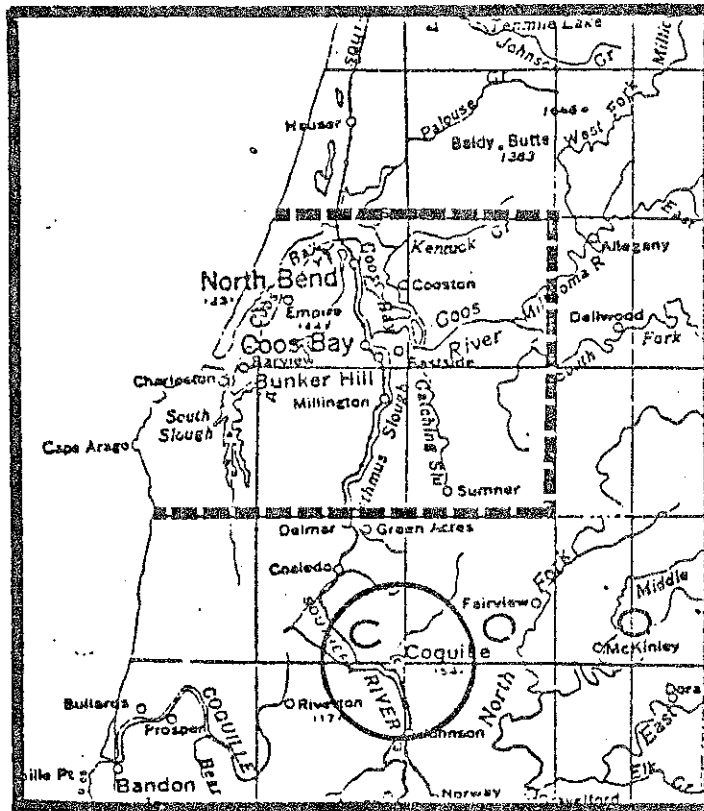
OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 23 — DEPARTMENT OF ENVIRONMENTAL QUALITY



340-23-115
FIGURE 1

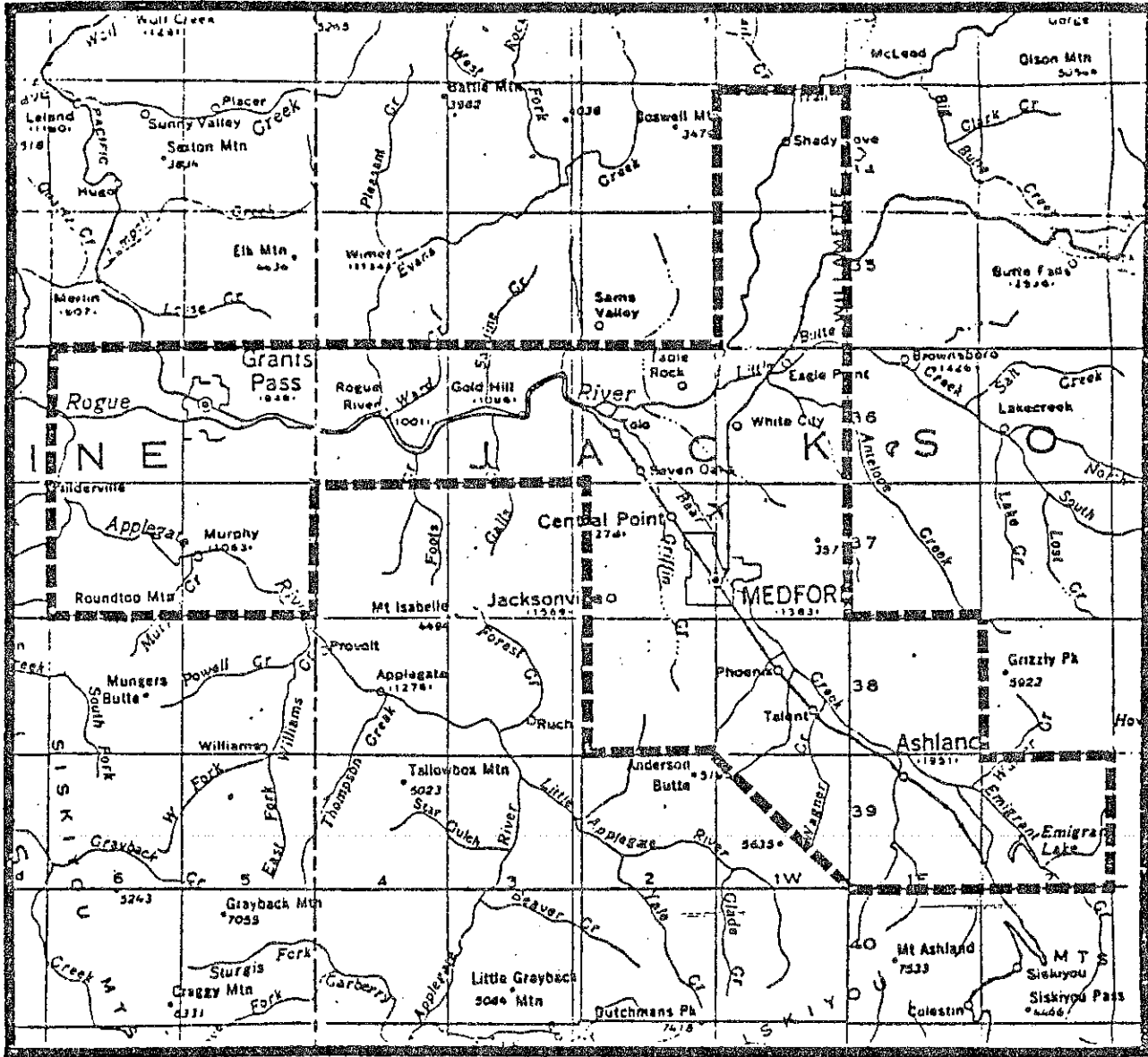
WILLAMETTE VALLEY OPEN BURNING CONTROL AREA

COOS BAY OPEN BURNING CONTROL AREA
(Coquille Control Area Shown As Circle)



340-23-115
FIGURE 3

ROGUE BASIN OPEN BURNING CONTROL AREA



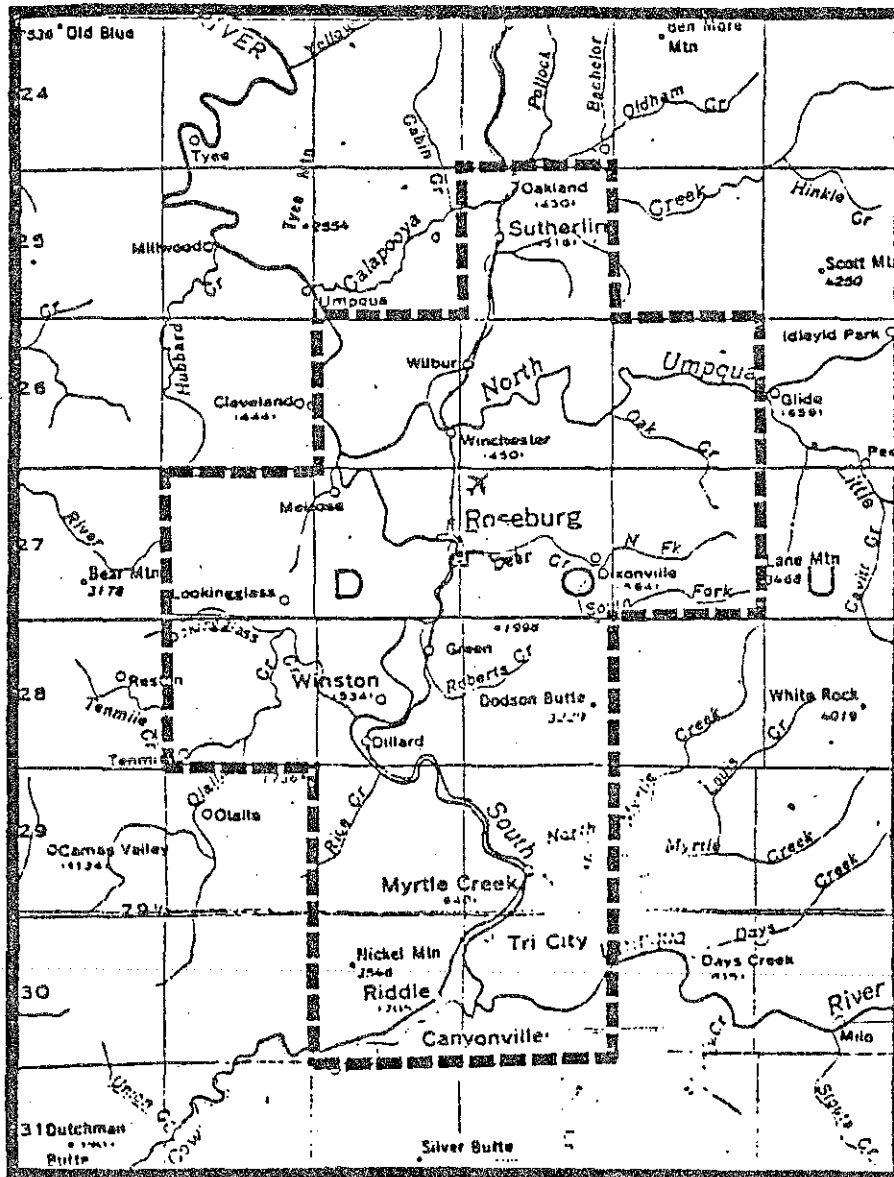
340-23-115

FIGURE 4

(November, 1981)

4 - Figures

UMPQUA BASIN OPEN BURNING CONTROL AREA



340-23-115

FIGURE 5

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED REVISION OF OPEN BURNING RULES
NOTICE OF PUBLIC HEARING

Date Prepared: December 20, 1983
Hearing Date: To be arranged
Comments Due: To be arranged

**WHO IS
AFFECTED:**

Residents in the Portland area who open burn yard debris.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340-23-005 through 23-115, Rules for Open Burning, to ban backyard burning of yard debris in the Portland area and establish a hardship burning permit program. Reorganization of 4th priority agricultural burning rules is also proposed.

**WHAT ARE THE
HIGHLIGHTS:**

- A ban on open burning of yard debris in the densely populated portion of the Portland area would become effective after the spring 1984 burn period (i.e. June 16, 1984).
- Burning permits would be allowed for situations where, due to the nature or volume of the debris, site access or physical limitations of the applicant, alternative disposal methods would present a hardship.
- A \$20 seasonal or \$30 annual fee would be established for hardship burning permits to cover costs of permit processing and field inspection activities.
- A housekeeping change would move regulations of 4th priority agricultural burning in the Willamette Valley from OAR Division 26 to OAR Division 23.

**HOW TO
COMMENT:**

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (522 S.W. Fifth Avenue) or the regional office nearest you. For further information contact Margaret McCue at 229-6488.

A public hearing will be held before a hearings officer at:

TIME: To be arranged
DATE: To be arranged
PLACE: To be arranged

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Air Quality Division,



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-7813, and ask for the Department of Environmental Quality. 1-800-452-4011



**WHAT IS THE
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in March or April, 1984 as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AZ487

RULEMAKING STATEMENTS

for

PROPOSED REVISIONS OF OPEN BURNING RULES

Pursuant to ORS 183.335, these statements provide information on the intended action to amend a rule.

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-23-005 through 23-115. It is proposed under authority of ORS 468.020, ORS 468.310, ORS 468.355, and ORS 468.450.

Need for the Rule

An open burning ban is needed to meet daily particulate air quality standards in the Portland area.

Putting 4th priority agricultural burning in the Willamette Valley in the Open Burning Rules will consolidate all such requirements into one rule. The EQC has found that alternatives are available to backyard burning.

Principal Documents Relied Upon

1. Environmental Quality Commission Reports from the Director dated February 22, 1980, January 30, 1981, August 27, 1982, and November 18, 1983.
2. METRO Yard Debris Demonstration Grant Reports dated October 17, 1983 and March, 1983.
3. Portland-Vancouver AQMA (Oregon Portion) Control Strategy for total suspended particulates, adopted by the Environmental Quality Commission December 19, 1980.

FISCAL AND ECONOMIC IMPACT STATEMENT:

Use of non-burning techniques to dispose of yard debris will cost the average citizen who now burns about \$6/year.

Small businesses will benefit from extra business generated for services to dispose of yard debris.

LAND USE CONSISTENCY STATEMENT:

The Department has concluded that the proposals do affect land use.

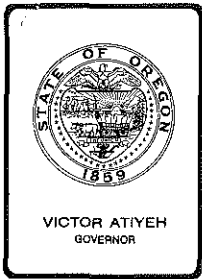
With regard to Goal 6 (air, water and land resources quality), the rules are designed to enhance and preserve air quality in the affected area and are considered consistent with the Goal.

Goal 11 (public facilities and services) is deemed unaffected by the proposals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this NOTICE OF PUBLIC HEARING.

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

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



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

TO: Environmental Quality Commission
FROM: Acting Director
SUBJECT: Agenda Item E , January 6, 1983, EQC Meeting

Request for Authorization to Conduct a Public
Hearing on Proposed Open Field Burning Rules,
OAR 340-26-001 through 340-26-050.

Background and Problem Statement

The Willamette Valley agricultural burning rules are the product of many years of piece-meal changes and additions, often the result of highly charged legal, political, and emotional debates. Some rule provisions were instituted without the opportunity for careful study or the benefit of prior experimentation. The regularity in which the rules were being revised and the rapid evolution of smoke management operations and capabilities effectively precluded until now a deliberate review and simplification of the regulations.

As a result of the problems noted above, portions of the current field burning regulations suffer from being poorly organized, redundant, vague, impractical or obsolete. It is sometimes difficult for a "user" of the rules, be it the grower who is regulated, the fire district agent actively involved in issuing permits, or a member of the public, to ascertain what exactly the requirements and responsibilities are, and who they apply to. The letter and intent of certain rules have become difficult to interpret and administer.

Three burning seasons have passed since the rules were last updated. Some provisions, because they've been tried and disproven, or effectively replaced by a better method, simply no longer belong in today's smoke management program. Other provisions need adjustment in order to more accurately reflect current practices. And still others may tend to unduly restrict the Department's decision-making flexibility, ultimately working against the stated public policy and objective of maximizing the burning with minimum smoke impact on the public.

With these considerations in mind, the Department has recently reviewed the field burning rules and has drafted proposed revisions intended to clarify and modernize the regulations and make them easier to use. In addition, some minor substantive changes are proposed, characterized as "fine-tuning" adjustments to existing controls. No major substantive changes are proposed.



Contains
Recycled
Materials

Alternatives and Evaluation

1. Alternatives to Open Field Burning

There are currently no known "reasonable or economically feasible" alternatives to open field burning, except for propane flaming which is sometimes employed by growers as a suitable but expensive substitute method of sanitizing perennial grass seed fields. The effort to develop Meadowfoam as a commercially viable alternate crop is in progress but is not considered to be a near-term solution. Results from a five-year study of the effects of burning grass fields on a less-than-annual basis will be available in the coming months and evaluated for evidence of any suitable alternatives, however none are apparent at the present time.

2. Alternatives to Rule Revision

Alternatives to the proposed rule revision include the options of taking no action, or either considerably reducing or increasing the scope of the changes proposed.

Foregoing a revision of the rules at this time would preserve the numerous regulatory deficiencies which now exist. The near-term consequences of this would vary, depending on the burning season, from little or no effect to a range of possibly significant negative effects including reduced burning and increased risk of public smoke impacts. In the long term, maintaining the status quo would work to constrain the continued development and use of new or better methods of smoke management.

The alternative of proceeding with rule revisions, but limiting the changes to only the most critical needs, would only partially address the current deficiencies without a recognizable net benefit over the proposed approach.

The other alternative of expanding the scope of the revisions merits some discussion. Such an approach might entail a complete restructuring of the regulations to the extent that only the essential provisions (i.e., those required by statute or for compliance with the Clean Air Act) would be written into rule; The remaining administrative/procedural provisions and details perhaps relegated to a "procedures document" similar to an operating manual now available for permit agents. One result of this kind of approach would be a more concise set of regulations whose limits are sufficiently broad as to allow operational flexibility and improvements without the delays or time-consuming demands of the formal rule revision process. There are, of course, a number of possible drawbacks to such an approach including the perception that it would tend to limit public review and input into the program. It might also tend to reduce the enforceability of some provisions. In staff's opinion, a formal independent and comprehensive analysis of the smoke management program, including its goals, structure and functions, should someday be considered to address such alternatives.

3. Proposed Rule Revisions

In developing the proposed rule revisions, Department staff have drawn upon the experiences of three burning seasons since the last significant regulatory review. This has been a period of relative stability and success. Suggestions have been received and considered from a variety of sources including representatives of the grass seed industry, city of Eugene, Lane Regional Air Pollution Authority, the Department's own staff (Regional Operations, meteorologist), legal counsel, and others. In drafting amendments, an effort was made to be consistent in format with other Department rules.

Brief summaries of the major elements of the proposed rule revisions are provided below.

3.1 Rule Revisions for Organizational Purposes

Regulations pertaining to general agricultural ("fourth priority") burning in the Willamette Valley would be transferred to the Open Burning Rules (Division 23) because domestic and fourth-priority types of burning are administered by the Department and administered by the local permit issuing agencies similarly. Consequently, Division 26 rules would become titled "Rules for Open Field Burning (Willamette Valley)."

A new section, "001-Introduction" is proposed to serve as a user's index to the field burning rules. Subsequent sections are restructured accordingly. Section "010-General Requirements" would apply principally to growers. The next section, "012-Registration, Permits, Fees, Records", is a consolidation of the duties and responsibilities primarily pertaining to the permit agents. The remaining sections apply specifically to the Department or relate to special categories of field burning (i.e., training-fires, experimental and emergency burning, propane flaming).

Section "050" relating to field burning tax credits is scheduled to be reviewed by staff at a later date for incorporation into the Department's tax credit rule package now being developed pursuant to changes in tax credit statutes.

It is proposed that Table 1 listing quotas for the Willamette Valley fire districts be excluded from the rules as an unnecessary encumbrance. Quotas are frequently adjusted just prior to the burn season to reflect shifts in registered acreage or boundaries of permit jurisdictions or burning zones. Quota adjustments are made in consultation with the Oregon Seed Council and affected fire districts.

3.2 Rule Revisions for Purposes of Clarification and Modernization

A number of rule revisions are proposed to clarify existing provisions or to reflect useful new terms, methods, and practices which have evolved over the last several years.

A new section, "003-Policy", is proposed in keeping with the format of other rules of the Department. This section sets forth the policies of the State (according to Statute) and of the Commission pertaining to field burning smoke management and research.

In section "005-Definitions", a number of commonly used terms have been added or modified. The terms "summer burning season" and "winter burning season" have been eliminated. The distinction in burn seasons applies principally to fourth-priority agricultural burning, regulations for which would be transferred to Division 23. The more significant definition changes are discussed in section 3.3 of this report in connection with the operational change they pertain to.

In section "010-General Requirements", new provisions are added to advise growers of their responsibilities, among other things, to attend their fires until effectively extinguished and to exercise restraint when authorized to burn within a priority area should it appear that a wind change, for example, would cause the smoke to drift toward the nearby city, highway or airport. Another provision would require growers to make every effort to expedite their burning through the use of rapid ignition burning techniques. This replaces existing provisions requiring certain ignition techniques (i.e., strip-lighting, backfiring, headfiring) under certain conditions, which has proven to be impractical and difficult to enforce.

In section "012-Registration, Permits, Fees, Records", a new provision is added to clarify the permit issuing agency's responsibility and authority for establishing its own procedures for issuing permits pursuant to the Departments daily burning authorizations. A variety of methods are already successfully employed by most districts to reflect local conditions and considerations.

In section "015-Daily Burning Authorization Criteria", the basis for declaring "Prohibition Conditions" and "Marginal Conditions", and their meaning, would be changed to reflect current discretionary practices. When general burning is deemed permissible the Department would announce that marginal conditions are in effect for the specified areas. When no burning or only limited localized burning is deemed permissible, then prohibition conditions would remain in effect, with authorization for such burning to be made on a field-by-field basis. Presently, such terms are rigidly defined by rule based on a ventilation index number, which ignores the many other interrelated factors that must be evaluated before general burning can be allowed. Similarly, guidelines prescribed by rule for the distribution of burning (quotas) in various sections of the Valley would be eliminated. Such provisions were developed many years ago and have since been replaced in practice by a discretionary approach wherein burning is more intensively managed on a real-time, localized basis as atmospheric conditions warrant.

Clarifying language pertaining to the Eugene/Springfield Performance Standard would also be added in section 015, however, no substantive changes in the Standard are proposed.

A new section, "030-Burning by Public Agencies (Training Fires)", would be added to establish regulations pertaining to the special case of field burning for the official purpose of training fire district personnel. For many years, such burning was considered exempt from field burning controls. An Attorney General opinion in 1981, however, declared that training-fires are not exempt from field burning regulations. The proposed rule would formalize the approach employed operationally by the Department for the last three years.

3.3 Rule Revisions for Operational Change

Several minor rule changes are proposed which would affect day-to-day field burning activities, decisions and enforcement. Some of the proposed changes would slightly tighten existing provisions and are intended to address problems not currently regulated by rule. Others would slightly relax existing provisions and are intended to provide a measure of discretionary flexibility in selected criteria now considered to be unnecessarily rigid. On balance, however, the combined net effect of these proposed changes is not expected to substantially alter the overall level of controls on open field burning.

Included among the revisions which would amount to a tightening of restrictions is a change in the definition of priority areas. Burning in priority areas requires extra caution by the agent and grower due to the close proximity of a city, airport, or highway. Currently, priority areas include those areas completely surrounding major cities (3 mile radius) and airports (1 mile radius), and areas within a 1/4 mile wide strip along but one side of the major highways; the side immediately "upwind" of the highway under wind patterns typical for general burning. Limiting priority area status to just the one side along the highways, however, ignores the potential for aberrant winds to pose a similar public safety threat from burning on the other ("downwind") side. Such a problem does occasionally arise. The proposed change would extend priority area status to the strips along both sides of the major highways, affirming the need for cautious discretion when burning on either side. It is also proposed to extend new priority area status to areas along Cascade Highway between Silverton and Stayton, which has in recent years been the location of several smoke-related traffic accidents. No new controls on burning within priority areas are proposed.

Another proposed revision would establish minimum ventilation criteria (a ventilation index of less than 10.0) below which no burning could be allowed, except for experimental field burning specifically authorized by the Department. This would constitute extremely poor dispersion (e.g., a mixing height of 2000' and winds averaging 5 knots or less) and is considered unsuitable for burning. There are currently no minimum ventilation criteria below which burning cannot be authorized.

Similarly, another revision would slightly increase the ventilation index criteria below which only test fires could be authorized, again except for experimental burning. When ventilation is in the "below average" range (between 10.0 and 15.0) burning would be restricted only to that which is necessary for determining atmospheric conditions and trends. Currently, the ventilation index below which only test-fires can be authorized is 12.5

In other proposed revisions, the limit on the amount of acreage allowed to be experimentally burned each year would be reduced from 7,500 to 5,000 acres, and a new provision would be added restricting propane flaming operations when a public nuisance or safety hazard results.

Included among the revisions which would add flexibility to present restrictions is a slight change in the definition of "southerly" winds. Under the revision, southerly wind directions would include the entire south half of the compass plus another 20° to the west-northwest (90° through 290°). The intent of this change would be to allow burning under the less-restrictive 65 percent humidity limit when winds are forecast to be southerly or westerly. Currently, a slight shift from southerly to westerly winds (i.e., directions greater than 270°) would require that burning suddenly be halted until a 50 percent humidity is achieved. Such a technicality would unnecessarily prevent otherwise suitable opportunities for burning. Northerly wind directions would be redefined to include the remaining portion of the compass.

Another revision would allow burning of test fires before the necessary minimum humidity (65 percent under southerly winds, 50 percent under northerly winds) is actually achieved. This would reflect current practices and is designed to clarify the existing rule which is admittedly unclear.

Another proposed revision would expand the criteria under which the Department can waive the drying-day requirements following periods of rain. Currently, a certain number of drying days are required following rainfall (the number depending on the amount of rain). The Department can currently elect to waive this requirement only if dry fields are available due to irregular rain patterns or the use of "fluffing" to expedite drying. The proposed change would also allow a waiver when weather conditions are exceptionally warm and dry, sufficiently so to dry out field residue down to about 12 percent moisture content. Such conditions are most likely to occur early in the summer burning season when field conditions and meteorological conditions tend to be best for burning. While somewhat broad and discretionary, this provision is intended to serve only in the interim until more specific evaporation criteria can be developed and tested.

Another proposed revision would remove arbitrary limits on the times of day permissible for burning, thereby allowing the Department to set the times in accordance with smoke management considerations and the other authorization criteria established by rule. Current rules are somewhat vague concerning burning hours but are taken to disallow any burning after 1/2 hour following sunset. Under most conditions, evening burning is unsuitable due to the rapid deterioration of the atmosphere's dispersion capabilities. However, a combination of conditions do rarely occur in which burning past sunset would be suitable. Such a situation arose one day in 1982 and resulted in the single best day of burning that year.

Finally, changes are proposed in the rules pertaining to the assessment of civil penalties for field burning violations. Presently, the Director may assess a penalty in the range of \$20 to \$40 for each acre illegally burned or, alternatively, according to a flat penalty schedule.

The schedule specifies fairly severe penalties, ranging from \$300 to \$1500 depending on the particular violation, and provides for a doubling of the amount for each repeat infraction. The schedule was established in 1981 in an effort to deter and reduce what had become a serious problem of illegal burning. In staff's opinion, the schedule has been effective in helping to deter illegal burning, however, it has also proven to be too restrictive in many cases where a lesser penalty would be more appropriate. In addition, the field burning staff feels that reductions of penalties by the Hearings Officer after contested case hearings further diminishes the full deterrent effect of the existing schedule.

Therefore, changes are proposed which would replace the schedule of flat penalties with much reduced minimum penalties. The minimum amounts would range from \$200 for illegal propaning or for failure to monitor the burn announcements, up to \$500 for burning without registration or permit. The Director could choose to assess according to the \$20-\$40 per acre method, or he could assess a penalty above these minimum amounts based on consideration of any mitigating and aggravating factors. In that way the penalty would be adjusted to match the severity of the infraction. However, under the present draft, only the Commission could reduce penalties below the minimum amounts specified. Such an approach would allow more flexibility and fairness in the process for determining penalties without sacrificing the deterrent values represented by an absolute minimum amount which could only be changed through appeal to the Commission itself.

Although the proposal as presented would reserve mitigation authority to the Commission, the purpose is to promote Commission discussion of whether or not it wishes to share that authority with the Hearings Officer.

Summation

The Department proposes for Commission adoption, after public hearing, revisions to rules governing open field burning in the Willamette Valley. The proposed rules would:

1. Simplify and make the field burning rules easier to use through restructuring and reorganization.
2. Clarify and update various terms, procedures and practices which have evolved in recent years as essential elements of the present smoke management control program.
3. Extend priority area status to areas along both sides of major highways, including the Oregon Cascade Highway between Silverton and Stayton.
4. Establish a "no-burn" rule under extremely poor dispersion conditions and revise slightly the conditions under which only test-fires could be allowed.
5. Reduce the amount of acreage allowed to be experimentally burned each year from 7,500 acres to 5,000 acres, and restrict propane flaming operations which create a public nuisance or public safety hazard.

6. Allow the burning of test-fires before minimum humidity criteria are achieved, and increase slightly the range of wind directions under which the 65 percent minimum humidity restriction applies.
7. Allow the Department additional authority to waive "drying-day" requirements when it determines that dry fields are available as a result of unusually high evaporative weather conditions.
8. Remove restrictions on the times of day in which burning could be allowed.
9. Revise the way in which civil penalties are determined and mitigated.

Director's Recommendation

Based on the summation above, it is recommended that the Environmental Quality Commission authorize the Department to schedule a public hearing on the attached proposed rules at its February 17, 1984 meeting before the Commission.



Michael J. Downs
Acting Director

Attachments: (3)

1. Draft Hearing's Notice
2. Statement of Need for Rulemaking
3. Proposed Amendments and Additions to the Rules
340-26-001 to 340-26-050

Sean K. O'Connell:pd
686-7837
December 13, 1983

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

REVISIONS TO OPEN FIELD BURNING RULES

Date Prepared: 12/16/83
Hearing Date: 2/17/84
Comments Due: 2/17/84

- WHO IS AFFECTED:** Those who conduct or permit open field burning within the Willamette Valley and the general public at risk of exposure to field burning smoke.
- WHAT IS PROPOSED:** The Department of Environmental Quality is proposing to amend OAR 340-26-001 through 340-26-050, rules for open field burning (agricultural burning) in the Willamette Valley.
- WHAT ARE THE HIGHLIGHTS:** The Department of Environmental Quality is proposing changes and additions to the open field burning rules. Interested parties should request a copy of the complete proposed rule package. Some highlights are:
- Rule revisions which restructure and reorganize the rules for simplification and easier use.
 - Rule revisions and additions for the purpose of clarifying, updating and making minor changes to the current regulations.
- HOW TO COMMENT:** Copies of the complete proposed rule package may be obtained from the DEQ Field Burning Program in Eugene (1244 Walnut St.). For further information contact Sean O'Connell at (503) 686-7837.
- A public hearing will be held before the Environmental Quality Commission at:
- February 17, 1984
- Eugene, Oregon
- Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Field Burning Program at 1244 Walnut St, Eugene, OR 97403, but must be received no later than 5:00 p.m., February 15, 1984.



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call ~~1-800-452-7010~~ and ask for the Department of Environmental Quality.

1-800-452-4011



Contains
Recycled
Materials

WHAT IS THE
NEXT STEP:

Immediately following the public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U.S. Environmental Protection Agency as part of the State Implementation Plan.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend rules.

Legal Authority

Legal authority for this action is ORS 468.460(1).

Need for the Rule

The proposed amendments and additions are needed to simplify, clarify, update and revise the regulations pertaining to open field burning in the Willamette Valley.

Principal Documents Relief Upon

ORS 468.450 through 468.495, OAR Chapter 340 Division 23 Rules for Open Burning, and the existing rules have been relief on.

Fiscal and Economic Impact Statement

There should be no significant adverse economic impact on small businesses.

Land Use Consistency Statement

Portions of the proposed rules appear to affect land use and will be consistent with Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): The proposal is designed to improve and maintain air quality in the affected area and is consistent with the Goal.

Goal 11 (Public Facilities and Services) is seemed unaffected by the rules.

The proposal does not appear to conflict with other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same manner as indicated for testimony in this notice.

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

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

DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 340

DIVISION 26

[~~AGRICULTURAL-OPERATIONS~~]
[~~Agricultural-Burning~~]

RULES FOR OPEN FIELD BURNING
(Willamette Valley)

Introduction

340-26-001(1) These rules apply to the open burning of all perennial and annual grass seed and cereal grain crops or associated residue within the Willamette Valley, hereinafter referred to as "open field burning." The open burning of all other agricultural waste material (referred to as "fourth priority agricultural burning") is governed by Oregon Administrative Rules (OAR) Chapter 340, Division 23, Rules for Open Burning.

(2) Organization of rules.

(a) OAR 340-26-003 is the policy statement of the Environmental Quality Commission setting forth the goals of these rules.

(b) OAR 340-26-005 contains definitions of terms which have specialized meanings within the context of these rules.

(c) OAR 340-26-010 lists general provisions and requirements pertaining to all open field burning with particular emphasis on the duties and responsibilities of the grower registrant.

(d) OAR 340-26-012 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies.

(e) OAR 340-26-013 establishes acreage limits and methods of determining acreage allocations.

(f) OAR 340-26-015 establishes criteria for authorization of open field burning pursuant to the administration of a daily smoke management control program.

(g) OAR 340-26-025 establishes civil penalties for violations of these field burning rules.

(h) OAR 340-26-030 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires."

(i) OAR 340-26-035 establishes special provisions pertaining to open field burning for experimental purposes.

(j) OAR 340-26-040 establishes special provisions and procedures pertaining to emergency open field burning and emergency cessation of burning.

(k) OAR 340-26-045 establishes provisions pertaining to approved alternative methods of burning, such as "propane flaming."

(l) OAR 340-26-050 establishes provisions and procedures pertaining to tax credits for approved alternative facilities.

Policy

340-26-003 In the interest of public health and welfare, pursuant to ORS 468.455, it is the declared public policy of the State of Oregon to control, reduce, and prevent air pollution from open field burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To provide for a maximum level of burning with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgement in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance of all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

Definitions

340-26-005 As used in [this-general-order,-regulation-and-schedule,] these rules, unless otherwise required by context:

[1]-Burning-seasons:

(a) "Summer-burning-season"-means-the-four-month-period-from-July-1 through-October-31.

(b) "Winter-burning-season"-means-the-eight-month-period-from November-1-through-June-30.]

(1) "Actively extinguish" means the direct application of water or other fire retardant to an open field fire.

(2) [20] "Approved alternative method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.

(3) [22] "Approved alternative facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method [~~or-an-approved-interim-alternative-method-for-field sanitation~~].

(4) [10] "Commission" means the Environmental Quality Commission.

(5) [27] "Cumulative hours of smoke intrusion in the Eugene-Springfield area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines a smoke intrusion to have been significantly contributed to by field burning, it shall record for each hour of the intrusion which causes the nephelometer hourly reading to exceed background levels (the average of the three hourly readings immediately prior to the intrusion) by:

(a) 5.0×10^{-4} b-scat units or more, two hours of smoke intrusion;

(b) 4.0×10^{-4} b-scat units or more, for intrusions after September 15 of each year, two hours of smoke intrusion;

(c) 1.8×10^{-4} b-scat units or more but less than the applicable value in subsection (a) or (b) above, one hour of smoke intrusion.

(6) [2] "Department" means the Department of Environmental Quality.

(7) "Director" means the Director of the Department or delegated employe representative pursuant to ORS 468.045(3).

(8) "District allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

$$\text{District Allocation} = \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}} \times \text{Total acreage registered in the District}$$

(9) [~~23~~] "Drying day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(10) [~~26~~] "Effective mixing height" means either the [~~maximum~~] actual height of [~~actual~~] plume rise as determined by aircraft measurement or the calculated or estimated mixing height as determined by the Department, whichever is greater.

(11) "Field-by-field burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are "training fires" and experimental open field burning.

(12) "Field reference code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial field registered on line 2 of registration form number 1953 would be 1953-2-P-35).

(13) "Fire district" or "district" means a fire permit issuing agency.

(14) [~~13~~] "Fire permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(15) "Fires-out time" means the time set forth by the Department at which all flames and major smoke sources associated with open field burning should be out, and prohibition conditions are scheduled to be imposed.

(16) "Fluffing" means a mechanical method of stirring or tending crop residues for enhanced fuel bed aeration and drying, thereby improving the field's combustion characteristics.

(17) "Grower allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

$$\text{Grower Allocation} = 1.10 \times \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}} \times \frac{\text{Total acreage registered by grower registrant}}$$

(18) "Grower registrant" means any person who registers acreage with the Department for purposes of open field burning.

(19) [~~3~~] "Marginal conditions" means conditions defined in ORS 468.450(1) under which permits for [~~agricultural~~] open field burning may be issued in accordance with [~~this regulation and schedule~~] these rules and other restrictions set forth by the Department.

(20) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

(21) [~~4~~] "Northerly winds" means winds coming from directions from 290° to 90° in the north [~~half~~] part of the compass, (~~at the surface and aloft~~) averaged through the effective mixing height.

(22) [~~15~~] "Open field burning" means the burning of any perennial [~~grass seed field~~] or annual grass seed [~~field~~] or cereal grain [~~field~~] crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

(23) [~~12~~] "Open field burning permit" means a permit issued by the Department pursuant to ORS 468.458.

(24) ~~[(11)]~~ "~~Local-fire~~ Permit issuing agency" or "permit agent" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(25) "Preparatory burning" means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(26) "Priority acreage" means acreage located within a priority area.

(27) ~~[(5)]~~ "Priority areas" means the following areas of the Willamette Valley:

(a) Areas in or within 3 miles of the city limits of incorporated cities having populations of 10,000 or greater.

(b) Areas within 1 mile of airports servicing regularly scheduled airline flights.

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126.

(d) Areas in or within 3 miles of the city limits of the City of Lebanon.

(e) Areas on the west and east sides of and within 1/4 mile of these highways: U.S. Interstate 5, 99, 99E, ~~and~~ 99W, and Oregon Cascade Highway between Silverton and Stayton. Areas on the south and north sides of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(28) ~~[(6)]~~ "Prohibition conditions" means ~~[atmospheric] conditions under which [all-agricultural] open field burning is [prohibited-(except where-an-auxiliary-fuel-is-used-such-that-combustion-is-nearly-complete, or-an-approved-sanitizer-is-used, or-burning-is-specifically-authorized by-the-Department-for-experimental-purposes-pursuant-to-rule-340-26-013(6) or-for-the-purpose-of-confirming-forecasted-atmospheric-dispersion conditions)-]~~ not allowed except for individual burns specifically authorized by the Department pursuant to subsection 340-26-015(2).

(29) "Propane flaming" means an approved alternative method of burning which employs a mobile flamer device utilizing an auxiliary fuel such that combustion is nearly complete and emissions significantly reduced.

(30) ~~[(24)]~~ "~~Basic~~ Quota" means an amount of acreage established by the Department for each ~~[permit-jurisdiction, including fields located in-priority-areas,]~~ fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity ~~[to-burn]~~ for burning in each area.

(31) ~~[(18)]~~ "~~Perimeter-burning~~" "Rapid ignition techniques" means a method of burning ~~[fields]~~ in which all sides of the field are ignited as rapidly as practicable in order to maximize plume rise. Little or no preparatory backfire burning shall be done.

(32) "Residue" means straw, stubble and associated crop material generated in the production of grass seed and cereal grain crops.

(33) "Responsible person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant.

Each person who causes or allows open field burning to be maintained shall also be considered a responsible person.

(34) "Small-seeded seed crops requiring flame sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of these rules, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(35) "Smoke management" means a system for the daily (or hourly) control of open field burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(36) [~~7~~] "Southerly winds" means winds coming from directions from 90° to 290° in the south [~~half~~] part of the compass, [~~at-the-surface and-aloft.~~] averaged through the effective mixing height.

(37) "Test fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(38) "Training fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(39) "Unusually high evaporative weather conditions" means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(40) [~~14~~] "Validation number" means a unique three-part number issued by a [~~local-fire~~] permit issuing agency which validates a specific open field burning permit for a specific acreage [~~of~~] in a specific location, on a specific day. The first part of the validation number shall indicate the number of the month and the day of issuance, the second part the hour [~~of-authorized~~] burning authorization was given based on a 24-hour clock, and the third part shall indicate the size of acreage to be burned (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn would be 0826-1430-070).

(41) [~~8~~] "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in these rules is defined by the following identity:

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

(42) [~~9~~] "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

(a) "South Valley," the areas of jurisdiction of all fire permit issuing agents or agencies in the Willamette Valley portion of the Counties of Benton, Lane or Linn.

(b) "North Valley," the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

(16) - "Backfire burning" means a method of burning fields in which the flame front does not advance with the existing surface winds. The method requires ignition of the field only on the downwind side.

(17) - "Into the wind strip burning" means a modification of backfire burning in which additional lines of fire are ignited by advancing directly into the existing surface wind after completing the initial backfires. The technique increases the length of the flame front and therefore reduces the time required to burn a field. As the initial burn nears approximately 85% completion, the remaining acreage may be burned using headfiring techniques in order to maximize plume rise.

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

(21) - "Approved interim alternative method" means any interim method approved by the Department as an effective method to reduce or otherwise minimize the impact of smoke from open field burning.

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

(Note: existing OAR 340-26-010 "General Provisions", which is presented for reference in Appendix A, is deleted and replaced in entirety by the following new language)

General [Provisions] Requirements

340-26-010 (1) No person shall cause or allow open field burning on any acreage unless said acreage has first been registered and mapped pursuant to subsection 340-26-012(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning without first obtaining (and being able to readily demonstrate) a valid open field burning permit and fire permit from the appropriate permit issuing agent pursuant to subsection 340-26-012(2).

(3) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in subsection 340-26-005(34).

(4) No person shall cause or allow open field burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or these rules.

(5) Each responsible person open field burning shall monitor the Department's burn schedule announcements at all times while open field burning.

(6) Each responsible person open field burning shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employe of the Department.

(7) No person shall open field burn priority acreage on the west side of and abutting U.S. Interstate 5 without first providing a non-combustible strip at least 8 feet in width between the combustible materials of said field and the freeway right-of-way, to serve as fire-guard for safety purposes.

(8) Each responsible person open field burning within a priority area around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(9) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke through employment of rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(10) Each responsible person open field burning shall attend the burn until effectively extinguished.

(11) Open field burning in compliance with the rules of this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

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

(Note: existing OAR 340-26-011 "Certified Alternative to Open Field Burning", which is presented for reference in Appendix B, is deleted and replaced in entirety by new section OAR 340-26-045)

(Note: existing OAR 340-26-012 "Registration and Authorization of Acreage to Be Open Burned", which is presented for reference in Appendix C, is deleted and replaced in entirety by the following new language)

Registration [~~and Authorization of Acreage to Be Open Burned~~], Permits, Fees, Records

340-26-012 In administering a field burning smoke management program, the Department may contract with Counties or fire districts to administer registration of acreage, issuance of permits, collection of fees and keeping of records for open field burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468.480.

(1) Registration of acreage.

(a) On or before April 1 of each year, all acreage to be open burned under these rules shall be registered with the Department or its authorized permit agent on registration forms provided by the Department. Said acreage shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Registration and mapping shall be completed according to the established procedures of the Department. A non-refundable registration fee of \$1.00 for each acre registered shall be paid at the time of registration. A complete registration (permit application) shall consist of a fully executed registration form, map and fee.

(b) Registration of acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1.00 per acre late registration fee if the late registration is determined by the Department to be the fault of the grower registrant.

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction.

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or these rules.

(e) It is the responsibility of the grower registrant to insure that the information presented on the registration form and map is complete and accurate.

(2) Permits.

(a) Permits for open field burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, these rules, and the times, locations, amounts and other restrictions set forth by the Department.

(b) A fire permit from the local fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, 477.530, 476.380, 478.960.

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the local permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued; and

(C) Payment of the required \$2.50 per acre burn fee.

(d) Open field burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department.

(e) No person shall issue open field burning permits for open field burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to subsection 340-26-013(2) of these rules;

(B) Priority acreage located on the upwind side of any city, airport or highway within the same priority area.

(f) It is the responsibility of each local permit issuing agency to establish and implement a system for distributing open field burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, these rules and any other provisions set forth by the Department.

(3) Fees.

(a) Permit agents shall collect, properly document and promptly forward all required registration and burn fees to the Department.

(4) Records.

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department, according

to the established procedures of the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities.

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be mailed and post-marked no later than the first working day of the following week.

Acres Limitations [and], Allocations [of Acreage to Be Open Burned]

340-26-013 (1) Limitation of Acreage.

(a) ~~[(1)]~~ Except for acreage ~~[to be]~~ open burned ~~[under 340-26-013(6) and (7)]~~, pursuant to sections 340-26-035, 340-26-040 and 340-26-045, the maximum acreage to be open burned annually in the Willamette Valley under these field burning rules shall not exceed 250,000 acres.

(b) The maximum acreage allowed to be open burned under these rules on a single day in the south Valley under southerly winds shall not exceed 46,934 acres.

(c) Other limitations on acreage allowed to be open burned are specified in subsections 340-26-015(7) and 340-26-035(1) of these rules.

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

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

(2) Allocation of Acreage.

(a) ~~[(4)]~~ In the event that total registration as of April 1 is less than or equal to the maximum acreage allowed to be open burned ~~[under section (1) of this rule, all registrants shall be allocated 100 percent of their registered acres.]~~ annually, pursuant to subsection (1)(a) above, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage.

(b) ~~[(5)]~~ In the event that total registration as of April 1 exceeds the maximum acreage allowed to be open burned ~~[under section (1) of this rule]~~ annually, pursuant to subsection (1)(a) above, the Department may ~~[issue acreage allocations]~~ sub-allocate to growers ~~[totaling]~~ on a pro rata share basis not more than 110 percent of the maximum acreage ~~[allowed under section (1) of this rule. The Department shall monitor burning and shall cease to issue burning quotas when the total acreage reported burned equals the maximum acreage allowed under section (1) of this rule.]~~ limit, referred to as "grower allocation".
In addition,

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

~~(b)] the Department shall sub-allocate [the total acre allocation established by the Commission, as specified in section (1) of this rule,] to [the] each respective fire [permit-issuing agencies on a] district, its pro rata share [basis] of the maximum acreage limit based on acreage registered within [each fire permit-issuing agency's jurisdiction as of April 1 to the total acreage registered as of April 1.] the district, referred to as "district allocation."~~

~~(c) In [an effort] order to insure [that permits are available in areas of greatest need, to coordinate completion of burning, and to achieve the greatest possible] optimum permit utilization, the Department may adjust [, in cooperation with the] fire district[s,] allocations [of the maximum acreage allowed in section (1) of this rule].~~

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

~~(e) Except for additional acreage allowed to be burned by the Commission as provided for in section (6) and (7) of this rule, no fire district shall allow acreage to be burned in excess of their allocations assigned pursuant to subsection (5) (b), (c), and (d) of this rule.~~

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

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

~~(a) Experimental open burning, exclusive of that acreage burned by experimental open field sanitizers, shall not exceed 7,500 acres annually.~~

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

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

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

(A) - Extreme hardship documented by:-

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

(B) - Disease outbreak, documented by:-

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

The statement must also include at least the following:-

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

(C) - Insect infestation, documented by:-

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

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

(D) - Irreparable damage to the land documented by:-

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

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

- (b) ~~Upon receipt of a properly completed application form and supporting documentation the Commission shall within 10 days, return to the grower its decision.~~
- (c) ~~An open field burning permit, to be validated subject to daily quota releases and payment of the required fees, shall be issued by the Department for that portion of the requested acreage which the Commission has approved.~~
- (d) ~~Application forms for emergency open field burning provided by the Department must be used and may be obtained from the Department either in person, by letter or by telephone request.~~
- (8) ~~The Department shall act, pursuant to this section, on any application for a permit to open burn under these rules within 60 days of registration and receipt of the fee provided in ORS 468.480.~~
- (9) ~~The Department may by fire district or other area basis, issue limitations more restrictive than those contained in these regulations when in their judgment it is necessary to attain and maintain air quality.]~~

[~~Willamette Valley Summer Burning Season Regulations.~~] Daily Burning Authorization Criteria

340-26-015 As part of the smoke management program provided for in ORS 468.470 the Department shall ~~[schedule]~~ set forth the ~~[time, places, and amounts]~~ types and extent of open field burning to be allowed each day according to the [following] provisions[.] established in this section and these rules.

~~[(1) As provided for in ORS 468.450 atmospheric conditions will be classified as marginal or prohibition conditions under the following criteria:~~

~~(a) Marginal Class N conditions:--Forecast northerly winds and a ventilation index greater than 12.5.~~

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

(1) During the active field burning season and on an as needed basis, the Department shall announce the field burning schedule over the field burning radio network operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) [(c)] Prohibition conditions[. --A ventilation index of 12.5 or less].

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department.

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0, except for experimental burning specifically authorized by the Department pursuant to section 340-26-035;

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to section 340-26-035;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions.

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgement and within the established limits of these rules, the prevailing atmospheric dispersion and burning conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in subsections (2)(b)(A) and (B) of this section are satisfied.

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and these rules.

(4) [~~(2)~~-Limitations-on-burning] Hours of burning.

(a) Burning hours shall be limited to those specifically authorized by the Department each day[-] and may be changed at any time

[~~(b)~~-Unless-otherwise-specifically-limited-by-the-Department, burning-hours-may-begin-at-9:30-a.m.-PDT, under-marginal-conditions but-no-open-field-burning-may-be-started-later-than-one-half-hour before-sunset-or-be-allowed-to-continue-later-than-one-half-hour after-sunset.

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

(b) [~~(d)~~] Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to [~~protect-from~~] prevent danger [~~by~~] to life or property from fire, pursuant to ORS 478.960.

(5) [~~(3)~~-Limitations-on] Locations [and-amounts] of [field] burning [emissions].

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department, except that:

(A) No priority acreage shall be burned upwind of any city, airport, or highway within the same priority area;

(B) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

(6) [~~(a)~~-Use-of-acreage-quotas.] Amounts of burning.

(a) [~~(A)~~] In order to [assure-a-timely] provide for an efficient and equitable distribution of burning, daily authorizations of acreage[s] shall be issued by the Department in terms of single[7] or multiple[7-or-fractional-basis-quotas-or-priority-area] fire district quotas. [as listed-in-Table-1, and-incorporated-by-reference-into-this-regulation and-schedule-

[~~(B)~~-Willamette-Valley-permit-agencies-or-agents-not-specifically-named-in-Table-1-shall-have-a-basis-quota-and-priority-area-quota--of-50-acres-only-if-they-have-registered-acreage-to-be-burned-within-their-jurisdiction.

~~(C)-The-Department-may-designate-additional-areas-as-Priority Areas]~~ The Department shall establish quotas for each fire district and may adjust the ~~[basic-acreage-quotas-or-priority-area]~~ quotas of any ~~[permit-jurisdiction-where]~~ district when conditions in its judgement warrant such action.

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning.

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area when conditions in its judgement warrant such action.

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

~~(A)-Prohibition.--Under-prohibition-conditions, no fire permits or validation numbers for agricultural open burning shall be issued and no burning shall be conducted, except where an auxiliary liquid or gaseous fuel is used such that combustion is essentially completed, an approved field sanitizer is used, or where burning is specifically authorized by the Department for determining atmospheric dispersion conditions or for experimental burning pursuant to section 26-013(6) of this regulation.~~

~~(B)-Marginal-Class-N-Conditions.--Unless specifically authorized by the Department, on days classified as Marginal-Class-N burning shall be limited to the following:-~~

~~(i)-North-Valley:--one basic quota may be issued in accordance with Table 1 except that no acreage located within the permit jurisdictions of Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portions of the Clackamas-Marion Forest Protection District shall be burned upwind of the Eugene-Springfield non-attainment area.-~~

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

~~(C)-Marginal-Class-S-Conditions.--Unless specifically authorized by the Department on days classified as Marginal-Class-S conditions, burning shall be limited to the following:~~

~~(i)-North-Valley:--one basic quota may be issued in accordance with Table 1 in the following permit jurisdictions:--Aumsville, Drakes Crossing, Marion County District 1, Silverton, Stayton, Sublimity, and the Marion County portion of the Clackamas-Marion Forest Protection District.--One priority area quota may be issued in accordance with Table 1 for priority area burning all other North Valley jurisdictions.-~~

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

~~(D)-In no instance shall the total acreage of permits issued by any permit except as provided for jurisdictions with 50 acres quotas or less as follows:-when all the acreage in one field providing that field does not exceed 100 acres and provided further that no other permit is issued for that day.--Permits shall not be so issued on two consecutive days.]~~

(7) [(c)-Restrictions] Limitations on burning based [upon] on air quality.

(a) [(A)] The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion[s] in the Eugene-Springfield area as follows:

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

(B) Notwithstanding the effective mixing height restrictions of (A) above, the Department may authorize burning of up to 1000 acres total per day for the Willamette Valley, ~~each marginal day on a field-by-field or area-by-area basis~~ consistent with smoke management considerations and these rules.

~~(B) The total acreage burned in the south Valley under southerly winds shall not exceed, on a single day, 46,934 acres.~~

~~(C) The Department shall prohibit burning if, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.~~

~~(D) The Department may on field-by-field or area-by-area basis prohibit the burning of fields which result in excessive low-level smoke.~~

~~(d) Special restrictions on priority area burning.~~

~~(A) No priority acreage may be burned on the upwind side of any city, airport, or highway within the same priority area.~~

~~(B) No south priority acreage shall be burned upwind of the Eugene--Springfield non-attainment area.~~

~~(C) All priority acreage to be burned on the west side of and abutting U.S. Interstate 5 shall maintain a bare soil margin at least 8 feet in width between said acreage and the Interstate right-of-way to serve as a non-combustible fireguard for safety purposes.~~

~~(e) Restrictions on burning techniques.~~

~~(A) The Department shall require the use of into-the-wind strip-lighting on annual grass seed and cereal crop fields when fuel conditions or atmospheric conditions are such that use of into-the-wind strip-lighting as determined by observation of test fires or prior general burning would reduce ground-level smoke concentrations.~~

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

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

(8) ~~Restrictions~~ Limitations on burning ~~due to~~ based on rainfall ~~and relative humidity~~.

(a) ~~(A)~~ Burning shall not be permitted in an area for one drying day ~~up to a maximum of four consecutive drying days~~ for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station ~~up to a maximum of four consecutive drying days~~.

(b) ~~(B)~~ The Department may ~~on a field-by-field or area-by-area basis~~ waive the restrictions of ~~paragraph A~~ subsection (a) above when dry fields are available ~~through~~ as a result of special field preparation or unusual condition, irregular rainfall patterns, and wind direction and dispersion conditions are appropriate for burning with minimum smoke impact. or unusually high evaporative weather conditions.

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

~~(g) - Restrictions on burning due to field condition: - The Department shall on an area selective, crop selective, or Valley-wide basis require mechanical fluffing of straw residue on fields which in the judgement of the Department, contain a fuel load which is of such conditions that open burning without such treatment would result in an unacceptably slow burn rate or in excessive low level smoke.]~~

~~(9) Other discretionary provisions and restrictions.~~

~~(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgement warrant such action.~~

~~(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid.~~

~~(c) The Department may designate additional areas as priority areas when conditions in its judgement warrant such action.~~

[Winter-Burning-Season-Regulations:

340-26-020(1)-Classification-of-atmospheric-conditions:

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

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

~~(2) - Extent and Type of Burning: -~~

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

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

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

Civil Penalties

340-26-025 In addition to any other penalty provided by law:

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

(2) In lieu of any per-acre civil penalty assessed pursuant to ~~[section]~~ subsection (1) ~~[of this rule]~~ above, the Director may assess a specific civil penalty for any open field burning violation ~~[pertaining to agricultural burning operations]~~ by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be ~~[determined]~~ established consistent with the following schedule:

(a) ~~[\$1500]~~ Not less than \$500 nor more than \$10,000 upon any person who:

(A) ~~[Conducts]~~ Causes or allows open field burning on any acreage which has not been registered with the Department for such purposes.

(B) ~~[Conducts]~~ Causes or allows open field burning on any acreage without first obtaining and readily demonstrating a valid open field burning permit for all acreage so burned.

(b) ~~[\$1000]~~ Not less than \$300 nor more than \$10,000 upon any person who [:-

~~(A)--Fails to report with reasonable accuracy all acreage burned in association with or as a direct result of a permitted open field burning operation.~~

~~(B)-F] fails to actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employe of the Department.~~

(c) Not less than \$200 nor more than \$10,000 upon any person who:

(A) ~~[(E)]~~ Conducts burning using an approved alternative ~~[burning]~~ method contrary to any specific conditions or provisions governing such ~~[operation]~~ method.

~~[(c)-\$500 upon any person who:~~

~~(A)-Initiates an open field burn after expiration of the designated permit period.~~

~~(B)-Conducts an agricultural open burning operation which does not comply with any specific restrictions established by the Department related to required burning techniques, field and fuel conditions, or field and fuel treatments.-~~

~~(d)-\$300 upon any person who:]~~

(B) ~~[(A)]~~ Fails to readily demonstrate at the site of the burn operation the capability to monitor the Department's field burning schedule broadcasts.

(d) ~~[(e)]~~ Not less than \$50 nor more than \$10,000 upon any person who commits any other violation pertaining to ~~[agricultural burning operations or]~~ the rules of this Division.

~~[(f)-The civil penalty for each repeat offense which occurs within five years of a previous violation shall be at a minimum, double the amount previously assessed but not more than \$10,000.]~~

(3) In establishing a civil penalty greater than the minimum amounts specified in subsections (1) and (2) above, the Director may consider any mitigating and aggravating factors as provided for in OAR 340-12-045.

(4) The authority to reduce civil penalties below the minimum amounts specified in subsections (1) and (2) above shall remain solely with Commission.

(5) [(3)] Any person planting contrary to the restrictions of subsection (1) of ORS 468.465 pertaining to the open burning of cereal grain acreage shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

Burning by Public Agencies (Training Fires)

340-26-030 Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel, may be permitted by the Department on a prescheduled basis consistent with smoke management considerations and subject to the following conditions:

(1) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed.

(3) Such burning must comply with the provisions of sections 340-26-010 through 340-26-013 of these rules.

Experimental Burning

340-26-035 The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468.490, consistent with smoke management considerations and subject to the following conditions:

(1) Acreage experimentally open burned shall not exceed 5,000 acres annually.

(2) Acreage experimentally open burned shall not apply to the district allocation or to the maximum annual acreage limit specified in subsection 340-26-013(1)(a) of these rules.

(3) Such burning must comply with the provisions of sections 340-26-010 and 340-26-012 of these rules, except that the Department may elect to waive all or part of the \$2.50 per acre burn fee.

Emergency Burning, Cessation

340-26-040 (1) Pursuant to ORS 468.475 and upon a finding of extreme hardship, disease outbreak, insect infestation or irreparable damage to the land, the Commission may by order, and consistent with smoke management considerations and these field burning rules, permit the emergency open burning of more acreage than the maximum annual acreage limitation specified in subsection 340-26-013(1)(a) of these rules. The Commission shall act upon emergency burning requests within 15 days of receipt of a properly completed application form and supporting documentation.

(a) Emergency open burning on the basis of extreme financial hardship must be documented by an analysis and signed statement from a CPA, public accountant, or other recognized financial expert which establishes that failure to allow emergency open burning as requested will result in extreme financial hardship above and beyond mere loss of revenue that would ordinarily accrue due to inability to open burn the particular acreage for which emergency open burning is requested. The analysis shall include an itemized statement of the applicant's net worth and include a discussion of potential alternatives and probable related consequences.

(b) Emergency open burning on the basis of disease outbreak or insect infestation must be documented by an affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists that can only be dealt with effectively and practicably by open burning. The statement shall also specify: time of field investigation; location and description of field, crop and infestation; extent of infestation (compared to normal) and the necessity for urgent control; availability, efficacy, and practicability of alternative control procedures, and; probable consequences of non-control.

(c) Emergency open burning on the basis of irreparable damage to the land must be documented by an affidavit or signed statement from the County Agent, State Department of Agriculture, or other public agricultural expert authority that, based on his personal investigation, a true emergency exists which threatens irreparable damage to the land and which can only be dealt with effectively and practicably by open burning. The statement shall also specify: time of field investigation; location and description of field, crop, and soil and slope characteristics; necessity for urgent control; availability, efficacy, and practicability of alternative control procedures, and; probably consequences of non-control.

(2) Pursuant to ORS 468.475 and upon finding of extreme danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of the Willamette Valley.

Approved Alternative Methods of Burning (Propane Flaming)

340-26-045(1) The use of propane flamers, mobile field sanitizing devices, and other methods specifically approved by the Department are considered alternatives to open field burning pursuant to the provisions of ORS 468.472 and 468.480, provided that:

(a) The field has first been:

(A) Previously open burned and the appropriate fees paid; or

(B) Flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed to reduce the straw fuel load as much as practicable;

(b) The remaining field stubble will not sustain an open fire; and

(c) A fire permit has been obtained from the local fire permit issuing agency.

(2) Propane flaming and other approved alternative burning methods may be conducted on any day during daylight hours except that no person shall cause or allow to be initiated or maintained any such operation which creates a public nuisance or public safety hazard.

(3) Propane flaming and other approved alternative burning methods are exempt from sections 340-26-010 through 340-26-015 of these rules and are therefore not subject to open field burning requirements related to registration, permits, fees, limitations, allocations and daily burning authorization criteria.

Tax Credits for Approved Alternative Methods [~~7-Approved-Interim Alternative-Methods-0*~~] and Approved Alternative Facilities

340-26-0[3]50 As provided in ORS 468.150, approved alternative methods or approved alternative facilities are eligible for tax credit as pollution control facilities as described in ORS 468.155 through 468.190.

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

(a) Mobile equipment including but limited to:

- (A) Straw gathering, densifying and handling equipment.
- (B) Tractors and other sources of motive power.
- (C) Trucks, trailers, and other transportation equipment.
- (D) Mobile field sanitizers and associated fire control equipment.
- (E) Equipment for handling all forms of processed straw.
- (F) Special straw incorporation equipment.

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

- (A) Straw loading and unloading facilities.
- (B) Straw storage structures.
- (C) Straw processing and in-plant transport equipment.
- (D) Land associated with stationary straw processing facilities.
- (E) Drainage tile installations which will result in a reduction

of acreage burned.

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

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

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

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

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

(iii) Description of alternative method to be used;

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

(I) Date or estimated future date of purchase;

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

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

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

(b) Certification for pollution control facility tax credit:

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

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

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

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

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

(I) Type and general description of each piece of mobile equipment;

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

(III) Date of purchase or initial operation;

(IV) Cost when purchased or constructed and current value;

(V) General use as applied to approved alternative methods and approved interim alternative methods;

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

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

(5) Certification for tax credits of equipment or facilities not covered in sections (1) through (4) of this rule shall be processed pursuant to the provisions of ORS 468.165 through 468.185.

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

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

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

NOTE: TABLE I IS BEING DELETED IN ITS ENTIRETY
FROM THESE RULES

TABLE I
FIELD BURNING ACREAGE QUOTAS
NORTH VALLEY AREAS

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

TABLE I
(continued)

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

TABLE I
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>North Valley Counties</u>		
<u>Washington County (continued)</u>		
Hillsboro	50	50
Washington County RFPD #1	50	50
Washington County FPD #2	50	50
	—	—
Total	300	150
<u>Yamhill County</u>		
Amity #1 RFPD	125	50
Carlton RFPD	50	0
Dayton RFPD	50	50
Dundee RFPD	50	0
McMinnville RFPD	150	75
Newberg RFPD	50	50
Sheridan RFPD	75	50
Yamhill RFPD	50	50
	—	—
Total	600	325
<u>North Valley Total</u>	4475	925

TABLE I
(continued)
SOUTH VALLEY AREAS

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Benton County</u>		
County Non-District & Adair	350	175
Corvallis RFPD	175	125
Monroe RFPD	325	50
Philomath RFPD	125	100
Western Oregon FPD	100	50
	1075	500
<u>Lane County</u>		
Coburg RFPD	175	50
Creswell RFPD	75	100
Eugene RFPD (Zumwalt RFPD)	50	50
Junction City RFPD	325	50
Lane County Non-District	100	50
Lane County RFPD #1	350	150
Santa Clara RFPD	50	50
Thurston-Waltermville	50	50
West Lane FPD	50	0
	1225	550
Total		

TABLE I
(continued)

<u>County/Fire District</u>	<u>Quota</u>	
	<u>Basic</u>	<u>Priority</u>
<u>South Valley Counties</u>		
<u>Linn County</u>		
Albany RFPD (inc. N. Albany, Palestine, Co. Unprotected Areas)	625	125
Brownsville RFPD	750	100
Halsey-Shedd RFPD	2050	200
Harrisburg RFPD	1350	50
Lebanon RFPD	325	325
Lyons RFPD	50	0
Scio RFPD	175	50
Tangent RFPD	925	325
Total	6250	1225
<u>South Valley Total</u>	8550	2275

TABLE [2] I

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

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

(NOTE: THIS SECTION IS BEING DELETED IN ENTIRETY FROM THESE RULES AND REPLACED BY NEW SECTION 340-26-010 "GENERAL REQUIREMENTS")

General Provisions

340-26-010 The following provisions apply during both summer and winter burning seasons in the Willamette Valley unless otherwise specifically noted:

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

(2) Permits required:

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

(b) Applications for open field burning permits shall be filed on Registration Application forms provided by the Department, and shall include graphic delineation of all acreage so registered upon map materials provided by the Department and on file with the local permit issuing agency.

(c) Open field burning permits issued by the Department are not valid until acreage fees are paid pursuant to ORS 468.480(1)(b) and a validation number is obtained from the appropriate local fire permit issuing agency for each field on the day that the field is to be burned. The Department may specify that open field burning permits shall be valid for a designated period of time following the time of issuance and shall expire thereafter if the permitted field burn is not initiated within that designated period.

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

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

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

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

(3) Fuel conditions shall be limited as follows:

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

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

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

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

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

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

APPENDIX B

(NOTE: THIS SECTION IS DELETED IN ENTIRETY FROM THESE RULES AND REPLACED BY NEW SECTION 340-26-045 "APPROVED ALTERNATIVE METHODS OF BURNING (PROPANE FLAMING)"

Certified Alternative to Open Field Burning

340-26-011 (1) The Department may certify approved alternative methods of field sanitation and straw utilization and disposal on a permanent or interim basis provided the applicant for such certification:

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

(b) Conducts the approved alternative method and operates any associated equipment subject to sections (2) and (3) of this rule.

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

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

(a) Open fires away from the machines shall be actively extinguished.

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

(4) Propane flammers may be used as an approved alternative to open field burning provided that all of the following conditions are met:

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

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

(c) One of the following conditions exists:

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

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

APPENDIX C

(NOTE: THIS SECTION IS DELETED IN ENTIRETY FROM THESE RULES AND REPLACED BY NEW SECTION 340-26-012 "REGISTRATION, PERMITS, FEES, RECORDS")

Registration and Authorization of Acreage to Be Open Burned

340-26-012 (1) On or before April 1 of each year, all acreages to be open burned under this rule shall be registered with the local fire permit issuing agency or its authorized representative on forms provided by the Department. A nonrefundable \$1 per acre registration fee shall be paid at the time of registration. At the time of registration, all registered acreage shall be delineated and specifically identified on map materials provided by the Department using a unique four-part reference code defined as follows: registration number-line number-crop type P (perennial), A (annual), C (cereal) — acreage. In addition, the symbol "X" shall be appended to this reference code for fields which, because of their location with respect to particularly sensitive smoke receptors or severe fire hazards, should not be burned under normally preferred windflow patterns.

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

(a) Approval of the Department.

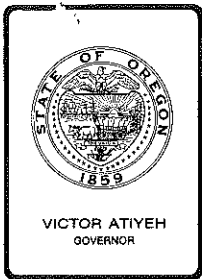
(b) An additional late registration fee of \$1.00 per acre if the late registration is determined by the Department to be the fault of the late registrant.

(3) Copies of all Registration/Application forms and registration map materials shall be forwarded to the Department promptly by the local fire permit issuing agency.

(4) The local fire permitting agency shall maintain a record of all registered acreage by assigned field number, location, type of crop, number of acres to be burned, and status of fee payment for each field, and in addition shall maintain a copy of the registration map materials prepared pursuant to section (1) of this rule showing each registered field complete with field reference code.

(5) Burn authorizations shall be issued by the local fire permit issuing agency up to daily quota limitations established by the Department and shall be based on registered fee-paid acres and shall be issued in accordance with the priorities established by section (1) of rule 340-26-010, except that fourth priority burning shall not be permitted from July 15 to September 15 of any year unless specifically authorized by the Department.

(6) No local fire permit issuing agency shall authorize open field burning of more acreage than may be sub-allocated annually to the District by the Department pursuant to section (5) of rule 340-26-013.



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Agenda Item No. F, January 6, 1984, EQC Meeting

Proposed Adoption of Amendments to OAR 340-21-025(2)(b)
to Establish Special Municipal Incinerator Standards for
Coastal Areas, and to Amend the State Implementation Plan

Background

Disposal of municipal solid wastes in coastal areas of Oregon has presented unique problems due to the areas' geological and climatic conditions. Leachate contamination of surface waters and open burning of wastes continues to present problems in certain areas.

Coos County attempted to solve their solid waste problem by operation of four modular incinerators at Beaver Hill, a site located between Coos Bay and Bandon. The facility became operational in August of 1980. The units have functioned well with respect to volume reduction and no air quality complaints have been received. The units have met air quality requirements relating to visual emissions (opacity) and combustion temperatures (adequate temperatures for destruction of toxic and odorous emissions). The Coos County modular incinerators, however, failed to meet particulate emission limits due in large part to the emission of sterile ash. The County determined it would cost over one-half million dollars to install adequate emission control equipment to meet Department rules; and on the basis of economic hardship, it requested and received a variance from the 0.1 gr/scf particulate limit in October 1981.

Curry County also installed two modular units at Brookings. Although these units have never been tested, it is considered likely that they also do not meet the present particulate standards.

Clatsop County has open burning dumps which are environmental problems. The County has been studying various options and favors incineration at this time.

In October 1983 the Commission authorized the Department to hold a hearing on a new coastal incinerator rule. The proposed rule would allow particulate emissions at 0.2 gr/scf instead of the present limit



Contains
Recycled
Materials

of 0.1 gr/scf, but would impose temperatures of 1600° to 1800° F. for adequate destruction of odors and toxics.

Problem Statement

The Commission must now decide whether and/or how to amend the State's incinerator rule. In the light of the testimony received, two alternatives are evaluated.

Authority for the Commission to act is cited in the Rulemaking Statements, Attachment 2.

Rule Development Process

Upon receiving hearing authorization, the Department mailed the proposed incinerator rule to a list of all known modular incinerator manufacturers and to the County Commissioners of all of Oregon's coastal counties. The hearing notice alone was mailed to the standard list of Oregon citizens who desire to be kept informed of the Department's rulemaking activities. Four of these parties requested and were mailed full copies of the informational package.

The proposed rule change was circulated to appropriate State agencies through the State Clearinghouse. No adverse comments were received.

The hearing was held in Seaside on November 21, 1983, and the Hearing Officer's Report is Attachment 3.

Alternatives

Proposed rule 340-21-027(1)(b)(B) required 1800° F. for an exhaust gas residence time of one second to destroy odors and toxic organic compounds. Much testimony favored lowering this to the 1700° F. range.

The alternatives are first to retain the rule at 1800° F. at one second residence time. This would result in imposition of auxiliary fuel costs up to several thousands of dollars per month. California and New Jersey have proposed an 1800° F. requirement for destruction of odors and toxics.

The second alternative is to allow potentially equivalent treatment through a lower operating temperature with a longer residence time, i.e. 1700° F. for 2 seconds. Some testimony favored this alternative and did not see any risks resulting especially because of the light population in the coastal areas and the good ventilation which would promote adequate dilution of any toxic emissions.

Temperature Monitoring

The Coos County Solid Waste Department wrote that their incinerators were currently equipped with pyrometers but not recorders. They requested that

the rule allow hand logging of temperature rather than making them assume the capital (estimated \$2,000) and operating cost of recorders.

The Department sees a value in keeping the recording of temperatures both continuous and automatic. Incinerator personnel have other pressing duties than recording temperatures. This would insure accurate and reliable means of assessing compliance and may very well be a cheaper system than hand logging if the function is carried out effectively.

Exclusion of Lane County

The Lane Regional Air Pollution Authority (LRAPA) wrote that they questioned whether their coastal area should be included in this rule. They consulted with the Lane County Solid Waste Division and believe their coastal landfill is adequate for twenty years in Lane County. In a clarifying letter, Chairman Petersen of the Commission wrote to Don Arkell, Director of LRAPA, agreeing with him that unless they changed their more stringent Lane County rules, the coastal incinerator rule would not be applicable for Lane County.

Therefore, the Department proposes to leave Lane County in the rule.

Small Standby Incinerator Problem

Two 12.5 ton per day incinerators are used in Coos County as backups for their two 49 ton per day units. The 12.5 ton units emit between 0.2 and 0.3 gr/scf of particulates. Because these existing units are very small and the scrubbers to make them conform to the 0.2 gr/scf rule would be so costly and because they meet other proposed rules, rule 340-21-027(4) is proposed to cover this isolated case.

Evaluation

If the Commission were to relax particulate emission limits for coastal municipal incinerators, then further consideration of variance extensions for units in Coos and Curry Counties would be eliminated and the option to install municipal incinerators in Clatsop County, and possibly other counties, would be more viable. The major change needed in DEQ rules would be to revise the 0.1 grains per standard cubic foot particulate requirement for new refuse burning equipment OAR 340-21-025(2)(b) to 0.2 grains per standard cubic foot (which is the current standard for existing units). The Coos and Curry County units are considered new units under DEQ rules, having been constructed since 1970; thus, they would not need to be continued on a variance if this rule change were made. Considering the very good ventilation in coastal areas and the fact that no coastal areas are even close to non-attainment with particulate air quality standards, such a relaxation for multiple incinerator installations up to 150 tons/day capacity would not jeopardize maintenance of air quality standards.

Adding to DEQ rules specific combustion chamber temperature requirements which effectively destroy toxics and odors and assures attainment of

opacity standards is a desirable action to ensure that such incinerators will not cause any nuisance or health hazards. Based on staff review of available literature, the Department believes 1800° F., for one second, is an adequate temperature and residence time to ensure destruction of toxics. Also, an equivalent treatment of 1700° F. and 2 seconds residence time can be allowed as a means of ensuring adequate destruction of toxics while reducing the costs for auxiliary fuel.

Since the rule on incinerators, which is being modified, is part of the State Implementation Plan (SIP), this action should also amend the SIP.

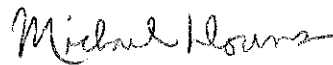
Summation

1. The geology and climate of Oregon coastal areas create special municipal solid waste disposal problems with landfills and has resulted in leachate contamination of surface water and air pollution from open burning dumps.
2. Municipal solid waste incineration is now used in Coos and Curry Counties and could further be used in other coastal counties as an adequate means of addressing the unique municipal waste disposal problems in coastal areas. However, DEQ particulate emission limits threaten the viability of this alternative.
3. Small to medium size municipal waste incinerators, such as the units installed at Beaver Hill in Coos County and at Brookings in Curry County, are available which can meet DEQ visible emission standards and attain exhaust gas temperature requirements to adequately destroy toxic and odorous emissions. Such units cannot meet stringent particulate emission limits currently required for new installations without installation of very costly emission control equipment.
4. Relaxation of the DEQ's 0.1 gr/scf particulate emission limit to 0.2 gr/scf for new small to medium size refuse burning municipal waste incinerators in coastal areas would obviate the need for variances from particulate emission limits for Coos and Curry Counties. It would also help keep incineration open as a viable option to Clatsop County which is seriously considering incineration to deal with its current solid waste problems, and to other coastal counties as well.
5. Considering the excellent ventilation on the coast and the fact that no areas are threatened with violation of particulate standards, a rule relaxation of the particulate grain loading requirement for small to medium size incinerators would not have any adverse effect on attainment and maintenance of air quality standards.
6. Testimony at the rule hearing strongly supports a gas temperature requirement below the proposed 1800° F. level to reduce auxiliary fuel requirements.

7. The Department believes a temperature of 1800° F. for a 1 second gas residence time is a documented level to adequately control toxic and odorous emissions from incineration of municipal waste, however, treatment at 1700° F. for 2 seconds should be equivalent treatment and should be allowed as a fuel saving measure.

Director's Recommendation

Based on the Summation, the Director recommends that the EQC adopt the proposed (Attachment 1) special municipal waste incineration emissions rules for coastal counties and direct the staff to submit the rules as a revision to the State Clean Air Implementation Plan.



Michael J. Downs

- Attachments: 1. Amendments to OAR 340-21-025(2)(b) and proposed new rules 340-21-027.
2. Rulemaking Statements.
3. Hearing Officer's Report.

P. B. BOSSERMAN:a
229-6278
December 20, 1983
AA3799

AMENDED RULE

Refuse Burning Equipment Limitations

340-21-005 (1) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.

(4) "Municipal Waste Incinerator" means a device used to reduce the volume of general household wastes by combustion which is capable of processing more than 200 lb/hr of such wastes but which is too small to be classed as a major source as defined by the Department's New Source Review Rule, OAR 340-20-220 to 20-275.

340-21-025 No person shall cause, suffer, allow, or permit the emission of particulate matter from any refuse burning equipment in excess of:

(1) For equipment designed to burn 200 pounds of refuse per hour or less, 0.3 grains per standard cubic foot; or

(2) For equipment designed to burn more than 200 pounds of refuse per hour:

(a) 0.2 grains per standard cubic foot for existing sources, or

(b) 0.1 grains per standard cubic foot for new sources ,except that small to medium size municipal waste incinerators located in coastal areas

as defined in OAR 340-21-005 (1) shall be subject to OAR 340-21-027 and larger municipal incinerators shall be subject to provisions of OAR 340-20-220 to OAR 340-20-275.

340-21-027(1) No person shall cause, suffer, allow, or permit the operation of any municipal waste incinerator in coastal areas which violates the following emission limits and requirements:

(a) Particulate Emissions:

(A) For municipal waste incinerators capable of processing not more than 50 tons/day of wastes, 0.2 grains per standard cubic foot of exhaust gases.

(B) For municipal waste incinerators capable of processing greater than 50 tons/day of wastes, 0.08 grains per standard cubic foot of exhaust gases.

(b) Minimum Exhaust Gas Temperatures:

(A) Prior to the initial charge of wastes and for the first 30 minutes of incineration of the initial charge, 1600° F for 1 second.

(B) For the period beginning 30 minutes after the initial charge of wastes to the time of the final charge, 1800° F for 1 second or 1700° F for 2 seconds or a temperature and corresponding residence time linearly interpolated between the aforementioned two points.

(C) For a 2 hour period after the final charge of waste, 1600° F for 1 second.

(c) Visible Emissions and Particle Fallout Limitations of OAR 340-21-015 and OAR 340-31-045, respectively.

(2) Each operator of a municipal waste incinerator in a coastal area shall monitor the exhaust gas temperatures of each of its incinerators with a continuous recording pyrometer. The pyrometer shall be located at a point within the incinerator exhaust system which has been judged by the Department through plan review to represent a place that can demonstrate compliance or non-compliance with minimum exhaust gas temperature requirements in section (1)(b). The operator shall retain its pyrometer records for one year unless at the expiration of the year an enforcement matter is pending against the operator, in which case the operator shall retain the records until the enforcement matter is finally terminated by an Order. The operator shall make its pyrometer records available to the Department of environmental Quality upon request.

(3) In cases of multiple incinerators at one site, the 0.2 grain per standard cubic foot particulate emission standard in (1)(a)(A) for individual municipal waste incinerators up to 50 tons/day capacity, shall apply only up to a combined capacity of 150 tons/day.

(4) Municipal waste incinerators in coastal areas, installed between 1970 and 1982, of 13 tons/day capacity and less, are exempt from 340-21-027(1)(a) and (b), but shall emit particulate at a concentration less than 0.30 gr/scf.

December 12, 1983
AA3800

RULEMAKING STATEMENTS

for
Establishment of Special Standards for Municipal
Waste Incinerators in Coastal Areas

Pursuant to ORS 183.335, these statements provide information on the intended action to amend a rule.

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-21-025(2)(b) and adds a new rule, OAR 340-21-027. It is proposed under authority of ORS Chapter 468 including Section 295 which authorizes the Commission to establish air quality standards.

Need for the Rule

Because of geology and climate, disposal of municipal wastes in coastal areas presents unique problems. Municipal incineration is a potential viable municipal waste volume reduction process but current DEQ particulate emission standards can present a significant economic barrier to installation and use of such devices.

Principal Documents Relied Upon

1. Report on Source Tests of Coos County Incinerator, May 1980, by DEQ.
2. Emission Source Test Report, April 1981, Beaver Hill Incinerator, OMNI Environmental Services.
3. Agenda Item No. L, October 9, 1981, EQC Meeting, Request by Coos County for Variance.
4. Agenda Item No. D, October 7, 1983, EQC Meeting, Request for Authorization to hold a Public Hearing to Amend OAR 340-21-025(2)(b) to Establish Special Municipal Incinerator Standards for Coastal Areas.
5. Agenda Item No. F, January 6, 1984 EQC Meeting, Proposed Adoption of Amendments to OAR 340-21-025(2)(b) to Establish Special Municipal Incinerator Standards for Coastal Areas, and to Amend the State Implementation Plan.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The proposed rule amendments would affect local governments and small businesses. The proposed particulate emission standard would potentially save local governments and/or private waste disposal companies several hundred thousand dollars because they would not be required to install additional particulate control equipment. However, the proposed exhaust gas temperature requirements may increase incinerator operating costs.

LAND USE CONSISTENCY STATEMENT:

The proposed rule appears to affect land use and appears to be consistent with the Statewide Planning Goals.

With regard to Goal 6 (air, water, and land resources quality), the rules are designed to preserve air quality in the affected area and are considered consistent with the goal.

With regard to Goal 11 (public facilities and services), the rules are designed to facilitate operation of municipal incinerators in coastal areas where solid waste disposal problems exist.

The rule does not appear to conflict with other goals.


STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Environmental Quality Commission

DATE: December 6, 1983

FROM:  Margaret McCue, Hearing Officer

SUBJECT: Report for Hearing held November 21, 1983

Proposed Establishment of Special Standards for Municipal Waste Incinerators in Coastal Areas

Summary of Procedure

Approximately 15 persons attended the hearing, which was held at noon at the Seaside City Hall. Margaret McCue, Information Representative for the Air Quality Division, presided. Also attending from DEQ were Peter Bosserman of the Air Quality Division's Planning Section, Wendy Sims of the Air Quality Division's Operations Section, and Bob Brown, representing the Solid Waste Division.

Eight persons provided oral testimony; nine persons offered written testimony before the deadline of 5 p.m., November 21. One person sent written testimony after the deadline, but the hearings officer believes it is relevant and accepted the testimony.

Summary of Testimony

Oral

Corky Smith of Olivine Corporation; John Crockett of the Clatsop County Solid Waste Advisory Committee; Dale Curry, Astoria City Manager; Roy Ruel, Clatsop County Solid Waste Coordinator; Pete Anderson of Seaside Sanitary Service; Joyce Williams, Mayor of Seaside; Joan Dukes, Clatsop County Commissioner; and Charles Collins of Excel Services all objected to the required minimum exhaust gas temperature of 1,800 degrees for one second after the first thirty minutes of charging.

Corky Smith recommended a range of 1,700 degrees to 1,800 degrees with a longer residence time. In later testimony, Mr. Smith asked that the new rules not restrict the location of the high temperature zone to the secondary chamber.

John Crockett and Dale Curry recommended a range of 1,600 degrees to 1,700 degrees with a two-second residence time for excess air burners, and 1,800 degrees for one second for starved air processes. Mr. Crockett also recommends five years of continuous monitoring.

Roy Ruel recommended an operating range of 1,600 degrees to 1,800 degrees when there is insufficient waste, low BTU content, or excess moisture.

Joyce Williams recommended 1,650 degrees to 1,700 degrees with a one-and-a-half to two second residence time.

Charles Collins recommended an increased residence time, rather than an increased temperature. He also believes that at high temperatures, dioxins attach to particulates, making the proposed rules less protective of public health. Mr. Collins stated there is no need to change the current particulate standard.

Several speakers expressed fear that expensive fossil fuel burning would be required to maintain 1,800 degrees, and that private contractors would not agree to build and operate a unit requiring 1,800 degrees. They also believe lower temperatures are sufficiently protective of public health. Several also mentioned that the Coast's good ventilation would disperse potential trace dioxin emissions.

Written Testimony

John Crockett, Roy Ruel, Joyce Williams and the Clatsop County Board of Commissioners, submitted testimony reiterating the points mentioned in their oral testimony. Mr. Ruel's written testimony includes an amended draft of rule 340-21-027(1)(b)(B).

Don Arkell, Director of Lane Regional Air Pollution Authority, recommended that the rules cover only those locations that need incinerators as an alternative to landfills. LRAPA does not support a relaxation of emission limits for Lane County.

Bill Blackwell, of Brookings, supported the rule changes. He believes no variances should be issued in the future.

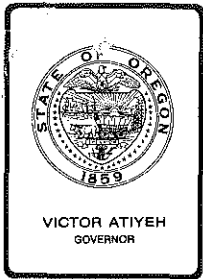
J.R. Perkins, Public Works Director for Coos County, supported the relaxation of particulate standards. He recommended that monitoring data be noted each half hour at start up and shut down, and each hour during operation rather than continuously, due to the cost of installing continuous monitoring equipment.

William Foreman, of Econo-Therm Energy Systems Corporation of Minnesota, supported the relaxation of the particulate standards.

Frank Zurline, of Thermal Reduction Company of Bellingham, Washington, believes minimum exhaust gas temperatures will increase cost for incinerators.

J. Richard Mayer, Professor at Western Washington University, submitted late testimony saying that 1,700 degrees is sufficient to protect public health. This information is based on his discussion with Dr. Donald Barnes of EPA in Washington, DC.

MM:j
FJ185



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Addendum to Agenda Item No. G
January 6, 1984, EQC Meeting

Proposed Adoption of Amendments to Solid Waste Management
Rules OAR 340-61-005 to 340-61-043 Relating to Closure,
Post-Closure Maintenance and Financial Assurance of Solid
Waste Disposal Sites

Robb Haskins, Attorney General's Office, has reviewed the proposed rules pertaining to closure, post-closure maintenance and financial assurance of solid waste disposal sites, and recommends these changes.

These changes have been incorporated into the attached copy of the proposed rules. It is this set of rules that is recommended for adoption.

- Pg. 10, 340-61-020(7) - The initially proposed wording was retained in new section (7)(a). The part of Chapter 766, Oregon Law 1983 requiring sites closed after January 1, 1980, to continue or renew their permits was added as section (7)(b).
- Pg. 13, 340-61-025(1) - The current rule wording was expanded to explain that the provisions found in these rules may take precedent over the Department's normal permit issuance, denial, modification and revocation provisions found in OAR 340, Division 14. See discussion of change on page 19 below.
- Pg. 17, 340-61-028(1)(d) - The word "any" was changed to "each."
- Pg. 20, 340-61-028(9) - This section deals with the change or transfer of the ownership or lease of disposal sites under closure permits. The originally proposed requirement was that the new owner or lessee had to apply for a permit within 30 days after the sale or lease. The problem with this is that OAR 340, Division 14, states that permits automatically



Contains
Recycled
Materials

Pg. 20, 340-61-028(9)
(cont.)

terminate 60 days after the sale or exchange of the disposal site. This allows very little time to process and issue a permit to the new owner. It is likely that the closure permit would terminate before a new one is issued. Section 9 has been rewritten to resolve this potential situation and to clarify the responsibilities of the permit holder, as well as to provide incentive for a smooth transition between responsible parties. The new proposed requirement keeps the closure permit in effect as a binding obligation of the person holding the permit until the Department either terminates it or issues a new closure permit to another person following receipt of a complete application.

Pg. 24, 340-61-033(3)(b)(C) - Minor rewording to make consistent with other parts of the rules.

Pg. 24, 340-61-033(3)(c) - "And" changed to "or."

Pg. 28, 340-61-034(3)(b) - "Receiving" changed to "service of."
- "Notice of Assessment of Civil Penalty" changed to "Final Order." This allows due process through a contested case hearing before a permittee is required to provide a more secure form of financial assurance for failure to perform ongoing closure activities.

Pg. 28, 340-61-034(3)(c)(A) - A sentence was added to describe the purpose of a closure trust fund.

Pg. 29 and 30 - "~~Standby trust fund~~" changed to "~~standby closure trust fund~~."

Pg. 31, 340-61-034(3)(c)(E) - Commencement of a proceeding to modify a permit to require immediate closure of a land disposal site has been added to the situations which prevent termination of a closure insurance policy. Closure insurance can only be cancelled for failure to pay the premium and cannot occur until 120 days after the cancellation notice is received. If a permittee fails to perform closure activities and to pay the premium, it will be long after the 120 days that a Final Order will be issued as a result of our enforcement process. The insurance will have been terminated and no funds will be available for closure. Commencement of a permit modification proceeding can be done within the 120-day period and protect the financial assurance.

Addendum to EQC Agenda Item No. G
January 6, 1984
Page 3

Pg. 32, 340-61-034(3)(c)(F) - "He" was replaced with the neuter form "it."
(ii) and (iii)

Pg. 33,
340-61-034(3)(c)(F)(ii)(a) - "Receiving" changed to "service of."
- "Notice of Assessment of Civil Penalty" changed to
"Final Order."

Pg. 33,
340-61-034(3)(c)(F)(iii)(c) - "He" changed to "the CPA."

Pg. 44, 340-61-042(1) - "Any" changed to "all."

Pg. 45, 340-61-042(2)(b) - Grammatical change to existing rule to clarify that
final cover must be applied as soon as practical if
inclement weather delays covering beyond 60 days.
It could be argued that the old wording made
covering or the timing of covering optional and not
enforceable.

Michael J. Downs

Joseph F. Schultz:c
SC1358
229-6237
January 5, 1984

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED AMENDMENTS

OREGON ADMINISTRATIVE RULES

CHAPTER 340 - DIVISION 61

"SOLID WASTE MANAGEMENT"

PURPOSE

340-61-005 The purpose of these rules is to prescribe requirements, limitations, and procedures for storage, collection, transportation, and disposal of solid waste.

DEFINITIONS

340-61-010 As used in these rules unless otherwise specified:

(1) "Access road" means any road owned or controlled by the disposal site owner which terminates at the disposal site and which provides access for users between the disposal site entrance and a public road.

(2) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.

(3) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of ground water to wells or springs.

(4) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

(5) [(4)] "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.

(6) [(5)] "Base flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average of a significantly long period.

(7) "Closure permit" means a document issued by the Department bearing the signature of the Director or his authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain

the site after closure for a period of time specified by the Department.

(8) [(6)] "Commission" means the Environmental Quality Commission.

(9) [(7)] "Cover material" means soil or other suitable material approved by the Department that is placed over the top and side slopes of solid wastes in a landfill.

(10) [(8)] "Composting" means the process of controlled biological decomposition of organic solid waste.

(11) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(12) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(13) [(9)] "Department" means the Department of Environmental Quality.

(14) [(10)] "Digested sewage sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

~~(15) [(11)] "Director" means the Director of the Department of Environmental Quality.~~

(16) [(12)] "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste

collection service, [and] composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.

(17) [(13)] "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

(18) "Financial assurance" means a plan for setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a land disposal site after the site is closed according to the requirements of a permit issued by the Department.

(19) [(14)] "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters which are inundated by the base flood.

(20) [(15)] "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

(21) [(16)] "Hazardous waste" means discarded, useless or unwanted materials or residues in solid, liquid or gaseous state and their empty containers which are classified as hazardous pursuant to ORS 459.410.

(22) [(17)] "Heat-treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

(23) [(18)] "Incinerator" means any device used for the reduction of

combustible solid wastes by burning under conditions of controlled air flow and temperature.

(24) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

(25) [(19)] "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(26) [(20)] "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved and/or suspended contaminants as a result of such contact.

(27) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(28) [(21)] "Local government unit" means a city, county, metropolitan service district formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468.500 to 468.530 and 468.540 to 468.575 or any other local government unit responsible for solid waste management.

(29) "Net working capital" means current assets minus current liabilities.

(30) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(31) [(22)] "Open dump" means a facility for the disposal of solid waste which does not comply with these rules.

(32) [(23)] "Permit" means a document issued by the Department, bearing the signature of the Director or his authorized representative

which by its conditions may authorize the permittee to construct, install, modify or operate a disposal site in accordance with specified limitations.

(33) [(24)] "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(34) [(25)] "Public waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(35) [(26)] "Processing of wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(36) [(27)] "Putrescible waste" means solid waste containing organic material that can be rapidly decomposed by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(37) [(28)] "Resource recovery" means the process of obtaining useful material or energy from solid waste and includes:

(a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content,

or other forms of energy, of or from the material.

(b) "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

(c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(38) [(29)] "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site.

(39) [(30)] "Sanitary landfill" means a facility for the disposal of solid waste which complies with these rules.

(40) [(31)] "Sludge" means any solid or semisolid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(41) [(32)] "Solid waste" means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure; [vegetable] vegetable or animal solid and semi-solid wastes, dead animals and other wastes; but the term does not

include:

(a) Hazardous wastes as defined in ORS 459.410.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(42) [(33)] "Solid waste boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

(43) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(44) [(34)] "Transfer station" means a fixed or mobile facility, normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a disposal site, including but not limited to a large hopper, railroad gondola or barge.

(45) [(35)] "Underground drinking water source" means an aquifer supplying or likely to supply drinking water for human consumption.

(46) [(36)] "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases from one person or animal to another.

(47) [(37)] "Waste" means useless or discarded materials.

(48) [(38)] "Zone of saturation" means a three (3) dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

POLICY

340-61-015 Whereas inadequate solid waste collection, storage, transportation, recycling and disposal practices cause nuisance conditions, potential hazards to public health and safety and pollution of the air, water and land environment, it is hereby declared to be the policy of the Department of Environmental Quality to require effective and efficient solid waste collection and disposal service to both rural and urban areas and to promote and support comprehensive county or regional solid waste management planning, utilizing progressive solid waste management techniques, emphasizing recovery and reuse of solid wastes and insuring highest and best practicable protection of the public health and welfare and air, water and land resources. In keeping with the Oregon policy to retain primary responsibility for management of adequate solid waste programs with local government units (ORS 459.015) and the Environmental Quality Commission's perception of Legislative intent under Chapter 773, Oregon Laws 1979, the Commission will look for, and expect, the maximum participation of local government in the planning, siting, development and operation of needed landfills. It is expected that local government will have carried out a good faith effort in landfill siting, including but not limited to public participation and Department assistance, before requesting the Department to site the landfill. Local government will be expected to assume or provide for responsibility in the ownership and operation of any Department/Commission sited landfill under anything but an extraordinary circumstance.

STATE OF OREGON SOLID WASTE PLAN

340-61-017 This solid waste plan is adopted as the State Plan pursuant to the Federal Resource Conservation and Recovery Act.

PERMIT REQUIRED

340-61-020 (1) Except as provided by section (2) of this rule, no person shall establish, operate, maintain or substantially alter, expand or improve a disposal site, and no person shall change the method or type of disposal at a disposal site, until the person owning or controlling the disposal site obtains a permit therefor from the Department.

(2) Persons owning or controlling the following classes of disposal sites are specifically exempted from the above requirements to obtain a permit under these rules, but shall comply with all other provisions of these rules and other applicable laws, rules and regulations regarding solid waste disposal:

(a) Disposal sites, facilities or disposal operations operated pursuant to a permit issued under ORS [459.505, 459.510 or] 468.740.

(b) A landfill site used exclusively for the disposal of soil, rock, concrete, brick, building block, tile or asphalt paving. (Note: Such a landfill may require a permit from the Oregon Division of State Lands.)

(c) Composting operations used only by the owner or person in control of a dwelling unit to dispose of food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings generated at that residence and operated in a manner approved by the Department.

(3) The Department may, in accordance with a specific permit containing a compliance schedule, grant reasonable time for solid waste disposal sites or facilities to comply with these rules.

(4) If it is determined by the Department that a proposed or existing disposal site is not likely to create a public nuisance, health hazard, air or water pollution or other environmental problem, the Department may waive any or all requirements of rules 340-61-025, 340-61-030, 340-61-035 and 340-61-036 and section 340-61-040(1) and issue a special letter

authorization in accordance with rule 340-61-027.

(5) Each person who is required by sections (1) and (7) of this rule to obtain a permit shall:

(a) Make prompt application to the Department therefor;

(b) Fulfill each and every term and condition of any permit issued by the Department to such person;

(c) Comply with these rules;

(d) Comply with the Department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby.

(6) Failure to conduct solid waste disposal according to the conditions, limitations, or terms of a permit, letter authorization or these rules, or failure to obtain a permit or letter authorization, is a violation of these rules and shall be cause for the assessment of civil penalties for each violation as provided in OAR Chapter 340, Division 12 or for any other enforcement action provided by law. Each and every day that a violation occurs is considered a separate violation and may be the subject of separate penalties.

(7) Closure Permit.

(a) At least 5 years prior to anticipated closure of a land disposal site, the person holding the disposal site permit shall apply to renew the permit to cover the period of time remaining for site operations, closure of the site, and all or part of the time that active post-closure site maintenance is required by the Department.

(b) The person who holds or last held the disposal site permit, or, if that person fails to comply, then the person owning or controlling a land disposal site that is closed and no longer receiving solid waste after

January 1, 1980, must continue or renew the disposal site permit after the site is closed for the duration of the period in which the Department continues to actively supervise the site, even though solid waste is no longer received at the site.

REQUEST FOR ASSISTANCE

340-61-021 (1) Applications for requests for assistance in siting landfills under ORS 459.047 shall be in the form of a letter signed by the governing body of the city or county with attachments as necessary to fully describe the need and justification for the request, need for the site as outlined in the Department approved Solid Waste Management Plan and types of assistance required.

(2) When the request for assistance includes Department siting of the landfill under ORS 459.047 exhibits and information shall be submitted which document the following:

(a) The local government has an adopted, Department approved Solid Waste Management Plan which identifies the need for a landfill.

(b) The local government has re-evaluated the plan in consultation with the Department and has confirmed that siting a landfill in the immediate future is still needed.

(c) An explanation of why the local government is unable to proceed successfully to site the landfill, including a discussion of progress to date and the obstacles to be overcome.

(d) All pertinent reports, plans, documents and records relative to the siting process to date will be made available to the Department at the Department's request.

(e) The local government has carried out a process for landfill siting (with technical assistance from the Department if requested) including a

minimum of the following:

(A) Alternative sites have been reviewed and ranked as to adequacy and probable acceptability based upon locally developed criteria and applicable laws and regulations.

(B) Information has been gathered on at least the top ranked site sufficient to satisfy the requirements of the "Feasibility Study Report" provided for in OAR 340-61-030. Certain requirements of the "Feasibility Study Report" may be waived, for the purpose of this section, by the Department upon a demonstration of prohibitive cost or legal constraint.

(C) A public participation process, including the use of a citizens advisory committee or other approach which provides for public access, review and input has been carried out in the siting process.

(3) The Department shall give reasonable public notice of each such request, including the prompt publication of a summary of such request in the Secretary of State's Bulletin.

(4) Requests for siting under ORS 459.047 will be reviewed by the Commission and written findings as to the acceptability of the process under subsection (2)(e) will be prepared. Should the process be found incomplete, the Commission may request the Department or the local government to complete the process.

PUBLIC COMMENT TO DETERMINE NEED

340-61-022 Prior to the Commission making a determination of need for any landfill site under ORS 459.049 the Department shall give prior reasonable public notice of, and hold a public informational hearing on, the need for the landfill site.

PUBLIC HEARING IN AREA AFFECTED BY PROPOSED SITE

340-61-023 Prior to siting a landfill under ORS 459.049 the Department shall give prior reasonable public notice of and hold a public informational hearing in the area affected by the proposed site.

APPLICATIONS FOR PERMITS

340-61-025 (1) Applications for permits shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR Chapter 340, Division 14, except as otherwise provided in OAR Chapter 340, Division 61.

(2) Applications for a permit shall be accepted by the Department only when complete, as detailed in section 340-61-025(3).

(3) Applications for permits shall be complete only if they:

(a) Are submitted in duplicate on forms provided by the Department, accompanied by all required exhibits, and the forms are completed in full and are signed by the property owner or person in control of the premises.

(b) Include written recommendations of the local government unit or units having jurisdiction to establish a new disposal site or to substantially alter, expand, or improve a disposal site or to make a change in the method or type of disposal. Such recommendations shall include, but not be limited to, a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.

(c) Include detailed plans and specifications as required by rule 340-61-035.

(d) Include a feasibility study report prepared in accordance with rule 340-61-030 to establish a new disposal site or to substantially alter, expand or improve a disposal site or to make a change in the method or type

of disposal at a disposal site, unless the requirements of said feasibility study have been met by other prior submittals.

(e) Include such other information as the Department may deem necessary to determine whether the proposed disposal site and the operation thereof will comply with all applicable rules of the Department.

(4) If [in the judgment of] the Department[, a proposed new, modified or expanded disposal site or a proposed change in the method or type of disposal] determines that a disposal site is not likely to have significant adverse effect[s] on public health or the environment, the Department may waive the requirements of subsections 340-61-025(2)(c) and 340-61-025(2)(d), rule 340-61-036 and section 340-61-040(1).

In making this judgment, the Department may consider the size and location of the disposal site, the volume and types of waste received and any other relevant factor.

(5) If the requirements of subsections 340-61-025(2)(c) and 340-61-025(2)(d), rule 340-61-036 and section 340-61-040(1) are waived, the applicant must submit plan drawings and pertinent information including:

(a) A site location map indicating section, township, range and site boundaries.

(b) A site layout drawing that illustrates the approximate size and location of all pertinent man-made and natural features of the site (roads, ditches, streams, berms, buildings, etc.) and the sequence of developing fill areas at the site.

(c) A minimum of two perpendicular cross section drawings to show the design of the landfill cells and any pertinent landfill structures. Each cross section shall illustrate approximate existing grade, excavation grade and proposed final grade.

(d) An operational plan which describes the proposed method of

operation and progressive development of the trenches and/or landfill lifts or cells. The plan shall also include a description of the types and quantities of waste materials that will be received (estimated maximum daily and average annual quantities); types of cover material to be used and proposed frequency of application; and measures to be used for the control of leachate surface drainage, fire, litter and other potential hazards or nuisances as pertinent.

(6) If a local public hearing regarding a proposed disposal site has not been held and if, in the judgment of the Department, there is sufficient public concern regarding the proposed disposal site, the Department may, as a condition of receiving and acting upon an application, require that such a hearing be held by the County Board of Commissioners or County Court or other local government agency responsible for solid waste management, for the purpose of informing and receiving information from the public.

DENIAL OF PERMITS

340-61-026 (1) Upon receipt of a completed application, the Department shall deny the permit if:

- (a) The application contains false information;
- (b) The application was wrongfully accepted by the Department;
- (c) The proposed disposal site would not comply with these rules or other applicable rules of the Department.
- (d) The proposal is not part of or not compatible with the adopted local solid waste management plan approved by the Department.
- (e) There is no clearly demonstrated need for the proposed new, modified or expanded disposal site or for the proposed change in the method or type of disposal.

LETTER AUTHORIZATIONS

340-61-027 The Department may authorize the temporary operation of a disposal site by issuing a "letter of authorization" subject to the following:

(1) A letter authorization may be issued only on the basis of a complete written application which has been approved by the Department. Applications for letter authorizations shall be complete only if they contain the following items:

- (a) The quantity and types of material to be disposed.
- (b) A discussion of the need and justification for the proposed project.
- (c) The expected amount of time which will be required to complete the project.
- (d) The methods proposed to be used to insure safe and proper disposal of solid waste.
- (e) The location of the proposed disposal site.
- (f) A statement of approval from the property owner or person in control of the property, if other than the applicant.
- (g) Written verification from the local planning department that the proposal is compatible with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.
- (h) Any other relevant information which the Department may require.

(2) Upon receipt of a complete written application the Department may approve the application if it is satisfied that:

- (a) The applicant has demonstrated sufficient need and justification for the proposal.
- (b) The proposed project is not likely to cause a public nuisance,

health hazard, air or water pollution or other environmental problem.

(3) The Department may revoke or suspend a letter authorization on any of the following grounds:

(a) A material misrepresentation or false statement in the application;

(b) Any relevant violation of any statute, rule, order, permit, ordinance, judgment or decree;

(4) The Department may issue letter authorizations for periods not to exceed six (6) months. Any requests to conduct additional disposal shall require a new application and a new authorization.

CLOSURE PERMITS

340-61-028 (1) Applications for closure permits must include but are not limited to:

(a) A closure plan prepared in accordance with rule 340-61-033.

(b) A financial assurance plan prepared in accordance with rule 340-61-034 unless exempted by the Department pursuant to OAR 340-61-028(2).

(c) If the permittee does not own and control the property, the permittee shall demonstrate to the Department that the permittee has access to the land disposal site property after closure to monitor and maintain the site and operate any environmental control facilities.

(d) If any person other than the permittee assumes any responsibility for any closure or post-closure activities, that responsibility shall be evidenced by a written contract between the permittee and each person assuming any responsibility.

(2) The Department may exempt from the financial assurance requirements any land disposal site including but not limited to domestic waste sites, demolition waste sites, and industrial waste sites. To be

eligible for this exemption, the applicant shall demonstrate to the satisfaction of the Department that the site meets all of the following criteria and that the site is likely to continue to meet all of these criteria until the site is closed in a manner approved by the Department:

(a) The disposal site poses no significant threat of adverse impact on groundwater or surface water.

(b) The disposal site poses no significant threat of adverse impact on public health or safety.

(c) No system requiring active operation and maintenance is necessary for controlling or stopping discharges to the environment.

(d) The area of the land disposal site that has been used for waste disposal and has not yet been properly closed in a manner acceptable to the Department is less than and remains less than 2 acres or complies with a closure schedule approved by the Department.

(3) In determining if the applicant has demonstrated that a site meets the financial assurance exemption criteria, the Department will consider existing available information including, but not limited to, geology, soils, hydrology, waste type and volume, proximity to and uses of adjacent properties, history of site operation and construction, previous compliance inspection reports, existing monitoring data, the proposed method of closure and the information submitted by the applicant. The Department may request additional information if needed.

(4) An exemption from the financial assurance requirement granted by the Department will remain valid only so long as the site continues to meet the exemption criteria in OAR 340-61-028(2). If the site fails to continue to meet the exemption criteria, the Department may modify the closure permit to require financial assurance.

(5) While a closure permit is in effect, the permittee shall submit a

report to the Department within 90 days of the end of the permittee's fiscal year or as otherwise required in writing by the Department, which contains but is not limited to:

(A) An evaluation of the approved closure plan discussing current status, unanticipated occurrences, revised closure date projections, necessary changes, etc.

(B) An evaluation of the approved financial assurance plan documenting an accounting of amounts deposited and expenses drawn from the fund, as well as its current balance. This evaluation must also assess the adequacy of the financial assurance and justify any requests for changes in the approved plan.

(C) Other information requested by the Department to determine compliance with the rules of the Department.

(6) The Department shall terminate closure permits for land disposal sites not later than 10 years after the site is closed unless the Department finds there is a need to protect against a significant hazard or risk to public health or safety or the environment.

(7) Any time after a land disposal site is closed, the permit holder may apply for a termination of the permit, a release from one or more of the permit requirements or termination of any applicable permit fee.

Before the Department grants a termination or release under this section, the permittee must demonstrate and the Department must find that there is no longer a need for:

(a) Active supervision of the site;

(b) Maintenance of the site; or

(c) Maintenance or operation of any system or facility on the site.

(8) The Department or an authorized governmental agency may enter a land disposal site property at reasonable times to inspect and monitor the

site as authorized by ORS 459.285.

(9) The closure permit remains in effect and is a binding obligation of the permittee until the Department terminates the permit according to OAR 340-61-028(6) or (7) or upon issuance of a new closure permit for the site to another person following receipt of a complete and acceptable application.

FEASIBILITY STUDY REPORT

340-61-030 A feasibility study report shall include, but not be limited to, the following:

(1) An Existing Conditions Map of the area showing land use and zoning within 1/4 mile of the disposal site. Also, any airport runway within 10,000 feet of the site or within 5,000 feet if used only by propeller-driven aircraft. (Note: Runways may be shown on a scaled insert). The map shall show all structures, natural features of the land and the precise geographical location and boundaries of the disposal site. An on-site bench mark shall be indicated and a north arrow drawn. Unless otherwise approved by the Department, the scale of the map shall be no greater than one inch equals 200 feet and, for landfills, topography of the site and area within 1/4 mile shall be shown with contour intervals not to exceed five feet.

(2) A description of the proposed method or methods to be used in processing and disposing of solid wastes, including anticipated types and quantities of solid wastes, justification of alternative disposal method selected, general design criteria, planned future use of the disposal site after closure, type of equipment to be used, and projected life of the site.

(3) For a landfill, a detailed soils, geologic, and groundwater

report of the site prepared and stamped by a professional Engineer, Geologist or Engineering Geologist with current Oregon registration. The report shall include consideration of surface features, geologic formations, soil boring data, water table profile, direction of groundwater flow, background quality of water resources in the anticipated zone of influence of the landfill, need and availability of cover material, climate, average rates of precipitation, evapotranspiration, runoff, and infiltration (preliminary water balance calculations).

Soil borings shall be to a minimum depth of twenty feet below the deepest proposed excavation and lowest elevation of the site or to the permanent groundwater table if encountered within twenty feet. A minimum of one boring per representative landform at the site and an overall minimum of one boring per each ten acres shall be provided. Soil boring data shall include the location, depth, surface elevation and water level measurements of all borings, the textural classification (Unified Soil Classification System), permeability and cation exchange capacity of the subsurface materials and a preliminary soil balance.

For all water wells located within the anticipated zone of influence of the disposal site, the depth, static level and current use shall be identified.

Background groundwater quality shall be determined by laboratory analysis and shall include at least each of the constituents specified by the Department.

(4) A proposal for protection and conservation of the air, water and land environment surrounding the disposal site, including control and/or treatment of leachate, methane gas, litter and vectors, and control of other discharges, emissions and activities which may result in a public health hazard, a public nuisance or environmental degradation.

PRELIMINARY APPROVAL

340-61-031 (1) The Department may issue written preliminary approval to any applicant for a Solid Waste Disposal Permit, prior to submission of detailed engineering plans and specifications, based on the material submitted in accordance with the requirements of rule 340-61-030.

(2) The purpose of the preliminary review and approval process is to inform the applicant of the Department's concerns, if any, regarding the proposal and to provide guidance in the development of the detailed plans and specifications required to complete the permit application. Receipt of preliminary approval does not grant the applicant any right to begin construction or operation of a disposal site.

(3) Requests for preliminary approval shall be made to the Department in writing. Within 45 days of receipt of such request, the Department shall either grant or deny preliminary approval or request additional information.

(4) Granting of preliminary approval shall not prevent the Department from denying or conditionally approving a completed permit application.

(5) If the Department denies preliminary approval, it shall clearly state the reasons for denial. Failure to receive preliminary approval shall not prevent an applicant from completing a permit application. Any application completed after denial of preliminary approval shall specifically address those concerns listed in the Department's letter of denial.

CLOSURE PLANS

340-61-033 (1) A closure plan must specify the procedures necessary to completely close the land disposal site at the end of its intended operating life. The plan must also identify the activities which will be

carried on after closure to properly monitor and maintain the completed land disposal site. At a minimum, the plan shall include:

(a) Detailed plans and specifications consistent with the applicable requirements of rule 340-61-035 and section 340-61-040(1), unless an exemption is granted as provided in section 340-61-025(4). (NOTE: If some of this information has been previously submitted, the permittee shall review and update it to reflect current conditions and any proposed changes in closure or post-closure activities.)

(b) A description of how and when the facility will be closed. The description shall, to the extent practicable, show how the disposal site will be closed as filling progresses to minimize the area remaining to be closed at the time that the site stops receiving waste. A time schedule for completion of closure shall be included.

(c) Details of how leachate discharges will be minimized and controlled and treated if necessary.

(d) Details of any landfill gas control facilities, their operation and frequency of monitoring.

(e) Details of final cover including soil texture, depth and slope.

(f) Details of surface water drainage diversion.

(g) A schedule for monitoring the site after closure.

(h) A projected frequency of anticipated maintenance activities at the site after closure, including but not limited to repairing, recovering and regrading settlement areas, cleaning out surface water diversion ditches, and re-establishing vegetation.

(i) Other information requested by the Department necessary to determine whether the disposal site will comply with all applicable rules of the Department.

(2) Approval of Closure Plan. After approval by the Department, the

permittee shall implement the closure plan within the approved time schedule.

(3) Amendment of Plan. The approved closure plan may be amended at any time during the active life of the landfill or during the post-closure care period as follows:

(a) The permittee must amend the plan whenever changes in operating plans or facility design, or changes in these rules, or events which occur during the active life of the landfill or during the post-closure care period, significantly affect the plan. The permittee must also amend the plan whenever there is a change in the expected year of closure. The permittee must submit the necessary plan amendments to the Department for approval within 60 days after such changes or as otherwise required by the Department.

(b) The permittee may request to amend the plan to alter the closure requirements, to alter the post-closure care requirements, or to extend or reduce the post-closure care period based on cause. The request must include evidence demonstrating to the satisfaction of the Department that:

(A) The nature of the landfill makes the closure or post-closure care requirements unnecessary; or

(B) The nature of the landfill supports reduction of the post-closure care period; or

(C) The requested extension in the post-closure care period or alteration of closure or post-closure care requirements is necessary to prevent threat of adverse impact on public health, safety or the environment.

(c) The Department may amend a permit to require the permittee to modify the plan if it is necessary to prevent the threat of adverse impact on public health, safety or the environment. Also, the Department may

extend or reduce the post-closure care period or alter the closure or post-closure care requirements based on cause.

FINANCIAL ASSURANCE

340-61-034 (1) Financial assurance plans shall include but not be limited to:

(a) A written estimate of the costs of:

(A) Closing the land disposal site;

(B) Installing, operating and maintaining any environmental control system required on the disposal site;

(C) Monitoring and providing security for the land disposal site; and

(D) Complying with any other requirement the Department may impose as a condition of renewing the permit.

(b) A detailed description of the form of the financial assurance.

(c) A method and schedule for providing for or accumulating any required amount of funds which may be necessary to meet the financial assurance requirement.

(d) A proposal to the Department for disposing of any excess moneys received or interest earned on moneys received for financial assurance. To the extent practicable, the applicant's provisions for disposing of the excess moneys received or interest earned on moneys shall provide for:

(A) A reduction of the rates a person within the area served by the land disposal site is charged for solid waste collection service as defined by ORS 459.005; or

(B) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received.

(2) Amount of Financial Assurance Required. The amount of financial assurance required shall be established based upon the estimated closure

and post-closure care costs included in the approved closure plan. This required amount may be adjusted as the plan is amended.

(a) In reviewing the adequacy of the amount of financial assurance proposed by the applicant, the Department shall consider the following:

(A) Amount and type of solid waste deposited in the site.

(B) Amount and type of buffer from adjacent land and from drinking water sources.

(C) Amount, type, availability and cost of required cover.

(D) Seeding, grading, erosion control and surface water diversion required.

(E) Planned future use of the disposal site property.

(F) Type, duration of use, initial cost and maintenance cost of any active system necessary for controlling or stopping discharges.

(G) The portion of the site property closed before final closure of the entire site.

(H) Any other conditions imposed on the permit relating to closure or post-closure of the site.

(I) The financial capability of the applicant.

(b) After reviewing the proposed amount of financial assurance, the Department may either:

(A) Approve the amount proposed by the applicant; or

(B) Disapprove the amount and require the applicant to submit a revised amount consistent with the factors considered by the Department.

(3) Form of Financial Assurance. The financial assurance may be in any form proposed by the applicant if it is approved by the Department.

(a) The Department will approve forms of financial assurance to cover the ongoing closure activities occurring while the land disposal site is still receiving solid waste where the applicant can prove to the satisfac-

tion of the Department that all of the following conditions can be met:

(A) That financial assurance moneys in excess of the amount approved by the Department will not be set aside or collected by the disposal site operator. The Department may approve an additional amount of financial assurance during a review conducted in conjunction with a subsequent application to amend or renew the disposal site permit or a request by the owner or operator of a disposal site to extend the useful life of the disposal site. Nothing in this subsection shall prohibit a site operator from setting aside an additional reserve from funds other than those collected from ratepayers specifically for closure and post-closure and such a reserve shall not be part of any fund or set aside required in the applicable financial assurance plan.

(B) That the use of financial assurance is restricted so that the financial resources can only be used to guarantee that the following activities will be performed or that the financial resources can only be used to finance the following activities and that the financial resources cannot be used for any other purpose:

(i) Close the disposal site according to the approved closure plan.

(ii) Install, operate and maintain any required environmental control systems.

(iii) Monitor and provide security for the disposal site.

(iv) Comply with conditions of the closure permit.

(C) That, to the extent practicable, all excess moneys received and interest earned on moneys shall be disposed of in a manner which shall provide for:

(i) A reduction of the rates a person within the area served by the land disposal site is charged for solid waste collection service (as defined by ORS 459.005); or

(ii) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received; or

(iii) Where the disposal site is operated and exclusively used to dispose of solid waste generated by a single business entity, excess moneys and interest remaining in the financial assurance reserve shall be released to that business entity at the time that the permit is terminated.

(b) If the permittee fails to adequately perform the ongoing closure activities in accordance with the closure plan and permit requirements, the permittee shall provide an additional amount of financial assurance in a form meeting the requirements of OAR 340-61-034(3)(c) within 30 days after service of a Final Order assessing a civil penalty. The total amount of financial assurance must be sufficient to cover all remaining closure and post-closure activities.

(c) The Department will approve only the following forms of financial assurance for the final closure and post-closure activities which will occur after the land disposal site stops receiving solid waste:

(A) A closure trust fund established with an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the Department. The purpose of the closure trust fund is to receive and manage any funds that may be paid by the permittee and to disburse those funds only for closure or post-closure maintenance activities which are authorized by the Department. Within 60 days after receiving itemized bills for closure activities, the Department will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified and, if so, will send a written request to the trustee to make reimbursements.

(B) A surety bond guaranteeing payment into a closure trust fund

issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is to receive any funds that may be paid by the permittee or surety company. The bond must guarantee that the permittee will either fund the standby closure trust fund in an amount equal to the penal sum of the bond before the site stops receiving waste or within 15 days after an order to begin closure is issued by the Department or by a court of competent jurisdiction; or that the permittee will provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby closure trust account.

(C) A surety bond guaranteeing performance of closure issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is to receive any funds that may be paid by the surety company. The bond must guarantee that the permittee will either perform final closure and post-closure maintenance or provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the

bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby closure trust account.

(D) An irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The wording of the letter of credit must be acceptable to the Department. A standby closure trust fund must also be established by the permittee. The purpose of the standby closure trust fund is to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit must be irrevocable and issued for a period of at least 1 year unless the issuing institution notifies both the permittee and the Department at least 120 days before the current expiration date. If the permittee fails to perform closure and post-closure activities according to the closure plan and permit requirements, or if the permittee fails to provide alternate financial assurance acceptable to the Department within 90 days after notification that the letter of credit will not be extended, the Department may draw on the letter of credit.

(E) A closure insurance policy issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus lines insurer in one or more states. The wording of the certificate of insurance must be acceptable to the Department. The closure insurance policy must guarantee that funds will be available to complete final

closure and post-closure maintenance of the site. The policy must also guarantee that the insurer will be responsible for paying out funds for reimbursement of closure and post-closure expenditures after notification by the Department that the expenditures are in accordance with the closure plan or otherwise justified. The policy must provide that the insurance is automatically renewable and that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may not terminate the policy until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. Termination of the policy may not occur and the policy must remain in full force and effect if: the Department determines that the land disposal site has been abandoned; or the Department has commenced a proceeding to modify the permit to require immediate closure; or closure has been ordered by the Department, Commission or a court of competent jurisdiction; or the permittee is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or the premium due is paid. The permittee is required to maintain the policy in full force and effect until the Department consents to termination of the policy when alternative financial assurance is provided or when the permit is terminated.

(F) A private corporation meeting the financial test may provide a corporate guarantee that closure and post-closure activities will be completed according to the closure plan and permit requirements. To qualify, a private corporation must meet the criteria of either paragraphs (i) or (ii) of this subsection:

(i) Financial Test. To pass the financial test, the permittee must have:

(a) Two of the following three ratios: a ratio of total liabilities

to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(b) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(c) Tangible net worth of at least \$10 million; and

(d) Assets in the United States amounting to at least 90% of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) Alternative Financial Test. To pass the alternative financial test, the permittee must have:

(a) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Ebb as issued by Moody's;

(b) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(c) Tangible net worth of at least \$10 million; and

(d) Assets in the United States amounting to at least 90% of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(iii) The permittee shall demonstrate that it passes the financial test at the time the financial assurance plan is filed and reconfirm that annually 90 days after the end of the corporation's fiscal year by submitting the following items to the Department:

(a) A letter signed by the permittee's chief financial officer that provides the information necessary to document that the permittee passes the financial test; that guarantees that the funds to finance closure and post-closure activities according to the closure plan and permit requirements are available; that guarantees that the closure and post-

closure activities will be completed according to the closure plan and permit requirements; that guarantees that the standby closure trust fund will be fully funded within 30 days after either service of a Final Order assessing a civil penalty from the Department for failure to adequately perform closure or post-closure activities according to the closure plan and permit, or service of a written notice from the Department that the permittee no longer meets the criteria of the financial test; that guarantees that the permittee's chief financial officer will notify the Department within 15 days any time that the permittee no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; and that acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee.

(b) A copy of the independent certified public accountant's report on examination of the permittee's financial statements for the latest completed fiscal year.

(c) A special report from the permittee's independent certified public accountant (CPA) stating that the CPA has compared the data which the letter from the permittee's chief financial officer specifies as having been derived from the independently audited year end financial statements for the latest fiscal year with the amounts in such financial statements, and that no matters came to the CPA's attention which caused the CPA to believe that the specified data should be adjusted.

(d) A trust agreement demonstrating that a standby closure trust fund has been established with an entity which has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the

Department.

(iv) The Department may, based on a reasonable belief that the permittee no longer meets the criteria of the financial test, require reports of the financial condition at any time from the permittee in addition to the annual report. If the Department finds, on the basis of such reports or other information, that the permittee no longer meets the criteria of the financial test, the permittee shall fully fund the standby closure trust fund within 30 days after notification by the Department.

(G) Alternative forms of financial assurance where the applicant can prove to the satisfaction of the Department that the level of security is equivalent to subsections (A) through (F) of this section and that the criteria of OAR 340-61-034(3)(a) are met.

(4) Accumulation and Use of Any Financial Assurance Funds:

(a) The applicant shall set aside funds in the amount and frequency specified in the financial assurance plan approved by the Department. The total amount of financial assurance required shall be available in the form approved by the Department at the time that solid waste is no longer received at the site.

(b) The financial assurance plan shall contain adequate accounting procedures to insure that the disposal site operator does not collect or set aside funds in excess of the amount approved by the Department or use the funds for any purpose other than required by OAR 340-61-034(3)(a)(B).

(c) The permittee is subject to audit by the Department (or Secretary of State) and shall allow the Department access to all records during normal business hours for the purpose of determining compliance with OAR 340-61-034.

(d) If the Department determines that the permittee did not set aside the required amount of funds for financial assurance in the form and at

the frequency required by the approved financial assurance plan, or if the Department determines that the financial assurance funds were used for any purpose other than as required in OAR 340-61-034(3)(a)(B), the permittee shall, within 30 days after notification by the Department, deposit a sufficient amount of financial assurance in the form required by the approved financial assurance plan along with an additional amount of financial assurance equal to the amount of interest that would have been earned, had the required amount of financial assurance been deposited on time or had it not been withdrawn for unauthorized use.

DETAILED PLANS AND SPECIFICATIONS REQUIRED

340-61-035 Except as provided in Section 340-61-025(4):

(1) Any person applying for a Solid Waste Disposal Permit shall submit plans and specifications to the Department sufficiently detailed and complete so that the Department may evaluate all relevant criteria before issuing a permit.

The Department may refuse to accept plans and specifications that are incomplete and may request such additional information as it deems necessary to determine that the proposed disposal site and site operation will comply with all pertinent rules of the Department.

(2) Engineering plans and specifications submitted to the Department shall be prepared and stamped by a professional engineer with current Oregon registration.

(3) If in the course of facility construction any person desires to deviate significantly from the approved plans, the permittee shall submit a detailed description of the proposed change to the Department for review and approval prior to implementation.

CONSTRUCTION CERTIFICATION

340-61-036 Except as provided in Section 340-61-025(4):

(1) The Department may require, upon completion of major or critical construction at a disposal site, that the permittee submit to the Department a final project report signed by the project engineer or manager as appropriate. The report shall certify that construction has been completed in accordance with the approved plans including any approved amendments thereto.

(2) If any major or critical construction has been scheduled in the plans for phase development subsequent to the initial operation, the Department may require that the permittee submit additional certification for each phase when construction of that phase is completed.

AUTHORIZED AND PROHIBITED DISPOSAL METHODS

340-61-038 (1) Sanitary Landfill. Disposal of solid waste is authorized only at a sanitary landfill.

(2) Open Dump. The establishment, operation, or maintenance of an open dump is prohibited.

SPECIAL RULES PERTAINING TO LANDFILLS

340-61-040 (1) Plan Design Requirements. Unless an exemption has been granted under section 340-61-025(4), in addition to the requirements of rule 340-61-025, detailed plans and specifications for landfills shall include but not be limited to:

(a) Topographic maps which show natural features of the site; the location and design of all pertinent existing and proposed structures, such as berms, dikes, surface drainage control devices, access and on-site roads, water and waste water facilities, gas control devices, monitoring

wells, fences, utilities, maintenance facilities, shelter and buildings; legal boundaries and property lines, and existing contours and projected finish grades. Unless otherwise approved by the Department, the scale of the plan drawings shall be no greater than one inch equals 200 feet, with contour intervals not to exceed five feet. Horizontal and vertical controls shall be established and tied to an established bench mark located on or near the site. Where the Department deems it essential to ensure compliance with these rules, the bench mark shall be referenced to the Oregon State Plane Co-ordinate System, Lambert Projection.

(b) A minimum of two perpendicular cross section drawings through the landfill. Each cross section shall illustrate existing grade, excavation grade, proposed final grade, any additions for groundwater protection, water table profile and soil profile. Additional cross sections shall be provided as necessary to adequately depict underlying soils, geology and landfill contours, and to display the design of environmental protection devices or structures.

(c) A description of the design assumptions and methods used to forecast flows and to determine the sizing of pumps, pipes, ditches, culverts and other hydraulic equipment used for the collection, treatment and disposal of leachate and for the control of surface drainage.

(d) A detailed operational plan and timetable which describes the proposed method of operation and progressive development of trenches and/or landfill lifts or cells. Said plan shall include a description of the types and quantities of waste materials that will be received (estimated maximum daily and average annual quantities); methods of waste unloading, placement, compaction and covering; areas and/or procedures to be used for disposal of waste materials during inclement weather; types and weights of equipment to be used for site operation; detailed description of

any salvaging or resource recovery operations to take place at the facility; such measures for the collection, containment, treatment or disposal of leachate as may be required; provisions for managing surface drainage; and measures to be used for the control of fire, dust, decomposition gases, birds, disease vectors, scavenging, access, flooding, erosion, and blowing debris, as pertinent.

(2) Open Burning. No person shall conduct the open burning of solid waste at a landfill, except in accordance with plans approved and permits issued by the Department prior to such burning. The Department may authorize the open burning of tree stumps and limbs, brush, timbers, lumber and other wood waste, except that open burning of industrial wood waste is prohibited.

(3) Leachate. Any person designing, constructing, or operating a landfill shall ensure that leachate production is minimized. Where required by the Department, leachate shall be collected and treated or otherwise controlled in a manner approved by the Department.

(4) Groundwater:

(a) Each landfill permittee shall ensure that:

(A) The introduction of any substance from the landfill into an ~~underground drinking water source does not result in a violation of any~~ applicable federal or state drinking water rules or regulations beyond the solid waste boundary of the landfill or an alternative boundary specified by the Department.

(B) The introduction of any substance from the landfill into an aquifer does not impair the aquifer's recognized beneficial uses, beyond the solid waste boundary of the landfill or an alternative boundary specified by the Department, consistent with the Commission's adopted Groundwater Quality Protection Policy and any applicable federal or state

rules or regulations.

(b) Where monitoring is required, monitoring wells shall be placed between the solid waste boundary and the property line if adequate room exists.

(c) The Department may specify an alternative boundary based on a consideration of all of the following factors:

(A) The hydrogeological characteristics of the facility and surrounding land;

(B) The volume and physical and chemical characteristics of the leachate;

(C) The quantity and directions of flow of groundwater;

(D) The proximity and withdrawal rates of groundwater users;

(E) The availability of alternative drinking water supplies;

(F) The existing quality of the groundwater including other sources of contamination and their cumulative impacts on the groundwater; and

(G) Public health, safety, and welfare effects.

(5) Surface Water:

(a) No person shall cause a discharge of pollutants from a landfill into public waters, including wetlands, in violation of any applicable state or federal water quality rules or regulations.

(b) Each landfill permittee shall ensure that surface runoff and leachate seeps are controlled so as to minimize discharges of pollutants into public waters.

(6) Monitoring:

(a) Where the Department finds that a landfill's location and geophysical conditions indicate that there is a reasonable probability of potential adverse effects on public health or the environment, the Department may require a permittee to provide monitoring wells to determine

the effects of the landfill on groundwater and/or on the concentration of methane gas in the soil.

(b) If the Department determines that monitoring wells are required at a landfill, the permittee shall provide and maintain the wells at the locations specified by the Department and, at the Department's request, shall submit a copy of the well logs to the Department within thirty (30) days of completion of construction.

(c) Where the Department determines that self-monitoring is practicable, the Department may require that the permittee collect and analyze samples of surface water, groundwater and/or gas, at intervals specified and in a manner approved by the Department, and submit the results within a time frame specified by the Department.

(d) The Department may require permittees who do self-monitoring to periodically split samples with the Department for the purpose of quality control.

(7) Endangered Species. No person shall establish, operate, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted:

(a) Harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting of any endangered or threatened species of plants, fish, or wildlife.

(b) Direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(8) Gas Control. No person shall establish, operate, expand or modify a landfill such that:

(a) The concentration of methane (CH₄) gas at the landfill exceeds twenty-five (25) percent of its lower explosive limit in facility

structures (excluding gas control or gas recovery system components) or its lower explosive limit at the property boundary.

(b) Malodorous decomposition gases become a public nuisance.

(9) Surface Drainage Control. Each permittee shall ensure that:

(a) The landfill is designed, constructed and maintained so that drainage will be diverted around or away from active and completed operational areas.

(b) The surface contours of the landfill are maintained such that ponding of surface water is minimized.

(10) Floodplains. No permittee of a landfill located in a floodplain shall allow the facility to restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human life, wildlife or land or water resources.

(11) Cover Material. Each permittee shall provide adequate quantities of cover material of a type approved by the Department for the covering of deposited solid waste at a landfill in accordance with the approved operational plan, permit conditions and these rules.

(12) Cover Frequency. Each permittee shall place a compacted layer of at least six inches of approved cover material over the compacted wastes in a landfill at intervals specified in the permit. In setting a requirement for cover frequency, the Department may consider such factors as the volume and types of waste received, hydrogeologic setting of the facility, climate, proximity of residences or other occupied buildings, site screening, availability of equipment and cover material, any past operational problems and any other relevant factor.

(13) Access Roads. Each permittee shall ensure that roads from the landfill property line to the active operational area and roads within the

operational area are constructed and maintained so as to minimize traffic hazards, dust and mud and to provide reasonable all-weather access for vehicles using the site.

(14) Access Control. Each permittee shall insure that the landfill has a perimeter barrier or topographic constraints adequate to restrict unauthorized entry.

(15) Site Screening. To the extent practicable, each permittee shall screen the active landfill area from public view by trees, shrubbery, fence, stockpiled cover material, earthen berm, or other appropriate means.

(16) Fire Protection:

(a) Each landfill permittee shall make arrangements with the local fire control agency to immediately acquire their services when needed and shall provide adequate on-site fire protection as determined by the local fire control agency.

(b) In case of accidental fires at the site, the operator shall be responsible for initiating and continuing appropriate fire-fighting methods until all smoldering, smoking and burning ceases.

(c) No operator shall permit the dumping of combustible materials within the immediate vicinity of any smoldering, smoking or burning conditions at a landfill, or allow dumping activities to interfere with fire-fighting efforts.

(17) Special Handling. Large dead animals, sewage sludges, septic tank pumpings, hospital wastes and other materials which may be hazardous or difficult to manage, shall not be deposited at a disposal site unless special provisions for such disposal are included in the operational plan or otherwise approved by the Department.

(18) Signs. Each permittee of a landfill open to the public shall

post a clearly visible and legible sign or signs at the entrance to the disposal site specifying the name of the facility, the hours and days the site is open to the public, an emergency phone number and listing the general types of materials which either will be accepted or will not be accepted.

(19) Truck Washing Facilities. Each permittee shall ensure that any truck washing areas at a landfill are hard surfaced and that any on-site disposal of wash waters is accomplished in a manner approved by the Department.

(20) Sewage Disposal. Each landfill permittee shall ensure that any on-site disposal of sewage is accomplished in a manner approved by the Department.

(21) Salvage:

(a) A permittee may conduct or allow the recovery of materials such as metal, paper and glass from the landfill only when such recovery is conducted in a planned and controlled manner approved by the Department.

(b) No person may salvage food products, hazardous materials or furniture and bedding with concealed filling from a landfill.

(22) Litter:

(a) Each permittee shall ensure that effective measures such as compaction, the periodic application of cover material or the use of portable fencing or other devices are taken to minimize the blowing of litter from the active working area of the landfill.

(b) Each landfill operator shall collect windblown materials from the disposal site and adjacent property and properly dispose of same at sufficient frequency to prevent aesthetically objectionable accumulations.

(23) Vector and Bird Control:

(a) Each permittee shall ensure that effective means such as the periodic application of earth cover material or other techniques as appropriate are taken at the landfill to control or prevent the propagation, harborage, or attraction of flies, rodents, or other vectors and to minimize bird attraction.

(b) No permittee of a landfill disposing of putrescible wastes that may attract birds and which is located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport used by only piston-type aircraft shall allow the operation of the landfill to increase the likelihood of bird/aircraft collisions.

(24) Weighing. The Department may require that landfill permittees provide scales and weigh incoming loads of solid waste, to facilitate solid waste management planning and decision making.

(25) Records. The Department may require records and reports it considers reasonably necessary to ensure compliance with conditions of a permit or these rules.

[(27) Closure of Landfills:]

CLOSURE OF LAND DISPOSAL SITES

340-61-042 (1) When solid waste is no longer received at a land disposal site, the person who holds or last held the permit issued under ORS 459.205 or, if the person who holds or last held the permit fails to comply with this section, the person owning or controlling the property on which the disposal site is located, shall close and maintain the site according to the requirements of ORS Chapter 459, all applicable rules adopted by the Commission under ORS 459.045 and all requirements imposed by the Department as a condition to renewing or issuing a disposal site

permit.

(2) [(a)] Unless otherwise approved or required in writing by the Department, no person shall permanently close or abandon a [landfill] land disposal site, except in the following manner:

(a) [(A)] All filled areas not already closed in a manner approved by the Department shall be covered with at least [two (2)] three (3) feet of compacted [earth] soil of a type approved by the Department graded to a minimum two (2) percent and maximum thirty (30) percent slope unless the Department authorizes a lesser depth or a different kind of cover material. In applying this standard, the Department will consider the potential for adverse impact from the disposal site on public health, safety or the environment, and the ability for the permittee to generate the funds necessary to comply with this standard before the disposal site closes. A permittee may request that the Department approve a lesser depth of cover material based on the type of waste, climate, geological setting, degree of environmental impact. For those land disposal sites existing on January 1, 1984 which will close, or the parts of those sites which will close, prior to January 1, 1989, only a minimum of two feet of approved soil will be required unless the Department finds that additional cover material is necessary to minimize environmental impacts from the site.

(b) [(B)] Final cover material shall be applied to each portion of a [landfill] land disposal site within sixty (60) days after said portion reaches approved maximum fill elevation[.], except i[I]n the event of inclement weather, in which case final cover [may] shall be applied as soon as practicable.

(c) The finished surface of the filled areas shall consist of soils of a type or types consistent with the planned future use and approved by the Department. Unless otherwise approved by the Department, a vegetative

cover of native grasses shall be promptly established over the finished surface of the disposal site.

(d) All surface water must be diverted around the area of the disposal site used for waste disposal or in some other way prevented from contacting the waste material.

(e) All systems required by the Department to control or contain discharges to the environment must be completed and operational.

(3) [(b) Unless otherwise approved by the Department as provided in section 340-61-025(4), permanent c]Closure of [landfills] land disposal sites shall be in accordance with detailed plans approved in writing by the Department pursuant to rule 340-61-033.

[(3) The finished surface of the filled areas shall consist of soils of a type or types consistent with the planned future use and approved by the Department. Where appropriate, the finished surface shall be promptly seeded with native grasses or other suitable vegetation.]

(4) Closure Approval:

(a) When closure is completed, the permittee shall submit a written request to the Department for approval of the closure.

(b) Within thirty days of receipt of a written request for closure approval, the Department shall inspect the facility to verify that closure has been effected in accordance with the approved closure plan and the provisions of these rules.

(c) If the Department determines that closure has been properly completed, the Department shall approve the closure in writing. Closure shall not be considered complete until such approval has been made. The date of approval notice shall be the date of commencement of the post-closure period.

[(28) Completed Landfills:]

POST-CLOSURE CARE OF LAND DISPOSAL SITES

340-61-043 (1) Post-Closure Requirements:

(a) Upon completion or closure of a landfill, a detailed description of the site including a plat should be filed with the appropriate county land recording authority by the permittee. The description should include the general types and location of wastes deposited, depth of fill and other information of probable interest to future land owners.

[(b) Completed landfills shall be inspected and maintained by the permittee as necessary to prevent significant surface cracking, erosion, or ponding of water and to comply with these rules.]

(b) During the post-closure care period, the permittee must, at a minimum:

(A) Maintain the approved final contours and drainage system of the site:

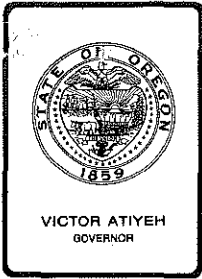
(B) Consistent with final use, ensure that a healthy vegetative cover is established and maintained over the site:

(C) Operate and maintain each leachate and gas collection, removal and treatment system present at the disposal site:

(D) Operate and maintain each groundwater and surface water monitoring system present at the disposal site:

(E) Comply with all conditions of the closure permit issued by the Department.

(2) Post-Closure Care Period. Post-closure care must continue for ten years after the date of completion of closure of the land disposal site, unless otherwise approved or required by the Department according to rules 304-61-028(6) and (7).



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, January 6, 1984, EQC Meeting

Proposed Adoption of Amendments to Solid Waste Management Rules OAR 340-61-005 to 340-61-043 Relating to Closure, Post-Closure Maintenance and Financial Assurance of Solid Waste Disposal Sites

Background

The 1983 Oregon Legislative Assembly passed House Bill 2241, Chapter 766 Oregon Laws 1983, which clarifies the Department's authority to regulate land disposal sites after closure. It also requires land disposal sites to be closed properly and requires the permit holder to provide financial assurance to cover the costs of closing the site and monitoring the site after closure. The Legislature specified that the Solid Waste Disposal Permit would be the mechanism for assuring that disposal site closure would be adequately financed and completed. The Commission must adopt rules governing closure and post-closure maintenance of land disposal sites. It allows the Commission to adopt rules exempting certain classes of disposal sites from the financial assurance requirements. It also allows the Commission to set criteria through which individual disposal sites may be exempt from the financial assurance requirement.

The new law requires any person holding a permit for a disposal site to apply for renewal of that permit 5 years before the site is scheduled to close. This permit covering the remaining active operation of the site and its closure and post-closure maintenance is called a closure permit. Applications for closure permits must be filed before January 31, 1984, for all sites that closed since 1980 or that will close before 1989. In order for those people to know what is going to be required of them, it is essential that these proposed rules be adopted at the January 6, 1984, EQC meeting.

The Department submitted draft rules to the EQC at its October 7, 1983, meeting and received authorization to conduct a public hearing. The Department staff has continued to work with the Solid Waste Advisory Task Force and has incorporated public comments received prior to and during the hearing in refining the proposed rules.

Alternatives and Evaluation

The revised rules proposed for adoption expand the existing solid waste management rules in the following areas:

1. The definitions were updated to reflect legislative changes and to define terms pertaining to financial assurance.
2. A section on closure permits was added (a) outlining permit application information, (b) setting criteria for exempting sites from financial assurance requirements, (c) setting standards for terminating closure permits, (d) providing notice of the Department's statutory authority to enter and inspect closed sites, (e) requiring closure permit holders to submit an annual report evaluating their closure and financial assurance plans, and (f) requiring any new owner or operator of a site operating under a closure permit to apply for transfer of the closure permit and to define closure and post-closure responsibilities within 30 days after the change of ownership or control.
3. A section on closure plans was added (a) outlining information needed in a closure plan, (b) requiring that the approved closure plan be implemented, and (c) specifying procedures for plan amendments.
4. A section on financial assurance was added (a) outlining information needed in a financial assurance plan, (b) setting criteria for determining the required amount of financial assurance, (c) identifying acceptable forms of financial assurance, and (d) establishing limits on the accumulation and use of financial assurance funds.
5. The existing section on closure of land disposal sites was expanded by (a) requiring the permit holder or, if he defaults, the owner, to properly close a land disposal site, (b) specifying minimum actions required for proper closure, (c) increasing the depth of final cover material from 2 to 3 feet unless the Department authorizes a lesser depth based on anticipated minimal environmental impacts from the site, and (d) outlining the procedure for obtaining the Department's approval of completed closure activities.
6. The existing section on completed landfills was rewritten to cover post-closure care of land disposal sites by (a) specifying minimum activities to be performed during the post-closure period and (b) defining the length of the post-closure period.


Most discussion and comments have focused on the criteria for exempting sites from the financial assurance requirements, the form of acceptable financial assurance and the increase in required cover material depth from 2 to 3 feet. Please refer to the Department's Response to Public Comment (Attachment 2) for detailed discussion of these issues.

Summation

1. The Commission is required to adopt rules governing closure and post-closure maintenance of landfills to implement House Bill 2241 which was passed by the 1983 Oregon Legislative Assembly.
2. The new law requires a person holding a permit for any disposal site that closed or is scheduled to close between 1980 and 1989 to apply for renewal of the Solid Waste Disposal Permit before January 31, 1984.
3. Adoption of the proposed rules at the January 6, 1984, EQC meeting is necessary so that closure permit applicants can know what is necessary to meet the January 31, 1984, application deadline.
4. On October 7, 1983, the Commission authorized a public hearing on the proposed rules.
5. A public hearing was held in Portland on November 17, 1983, to accept public testimony on the proposed rules.
6. Public comments and input from the Solid Waste Advisory Task Force were considered in revising and refining the proposed rules.

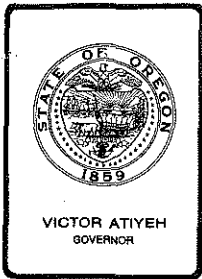
Director's Recommendation

Based on the Summation, it is recommended that the Commission adopt the proposed amendments to the Department's solid waste management rules, OAR 340-61-005 through 61-043.


Michael J. Downs

Attachments (1) Hearing Officer's Report
(2) Department's Response to Public Comment
(3) Draft Statement of Need for Rulemaking
(4) Land Use Consistency Statement
(5) Proposed Rules OAR 340-61-005 through 61-043

Joseph F. Schultz:c
SC1331
229-6237
December 16, 1983



Environmental Quality Commission

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

November 23, 1983

MEMORANDUM

To: Environmental Quality Commission

From: William H. Dana, Hearing Officer

Subject: Report on Public Hearing Held November 17, 1983,
Concerning Proposed Rules Pertaining to Closure,
Post-Closure Maintenance and Financial Assurance of
Solid Waste Disposal Sites, OAR 340-61-005 to
340-61-043

Summary of Procedure

Pursuant to public notice, a public hearing was convened at 10:00 a.m., on November 17, 1983, in Room 1400, 522 S.W. Fifth Avenue, Portland, Oregon. The purpose of the hearing was to receive testimony concerning proposed rules pertaining to closure, post-closure maintenance and financial assurance of solid waste disposal sites.

Summary of Verbal Testimony

John Crockett, representing the City of Astoria, testified that the city's landfill may close within five years, but the exact date is unknown at this time. Furthermore, the closure date depends upon several factors over which the city has no control. Accordingly, Mr. Crockett expressed concern that the Department remains flexible in requiring the city to prepare a closure permit by January 1984. He also testified that the Department should be flexible in determining the types of financial assurance that will be acceptable.

Tom Donaca, representing Associated Oregon Industries, testified that the Department should be flexible in determining the types of financial assurance that will be acceptable. He suggested that letters of credit from large corporations should be acceptable. He also recommended that we use the term "financial resources" instead of the term "monies" in the rules.

In regard to applications for closure permits, Mr. Donaca testified that the Department should rely largely on past inspection reports and other existing information and not require the applicant to resubmit materials or to prepare extensive new information.

In regard to closure requirements, Mr. Donaca testified that three feet of cover material was excessive for industrial wood waste landfills.

Gary Newbore, representing Killingsworth Fast Disposal Landfill, testified that the Department should be flexible in determining the types of financial assurance that will be acceptable. He stated that there are other ways to guarantee that the work will get done without specifically putting money into an account.

Dennis O'Neil, representing Metro, testified in opposition to the proposed three-foot final cover requirement. He questioned whether the benefits were worth the additional expense and also questioned whether or not the requirement could be justified on a technical basis.

Roger Emmons, representing Oregon Sanitary Service Institute, complimented the staff and testified that he was generally supportive of the last draft of the rules. He suggested, however, that the rules should state more clearly that not all disposal sites will be required to have financial assurance. Also, he recommended that the rules be changed to allow operators to set aside additional monies of their own.

Mr. Emmons also testified that the right of entry to a closed disposal site should be limited to DEQ staff. He indicated that he was opposed to granting access to city and county officials.

Lastly, Mr. Emmons testified that the proposed three-foot final cover requirement should not be applied to landfills that will close before January 1, 1984.

Marianne Litzinger, representing Crown Zellerbach, testified briefly that she agreed with the comments made by Mr. Donaca and Mr. Newbore (i.e., that the Department should be flexible in determining the types of financial assurance that will be acceptable).

Summary of Written Testimony

Mr. O'Neil and Mr. Emmons submitted written testimony at the hearing. Their comments are summarized above. In addition, the following written testimony was received thru the mail:

Randall Hledik, representing Wildish Corvallis Construction Co., requested that disposal sites for construction and demolition debris be exempted from the financial assurance requirement, due to the rather inert nature of that waste.

Neil Hudson, representing Deschutes County, stated that disposal sites operated by governmental agencies should be exempted from the financial assurance requirement. He also stated that a one-year post-closure maintenance and monitoring program should be adequate for publically-operated disposal sites.

Thomas Gorman, representing Cascade Utilities, suggested that exemptions should be provided for landfills below some minimum size, for private disposal sites that are not open to the public and for disposal sites receiving limited types of waste.

Robert Parkhill, representing Douglas County, suggested that closure funds be put into an interest-bearing account and that the funds and interest be returned to the owner upon satisfactory closure. He also stated, in apparent contradiction, that no one should be exempt from financial assurance and that government agencies should be exempt from financial assurance.

Kenneth Shrum, representing Sun Studs, Inc., stated that it will be especially difficult for forest products companies to predict 5 years in advance when a landfill will close. He also stated that disposal sites receiving only mineral and wood fibre or that serve only a single corporation should be exempted.

Lewis Krause, representing Rough & Ready Lumber Co., stated that landfills receiving primarily wood waste should be exempted. He believes this type of waste is non-toxic and harmless to the environment.

Merlin Peterson, representing the Toole Army Depot Complex, requested that federally-operated disposal sites be exempted from the requirements of this act.

C. Dianne Perry, representing Crown Zellerbach Corporation, suggested that closure requirements for putrescible waste disposal sites should be different from those for industrial wood waste sites. Also, that post-closure monitoring should be determined on a case-by-case basis. In addition, Ms. Perry stated that financial assurance should not be required if groundwater is not threatened and that disposal sites serving a single corporation should be exempt.

Louis Lamb, representing Lake County, requested that the Department take special note of the limited financial resources of rural communities in the development of these rules.

Ralph Heinert, representing Champion International Corporation, stated that post-closure responsibilities in the case of change of ownership should be clarified. He also stated that provisions for exemptions should be included in the rules and that the Department should be flexible in approving forms of financial assurance. In addition, Mr. Heinert commented that predicting a closure date five years in advance would be difficult.

The Umatilla County Board of Commissioners stated that a disposal site operator's liability should end no later than five years after closure.

Susan McHenry, Robert Bopp, Wallace Mathews, Betty McAuslan, Mike Jewett, and Gary Rahn, all representing the Umatilla County Solid Waste Committee, each submitted an identical letter protesting that the proposed rules hold a disposal site operator liable for a lifetime. Each recommended that liability be terminated five years after closure.

Merle Jewett, representing Sanitary Disposal, Inc., protested the proposed rule because he believes that it holds the operator liable for a lifetime. He further stated that any responsibility after closure should be the Department's and not the operator's.

Donald Armstrong, representing the City of Umatilla, raised several concerns, including his belief that the rule held operators responsible for a lifetime. He was also concerned about the potential costs of such a program. Mr. Armstrong suggested a statewide insurance pool to be administered by the Department.

Marsh Meyers, representing the Umatilla County Solid Waste Committee, stated that in his opinion the rules hold an operator liable for a lifetime. He suggested that responsibility should be terminated five years after closure.

Howard Grabhorn, representing Lakeside Reclamation Landfill, suggested that small landfills receiving land cleaning and woody wastes should be exempted.

Respectfully submitted,

William H. Dana

William H. Dana
Hearing Officer

Attachments:

1. Hearing Testimony Signup Sheet
2. Written Testimony

WHD:b
SB2782

Department's Response to Public Comment

The following is a summary of comments received in response to the proposed administrative rules pertaining to closure, post-closure maintenance and financial assurance for land disposal sites and the Department's response to those comments:

Comment: There were a number of comments regarding which sites should be exempt from the financial assurance requirements. Suggestions for exemption included landclearing and construction demolition sites; sites less than 5 acres in size; private sites not open to the public; publicly operated sites; sites on federal land; sites used and owned by a single corporation; sites exempt from having to get a solid waste permit; sites operated by rural, financially troubled counties; industrial waste sites being closed as they progress with no leachate problems; and sites without problems or anticipated problems. One commenter cautioned specifically against exempting small domestic sites as a class because those are often the ones who fail to adequately plan for financing closure.

Response: The originally proposed rules exempted two classes of sites from the financial assurance requirements. Small domestic waste sites serving less than 10,000 people and industrial sites serving a single corporation were exempt as long as no environmental problems existed. In addition, those rules proposed to exempt any site that didn't have environmental problems or active leachate or gas control systems as long as the closure costs would be small.

It is important to realize that all sites are going to have to close properly. All sites will have to finance those closure costs. All sites will have to plan for and set money aside for closure. The only real difference is that operators of sites that are exempt won't have to publicly show their financing plan or their closure funds.

The Department's approach is to encourage landfills to close progressively as they complete successive areas. This approach will minimize the amount of area remaining to be closed when the site stops receiving waste. There should not be any big costly surprises when landfills close. This approach will be taken at all landfills whether financial assurance is required or not.

As long as the Department's enforcement efforts continue to require "close as you go" operation, the importance of financial assurance will be reduced except at those sites with significant final closure and post-closure costs or environmental problems.

Those costs or environmental problems are more a function of the physical location, climate, construction, operation, type and volume of waste, and environmental controls at each individual site rather than a function of any class of site. For this reason, the rules proposed for adoption do not exempt any classes of sites. They do exempt any site that can demonstrate that it poses no threat of adverse impact on groundwater, surface water, public health or safety; has no system requiring active operation and maintenance for controlling discharges to the environment; and has less than 2 acres of landfill area (unless complying with a different closure schedule approved by the Department) that has not been properly closed in a manner approved by the Department.

Comment: Will a site operator have to hire consultants to perform extensive environmental studies in order to demonstrate that his site qualifies for an exemption to the financial assurance requirements?

Response: The Department's approach will be to base that decision as much as possible on existing information. Most sites have sufficient information on file in their feasibility or inspection reports or otherwise readily available for those decisions to be made. We have included a section in the proposed rules to outline that we will consider existing information first and will request new or additional information only if necessary.

Comment: There have been a number of comments regarding acceptable forms of financial assurance. Generally, commenters have requested that the rules remain flexible to allow creative forms of financial assurance but have recognized that the Department should let people know which standard types of financial assurance would be approved. Some commenters specifically advised that the rules should at least allow the forms of financial assurance acceptable to EPA for hazardous waste sites as found in 40 CFR 264.143, .146 and .149. Other commenters felt that a letter from a large corporation would be sufficient. There has been a considerable amount of discussion in our rules task force about the degree of security needed for the financial assurance.

Response: As originally proposed, the rules were very flexible and non-specific as to the form of financial assurance that would be accepted. Essentially, everything would be negotiated on a site-by-site basis. There is a need to be more specific, particularly with the more common forms of financial assurance, so that operators will know the types of things we are likely to approve. We still need flexibility to deal individually with each site but "creative" forms must not be allowed to create only the illusion of financial assurance.

A high level of security is not needed for the "close as you go" part of closure activities. The Department's enforcement actions provide the "security" as long as an operator is following his closure plan. A higher level of security is needed for that part of financial assurance covering final closure and post-closure maintenance that occurs after the site stops receiving waste and no longer has any income.

The rules proposed for adoption remain very flexible regarding the form of financial assurance covering the "close as you go" activities. For financial assurance covering activities occurring after the site stops receiving waste, the Department will accept the forms of financial assurance acceptable to EPA under the hazardous waste regulations and also provide flexibility by allowing other alternative forms that have an equivalent level of security and that meet the performance standards found in the law. Additional flexibility is available on the details of each listed form of financial assurance. EPA's regulations (and our proposed hazardous waste rules) contain pages and pages of details, including mandatory wording of documents, for each listed form of assurance. These rules are much briefer summaries, containing only the essential points.

At this time we anticipate that the trust fund and corporate guarantee will generally be used. The surety bonds, letter of credit and insurance options are not likely to be available to most operators right now, but may be in the future. The standards in the financial test are the same as in the EPA hazardous waste regulations. The corporate guarantee form of financial assurance, available to those who pass the financial test, is somewhat different from EPA's. The documentation required, including certification by an independent CPA, is the same, but we also ask that the corporation guarantee that the resources are available and that they will adequately complete the closure activities. We further require that a standby trust account be set up and that the corporation agree to fund it if they no longer pass the financial test or if they receive Notice of Assessment of Civil Penalty for failure to adequately perform closure and post-closure activities.

Comment: One commenter suggested that DEQ set up a statewide trust fund to receive, manage and disburse funds with separate accounts for each site. Interest and excess money could be used to finance DEQ solid waste program.

Response: This would be the ultimate in financial assurance; however, it would require a great deal of staff time to administer. Additional people with financial expertise would have to be hired. It may be appropriate to consider this option only if problems develop with the Department's current approach which is based on minimizing the staff time spent on administering the financial assurance program.

Comment: Funds should be invested in an interest-bearing account with excess funds and interest returned to the site operator upon completion of post-closure maintenance.

Response: The law specifically requires that, to the extent practicable, any excess moneys received or interest earned be returned to the public within the area served by the land disposal site through a reduction in solid waste collection service rates or by enhancing present or future solid waste disposal facilities. Those funds cannot be returned to the operator.

Comment: It will be very difficult for industrial sites (particularly wood products industry) to know 5 years before the site will close. The waste volume is related to economic cycles.

Response: The law specifically requires all sites to renew their permits and address closure 5 years before the site closes. We recognize the difficulty in trying to accurately project the closure date. The intent of the legislation is to have operators plan for and finance closure of land disposal sites. All operators should know what their completed fills will look like. We require a preliminary closure plan as part of the application for a new site. The operator should use his best judgement in estimating the closure date. If the site fills more slowly than expected, the law allows the operator to request that the Department extend the operating period and make appropriate changes in the financial assurance plan. If the site fills more rapidly than expected, the operator must still close the site properly. The procedure in the proposed rules for annual closure plan review will allow adjustments to be made as needed.

Comment: There were a few comments regarding the cost and length of time for post-closure maintenance. It was recommended that the Department look at the cost of post-closure maintenance on a case-by-case basis. It was also suggested that the period of post-closure maintenance be no longer than 1 year for sites operated by governmental agencies.

Response: The proposed rules address the cost of post-closure maintenance on an individual basis. The length of time required for post-closure maintenance has absolutely nothing to do with whether the site is operated by a public or private operator. It will be based on the unique situation at each site. Settlement, for instance, depends on the degree of compaction, type of waste and depth of the fill. Leachate and gas generation depend on waste type, climate, construction of the fill and the soils and geology of the area.

Comment: Several people from Umatilla County stated that the proposed rules put an unending burden on the site operator. They recommend that the operator be relieved of any liability 5 years after the site closes and that DEQ, not the operator, be liable after that time.

Response: The legislation and the proposed rules do not increase or decrease liability for damages caused by the disposal site. They assign responsibility for proper closure and post-closure maintenance to the permittee or, if he defaults, the site owner. The length of post-closure maintenance is site-specific. The Department must terminate the permit within 10 years of closure unless the Department finds a need to protect against a significant hazard or risk to public health, safety or the environment.

Comment: Only DEQ staff should be allowed to enter closed landfill sites to determine compliance. City and county officials should not have access.

Response: ORS 459.285 specifically authorizes "Department or county, district or city board of health personnel, authorized sanitarians or other authorized city or county personnel" to enter regulated disposal sites, at reasonable times, to determine compliance and enforce the laws and any rules and regulations adopted pursuant to the laws. This would include local solid waste regulations and franchises.

Comment: Landfill operators should be able to create a separate reserve, using their own after-tax profits, to provide a back-up fund in case the financial assurance fund is not adequate to cover all closure and post-closure maintenance costs.

Response: The Legislature placed provisions in the law to prevent financial assurance funds from becoming sources of windfall income to the operators. One of those provisions was that no moneys in excess of the amount of financial assurance approved by the Department could be collected or set aside by the operator. If a cautious operator wants to reserve some of his profits as added insurance against future, unexpected closure or maintenance costs, he should not be penalized. On the other hand, the Department must not allow underestimating the amount of closure costs that the financial assurance is based on. The rules proposed for adoption have been clarified to allow additional reserves from funds other than those collected from ratepayers specifically for closure and post-closure maintenance.

Comment: Several commenters questioned the proposed change in cover material depth from 2 to 3 feet. There was more concern about whether the additional costs outweighed the benefits than there was about the desirability of thicker cover.

Response: The thicker cover soil will reduce leachate generation because more rainfall is held in the deeper soil layer. It will also provide better gas and odor control, enhance the vegetative cover and provide better cover integrity in settlement areas. Approval of the type of soil by the Department is necessary to ensure that the cover soil accomplishes what is needed at each site to minimize environmental impacts. There may be situations where the thicker cover soil would not be needed or where closure costs and financing have been geared toward the 2-foot requirement and not enough site life remains to finance the thicker soil cover. The proposed rule has been specifically worded to allow the Department flexibility in dealing with those situations in an equitable manner. The 3-foot cover requirement will not be imposed on the parts of currently existing sites which will close prior to January 1, 1989, unless the Department finds that the additional cover material is necessary to minimize environmental impacts from the site.

Comment: Clarification is needed on post-closure responsibilities in the case of ownership transfer of closed disposal sites.

Response: A section has been added to the proposed rules to require new owners or operators of sites operating under closure permits to apply for transfer of the permit within 30 days after the change of ownership or control. At that time, post-closure care responsibilities must be defined.

JFS:c
(12/12/83)

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Adoption of	)	Statutory Authority,
Amendments to Solid Waste	)	Statement of Need,
Management Rules OAR Chapter 340,	)	Principal Documents Relied Upon,
Sections 61-005 through 61-043	)	and Statement of Fiscal Impact

1. Citation of Statutory Authority

ORS 459.045, which requires the Environmental Quality Commission to adopt rules pertaining to solid waste management. Also, HB 2241, 1983 Legislature, which requires the Commission to adopt rules pertaining to closure and post-closure maintenance.

2. Statement of Need

To implement House Bill 2241, the Commission needs to adopt rules which will set the standards that must be met by applicants for closure permits. The Commission also needs to adopt rules setting the standards for closure and post-closure maintenance so that landfills will be closed and maintained in an environmentally acceptable manner until they have been stabilized and no longer pose a threat to public health, safety or the environment.

3. Principal Documents Relied Upon in This Rulemaking

- a. House Bill 2241, 1983 Oregon Legislature
- b. ORS 459
- c. OAR 340-61-005 through 61-043, Solid Waste Management
- d. OAR Chapter 340, Division 108, Hazardous Waste Management, Closure, Post-Closure and Liability (proposed)
- e. Landfill Closure Rules from the States of Wisconsin, Pennsylvania, New York, New Jersey and Vermont

4. Statement of Fiscal Impact

In general, this action will not increase anticipated landfill closure costs but will require advanced financial planning so that sufficient funds are assured to be available to adequately close disposal sites and maintain them after closure until no further threat to the environment exists.

The proposed increase in the required cover depth from 2 to 3 feet will increase the cost of landfill closure. Increased cover depth is becoming recognized by the industry as reasonable and necessary, particularly where the final use of the site will be for agriculture. Any increased cost will be planned for and financed over the 5-year period prior to closure. The rule is specifically worded to allow the Department to waive the standard where sites do not have sufficient time to amortize the additional costs. There should be no significant adverse impact on small business as increased costs will be covered substantially by rates paid by the general population using the site.

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Adoption of) Land Use Consistency
Amendments to Solid Waste)
Management Rules OAR Chapter 340,)
Sections 61-005 through 61-043)

The proposed rules appear to be consistent with statewide planning goals. These proposals appear to conform with Goal No. 6 (Air, Water and Land Resources Quality) and Goal No. 11 (Public Facilities and Services). There is no apparent conflict with the other goals.

With regard to Goals No. 6 and 11, these rules will affect existing and future landfills by assuring that sufficient funds are available for proper closure and for post-closure maintenance until the site no longer poses a threat to the environment.

Public comment on these proposals is invited and may be submitted in the manner described in the accompanying NOTICE OF PUBLIC HEARING.

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

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

JFS:c
SC1205.3
12/16/83

Attachment 5
Agenda Item No. G
1/6/84 EQC Meeting

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

PROPOSED AMENDMENTS

OREGON ADMINISTRATIVE RULES

CHAPTER 340 - DIVISION 61

"SOLID WASTE MANAGEMENT"

PURPOSE

340-61-005 The purpose of these rules is to prescribe requirements, limitations, and procedures for storage, collection, transportation, and disposal of solid waste.

DEFINITIONS

340-61-010 As used in these rules unless otherwise specified:

(1) "Access road" means any road owned or controlled by the disposal site owner which terminates at the disposal site and which provides access for users between the disposal site entrance and a public road.

(2) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.

(3) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of ground water to wells or springs.

(4) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

(5) [(4)] "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.

(6) [(5)] "Base flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average of a significantly long period.

(7) "Closure permit" means a document issued by the Department bearing the signature of the Director or his authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain

the site after closure for a period of time specified by the Department.

(8) [(6)] "Commission" means the Environmental Quality Commission.

(9) [(7)] "Cover material" means soil or other suitable material approved by the Department that is placed over the top and side slopes of solid wastes in a landfill.

(10) [(8)] "Composting" means the process of controlled biological decomposition of organic solid waste.

(11) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(12) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(13) [(9)] "Department" means the Department of Environmental Quality.

(14) [(10)] "Digested sewage sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

(15) [(11)] "Director" means the Director of the Department of Environmental Quality.

(16) [(12)] "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste

collection service, [and] composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.

(17) [(13)] "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

(18) "Financial assurance" means a plan for setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a land disposal site after the site is closed according to the requirements of a permit issued by the Department.

(19) [(14)] "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters which are inundated by the base flood.

(20) [(15)] "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

(21) [(16)] "Hazardous waste" means discarded, useless or unwanted materials or residues in solid, liquid or gaseous state and their empty containers which are classified as hazardous pursuant to ORS 459.410.

(22) [(17)] "Heat-treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

(23) [(18)] "Incinerator" means any device used for the reduction of

combustible solid wastes by burning under conditions of controlled air flow and temperature.

(24) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

(25) [(19)] "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(26) [(20)] "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved and/or suspended contaminants as a result of such contact.

(27) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(28) [(21)] "Local government unit" means a city, county, metropolitan service district formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468.500 to 468.530 and 468.540 to 468.575 or any other local government unit responsible for solid waste management.

(29) "Net working capital" means current assets minus current liabilities.

(30) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(31) [(22)] "Open dump" means a facility for the disposal of solid waste which does not comply with these rules.

(32) [(23)] "Permit" means a document issued by the Department, bearing the signature of the Director or his authorized representative

which by its conditions may authorize the permittee to construct, install, modify or operate a disposal site in accordance with specified limitations.

(33) [(24)] "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(34) [(25)] "Public waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(35) [(26)] "Processing of wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(36) [(27)] "Putrescible waste " means solid waste containing organic material that can be rapidly decomposed by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(37) [(28)] "Resource recovery" means the process of obtaining useful material or energy from solid waste and includes:

(a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content,

or other forms of energy, of or from the material.

(b) "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

(c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(38) [(29)] "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site.

(39) [(30)] "Sanitary landfill" means a facility for the disposal of solid waste which complies with these rules.

(40) [(31)] "Sludge" means any solid or semisolid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(41) [(32)] "Solid waste" means all putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure; [vegetable] vegetable or animal solid and semi-solid wastes, dead animals and other wastes; but the term does not

include:

(a) Hazardous wastes as defined in ORS 459.410.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.

(42) [(33)] "Solid waste boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

(43) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(44) [(34)] "Transfer station" means a fixed or mobile facility, normally used as an adjunct of a solid waste collection and disposal system or resource recovery system, between a collection route and a disposal site, including but not limited to a large hopper, railroad gondola or barge.

(45) [(35)] "Underground drinking water source" means an aquifer supplying or likely to supply drinking water for human consumption.

(46) [(36)] "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases from one person or animal to another.

(47) [(37)] "Waste" means useless or discarded materials.

(48) [(38)] "Zone of saturation" means a three (3) dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

POLICY

340-61-015 Whereas inadequate solid waste collection, storage, transportation, recycling and disposal practices cause nuisance conditions, potential hazards to public health and safety and pollution of the air, water and land environment, it is hereby declared to be the policy of the Department of Environmental Quality to require effective and efficient solid waste collection and disposal service to both rural and urban areas and to promote and support comprehensive county or regional solid waste management planning, utilizing progressive solid waste management techniques, emphasizing recovery and reuse of solid wastes and insuring highest and best practicable protection of the public health and welfare and air, water and land resources. In keeping with the Oregon policy to retain primary responsibility for management of adequate solid waste programs with local government units (ORS 459.015) and the Environmental Quality Commission's perception of Legislative intent under Chapter 773, Oregon Laws 1979, the Commission will look for, and expect, the maximum participation of local government in the planning, siting, development and operation of needed landfills. It is expected that local government will have carried out a good faith effort in landfill siting, including but not limited to public participation and Department assistance, before requesting the Department to site the landfill. Local government will be expected to assume or provide for responsibility in the ownership and operation of any Department/Commission sited landfill under anything but an extraordinary circumstance.

STATE OF OREGON SOLID WASTE PLAN

340-61-017 This solid waste plan is adopted as the State Plan pursuant to the Federal Resource Conservation and Recovery Act.

PERMIT REQUIRED

340-61-020 (1) Except as provided by section (2) of this rule, no person shall establish, operate, maintain or substantially alter, expand or improve a disposal site, and no person shall change the method or type of disposal at a disposal site, until the person owning or controlling the disposal site obtains a permit therefor from the Department.

(2) Persons owning or controlling the following classes of disposal sites are specifically exempted from the above requirements to obtain a permit under these rules, but shall comply with all other provisions of these rules and other applicable laws, rules and regulations regarding solid waste disposal:

(a) Disposal sites, facilities or disposal operations operated pursuant to a permit issued under ORS [459.505, 459.510 or] 468.740.

(b) A landfill site used exclusively for the disposal of soil, rock, concrete, brick, building block, tile or asphalt paving. (Note: Such a landfill may require a permit from the Oregon Division of State Lands.)

(c) Composting operations used only by the owner or person in control of a dwelling unit to dispose of food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings generated at that residence and operated in a manner approved by the Department.

(3) The Department may, in accordance with a specific permit containing a compliance schedule, grant reasonable time for solid waste disposal sites or facilities to comply with these rules.

(4) If it is determined by the Department that a proposed or existing disposal site is not likely to create a public nuisance, health hazard, air or water pollution or other environmental problem, the Department may waive any or all requirements of rules 340-61-025, 340-61-030, 340-61-035 and 340-61-036 and section 340-61-040(1) and issue a special letter

authorization in accordance with rule 340-61-027.

(5) Each person who is required by sections (1) and (7) of this rule to obtain a permit shall:

(a) Make prompt application to the Department therefor;

(b) Fulfill each and every term and condition of any permit issued by the Department to such person;

(c) Comply with these rules;

(d) Comply with the Department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby.

(6) Failure to conduct solid waste disposal according to the conditions, limitations, or terms of a permit, letter authorization or these rules, or failure to obtain a permit or letter authorization, is a violation of these rules and shall be cause for the assessment of civil penalties for each violation as provided in OAR Chapter 340, Division 12 or for any other enforcement action provided by law. Each and every day that a violation occurs is considered a separate violation and may be the subject of separate penalties.

(7) Closure Permit. At least 5 years prior to anticipated closure of a land disposal site, the person holding the disposal site permit shall apply to renew the permit to cover the period of time remaining for site operations, closure of the site, and all or part of the time that active post-closure site maintenance is required by the Department.

REQUEST FOR ASSISTANCE

340-61-021 (1) Applications for requests for assistance in siting landfills under ORS 459.047 shall be in the form of a letter signed by the

governing body of the city or county with attachments as necessary to fully describe the need and justification for the request, need for the site as outlined in the Department approved Solid Waste Management Plan and types of assistance required.

(2) When the request for assistance includes Department siting of the landfill under ORS 459.047 exhibits and information shall be submitted which document the following:

(a) The local government has an adopted, Department approved Solid Waste Management Plan which identifies the need for a landfill.

(b) The local government has re-evaluated the plan in consultation with the Department and has confirmed that siting a landfill in the immediate future is still needed.

(c) An explanation of why the local government is unable to proceed successfully to site the landfill, including a discussion of progress to date and the obstacles to be overcome.

(d) All pertinent reports, plans, documents and records relative to the siting process to date will be made available to the Department at the Department's request.

(e) The local government has carried out a process for landfill siting (with technical assistance from the Department if requested) including a minimum of the following:

(A) Alternative sites have been reviewed and ranked as to adequacy and probable acceptability based upon locally developed criteria and applicable laws and regulations.

(B) Information has been gathered on at least the top ranked site sufficient to satisfy the requirements of the "Feasibility Study Report" provided for in OAR 340-61-030. Certain requirements of the "Feasibility Study Report" may be waived, for the purpose of this section, by the

Department upon a demonstration of prohibitive cost or legal constraint.

(C) A public participation process, including the use of a citizens advisory committee or other approach which provides for public access, review and input has been carried out in the siting process.

(3) The Department shall give reasonable public notice of each such request, including the prompt publication of a summary of such request in the Secretary of State's Bulletin.

(4) Requests for siting under ORS 459.047 will be reviewed by the Commission and written findings as to the acceptability of the process under subsection (2)(e) will be prepared. Should the process be found incomplete, the Commission may request the Department or the local government to complete the process.

PUBLIC COMMENT TO DETERMINE NEED

340-61-022 Prior to the Commission making a determination of need for any landfill site under ORS 459.049 the Department shall give prior reasonable public notice of, and hold a public informational hearing on, the need for the landfill site.

PUBLIC HEARING IN AREA AFFECTED BY PROPOSED SITE

340-61-023 Prior to siting a landfill under ORS 459.049 the Department shall give prior reasonable public notice of and hold a public informational hearing in the area affected by the proposed site.

APPLICATIONS FOR PERMITS

340-61-025 (1) Applications for permits shall be processed in accordance with the Procedures for Issuance, Denial, Modification and Revocation of Permits as set forth in OAR Chapter 340, Division 14.

(2) Applications for a permit shall be accepted by the Department only when complete, as detailed in section 340-61-025(3).

(3) Applications for permits shall be complete only if they:

(a) Are submitted in duplicate on forms provided by the Department, accompanied by all required exhibits, and the forms are completed in full and are signed by the property owner or person in control of the premises.

(b) Include written recommendations of the local government unit or units having jurisdiction to establish a new disposal site or to substantially alter, expand, or improve a disposal site or to make a change in the method or type of disposal. Such recommendations shall include, but not be limited to, a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.

(c) Include detailed plans and specifications as required by rule 340-61-035.

(d) Include a feasibility study report prepared in accordance with rule 340-61-030 to establish a new disposal site or to substantially alter, expand or improve a disposal site or to make a change in the method or type of disposal at a disposal site, unless the requirements of said feasibility study have been met by other prior submittals.

(e) Include such other information as the Department may deem necessary to determine whether the proposed disposal site and the operation thereof will comply with all applicable rules of the Department.

(4) If [in the judgment of] the Department[, a proposed new, modified or expanded disposal site or a proposed change in the method or type of disposal] determines that a disposal site is not likely to have significant adverse effect[s] on public health or the environment, the Department may waive the requirements of subsections 340-61-025(2)(c) and

340-61-025(2)(d), rule 340-61-036 and section 340-61-040(1).

In making this judgment, the Department may consider the size and location of the disposal site, the volume and types of waste received and any other relevant factor.

(5) If the requirements of subsections 340-61-025(2)(c) and 340-61-025(2)(d), rule 340-61-036 and section 340-61-040(1) are waived, the applicant must submit plan drawings and pertinent information including:

(a) A site location map indicating section, township, range and site boundaries.

(b) A site layout drawing that illustrates the approximate size and location of all pertinent man-made and natural features of the site (roads, ditches, streams, berms, buildings, etc.) and the sequence of developing fill areas at the site.

(c) A minimum of two perpendicular cross section drawings to show the design of the landfill cells and any pertinent landfill structures. Each cross section shall illustrate approximate existing grade, excavation grade and proposed final grade.

(d) An operational plan which describes the proposed method of operation and progressive development of the trenches and/or landfill lifts or cells. The plan shall also include a description of the types and quantities of waste materials that will be received (estimated maximum daily and average annual quantities); types of cover material to be used and proposed frequency of application; and measures to be used for the control of leachate surface drainage, fire, litter and other potential hazards or nuisances as pertinent.

(6) If a local public hearing regarding a proposed disposal site has not been held and if, in the judgment of the Department, there is sufficient public concern regarding the proposed disposal site, the

Department may, as a condition of receiving and acting upon an application, require that such a hearing be held by the County Board of Commissioners or County Court or other local government agency responsible for solid waste management, for the purpose of informing and receiving information from the public.

DENIAL OF PERMITS

340-61-026 (1) Upon receipt of a completed application, the Department shall deny the permit if:

- (a) The application contains false information;
- (b) The application was wrongfully accepted by the Department;
- (c) The proposed disposal site would not comply with these rules or other applicable rules of the Department.
- (d) The proposal is not part of or not compatible with the adopted local solid waste management plan approved by the Department.
- (e) There is no clearly demonstrated need for the proposed new, modified or expanded disposal site or for the proposed change in the method or type of disposal.

LETTER AUTHORIZATIONS

340-61-027 The Department may authorize the temporary operation of a disposal site by issuing a "letter of authorization" subject to the following:

(1) A letter authorization may be issued only on the basis of a complete written application which has been approved by the Department. Applications for letter authorizations shall be complete only if they contain the following items:

- (a) The quantity and types of material to be disposed.

(b) A discussion of the need and justification for the proposed project.

(c) The expected amount of time which will be required to complete the project.

(d) The methods proposed to be used to insure safe and proper disposal of solid waste.

(e) The location of the proposed disposal site.

(f) A statement of approval from the property owner or person in control of the property, if other than the applicant.

(g) Written verification from the local planning department that the proposal is compatible with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.

(h) Any other relevant information which the Department may require.

(2) Upon receipt of a complete written application the Department may approve the application if it is satisfied that:

(a) The applicant has demonstrated sufficient need and justification for the proposal.

(b) The proposed project is not likely to cause a public nuisance, health hazard, air or water pollution or other environmental problem.

(3) The Department may revoke or suspend a letter authorization on any of the following grounds:

(a) A material misrepresentation or false statement in the application;

(b) Any relevant violation of any statute, rule, order, permit, ordinance, judgment or decree;

(4) The Department may issue letter authorizations for periods not to exceed six (6) months. Any requests to conduct additional disposal

shall require a new application and a new authorization.

CLOSURE PERMITS

340-61-028 (1) Applications for closure permits must include but are not limited to:

(a) A closure plan prepared in accordance with rule 340-61-033.

(b) A financial assurance plan prepared in accordance with rule 340-61-034 unless exempted by the Department pursuant to OAR 340-61-028(2).

(c) If the permittee does not own and control the property, the permittee shall demonstrate to the Department that the permittee has access to the land disposal site property after closure to monitor and maintain the site and operate any environmental control facilities.

(d) If any person other than the permittee assumes any responsibility for any closure or post-closure activities, that responsibility shall be evidenced by a written contract between the permittee and any person assuming any responsibility.

(2) The Department may exempt from the financial assurance requirements any land disposal site including but not limited to domestic waste sites, demolition waste sites, and industrial waste sites. To be eligible for this exemption, the applicant shall demonstrate to the satisfaction of the Department that the site meets all of the following criteria and that the site is likely to continue to meet all of these criteria until the site is closed in a manner approved by the Department:

(a) The disposal site poses no significant threat of adverse impact on groundwater or surface water.

(b) The disposal site poses no significant threat of adverse impact on public health or safety.

(c) No system requiring active operation and maintenance is necessary

for controlling or stopping discharges to the environment.

(d) The area of the land disposal site that has been used for waste disposal and has not yet been properly closed in a manner acceptable to the Department is less than and remains less than 2 acres or complies with a closure schedule approved by the Department.

(3) In determining if the applicant has demonstrated that a site meets the financial assurance exemption criteria, the Department will consider existing available information including, but not limited to, geology, soils, hydrology, waste type and volume, proximity to and uses of adjacent properties, history of site operation and construction, previous compliance inspection reports, existing monitoring data, the proposed method of closure and the information submitted by the applicant. The Department may request additional information if needed.

(4) An exemption from the financial assurance requirement granted by the Department will remain valid only so long as the site continues to meet the exemption criteria in OAR 340-61-028(2). If the site fails to continue to meet the exemption criteria, the Department may modify the closure permit to require financial assurance.

(5) While a closure permit is in effect, the permittee shall submit a report to the Department within 90 days of the end of the permittee's fiscal year or as otherwise required in writing by the Department, which contains but is not limited to:

(A) An evaluation of the approved closure plan discussing current status, unanticipated occurrences, revised closure date projections, necessary changes, etc.

(B) An evaluation of the approved financial assurance plan documenting an accounting of amounts deposited and expenses drawn from the fund, as well as its current balance. This evaluation must also assess the

adequacy of the financial assurance and justify any requests for changes in the approved plan.

(C) Other information requested by the Department to determine compliance with the rules of the Department.

(6) The Department shall terminate closure permits for land disposal sites not later than 10 years after the site is closed unless the Department finds there is a need to protect against a significant hazard or risk to public health or safety or the environment.

(7) Any time after a land disposal site is closed, the permit holder may apply for a termination of the permit, a release from one or more of the permit requirements or termination of any applicable permit fee. Before the Department grants a termination or release under this section, the permittee must demonstrate and the Department must find that there is no longer a need for:

(a) Active supervision of the site;

(b) Maintenance of the site; or

(c) Maintenance or operation of any system or facility on the site.

(8) The Department or an authorized governmental agency may enter a land disposal site property at reasonable times to inspect and monitor the site as authorized by ORS 459.285.

(9) Within 30 days after the change of ownership or control of part or all of a land disposal site operating under a closure permit, the person owning or controlling the land disposal site, if other than the current permit holder, shall apply to the Department for a closure permit. The permit application shall contain the applicable information listed in OAR 340-61-028(1) as well as clearly defining closure and post-closure maintenance responsibilities.

FEASIBILITY STUDY REPORT

340-61-030 A feasibility study report shall include, but not be limited to, the following:

(1) An Existing Conditions Map of the area showing land use and zoning within 1/4 mile of the disposal site. Also, any airport runway within 10,000 feet of the site or within 5,000 feet if used only by propeller-driven aircraft. (Note: Runways may be shown on a scaled insert). The map shall show all structures, natural features of the land and the precise geographical location and boundaries of the disposal site. An on-site bench mark shall be indicated and a north arrow drawn. Unless otherwise approved by the Department, the scale of the map shall be no greater than one inch equals 200 feet and, for landfills, topography of the site and area within 1/4 mile shall be shown with contour intervals not to exceed five feet.

(2) A description of the proposed method or methods to be used in processing and disposing of solid wastes, including anticipated types and quantities of solid wastes, justification of alternative disposal method selected, general design criteria, planned future use of the disposal site after closure, type of equipment to be used, and projected life of the site.

(3) For a landfill, a detailed soils, geologic, and groundwater report of the site prepared and stamped by a professional Engineer, Geologist or Engineering Geologist with current Oregon registration. The report shall include consideration of surface features, geologic formations, soil boring data, water table profile, direction of groundwater flow, background quality of water resources in the anticipated zone of influence of the landfill, need and availability of cover material, climate, average rates of precipitation, evapotranspiration, runoff, and

infiltration (preliminary water balance calculations).

Soil borings shall be to a minimum depth of twenty feet below the deepest proposed excavation and lowest elevation of the site or to the permanent groundwater table if encountered within twenty feet. A minimum of one boring per representative landform at the site and an overall minimum of one boring per each ten acres shall be provided. Soil boring data shall include the location, depth, surface elevation and water level measurements of all borings, the textural classification (Unified Soil Classification System), permeability and cation exchange capacity of the subsurface materials and a preliminary soil balance.

For all water wells located within the anticipated zone of influence of the disposal site, the depth, static level and current use shall be identified.

Background groundwater quality shall be determined by laboratory analysis and shall include at least each of the constituents specified by the Department.

(4) A proposal for protection and conservation of the air, water and land environment surrounding the disposal site, including control and/or treatment of leachate, methane gas, litter and vectors, and control of other discharges, emissions and activities which may result in a public health hazard, a public nuisance or environmental degradation.

PRELIMINARY APPROVAL

340-61-031 (1) The Department may issue written preliminary approval to any applicant for a Solid Waste Disposal Permit, prior to submission of detailed engineering plans and specifications, based on the material submitted in accordance with the requirements of rule 340-61-030.

(2) The purpose of the preliminary review and approval process is to inform the applicant of the Department's concerns, if any, regarding the proposal and to provide guidance in the development of the detailed plans and specifications required to complete the permit application. Receipt of preliminary approval does not grant the applicant any right to begin construction or operation of a disposal site.

(3) Requests for preliminary approval shall be made to the Department in writing. Within 45 days of receipt of such request, the Department shall either grant or deny preliminary approval or request additional information.

(4) Granting of preliminary approval shall not prevent the Department from denying or conditionally approving a completed permit application.

(5) If the Department denies preliminary approval, it shall clearly state the reasons for denial. Failure to receive preliminary approval shall not prevent an applicant from completing a permit application. Any application completed after denial of preliminary approval shall specifically address those concerns listed in the Department's letter of denial.

CLOSURE PLANS

340-61-033 (1) A closure plan must specify the procedures necessary to completely close the land disposal site at the end of its intended operating life. The plan must also identify the activities which will be carried on after closure to properly monitor and maintain the completed land disposal site. At a minimum, the plan shall include:

(a) Detailed plans and specifications consistent with the applicable requirements of rule 340-61-035 and section 340-61-040(1), unless an exemption is granted as provided in section 340-61-025(4). (NOTE: If

some of this information has been previously submitted, the permittee shall review and update it to reflect current conditions and any proposed changes in closure or post-closure activities.)

(b) A description of how and when the facility will be closed. The description shall, to the extent practicable, show how the disposal site will be closed as filling progresses to minimize the area remaining to be closed at the time that the site stops receiving waste. A time schedule for completion of closure shall be included.

(c) Details of how leachate discharges will be minimized and controlled and treated if necessary.

(d) Details of any landfill gas control facilities, their operation and frequency of monitoring.

(e) Details of final cover including soil texture, depth and slope.

(f) Details of surface water drainage diversion.

(g) A schedule for monitoring the site after closure.

(h) A projected frequency of anticipated maintenance activities at the site after closure, including but not limited to repairing, recovering and regrading settlement areas, cleaning out surface water diversion ditches, and re-establishing vegetation.

(i) Other information requested by the Department necessary to determine whether the disposal site will comply with all applicable rules of the Department.

(2) Approval of Closure Plan. After approval by the Department, the permittee shall implement the closure plan within the approved time schedule.

(3) Amendment of Plan. The approved closure plan may be amended at any time during the active life of the landfill or during the post-closure

care period as follows:

(a) The permittee must amend the plan whenever changes in operating plans or facility design, or changes in these rules, or events which occur during the active life of the landfill or during the post-closure care period, significantly affect the plan. The permittee must also amend the plan whenever there is a change in the expected year of closure. The permittee must submit the necessary plan amendments to the Department for approval within 60 days after such changes or as otherwise required by the Department.

(b) The permittee may request to amend the plan to alter the closure requirements, to alter the post-closure care requirements, or to extend or reduce the post-closure care period based on cause. The request must include evidence demonstrating to the satisfaction of the Department that:

(A) The nature of the landfill makes the closure or post-closure care requirements unnecessary; or

(B) The nature of the landfill supports reduction of the post-closure care period; or

(C) The requested extension in the post-closure care period or alteration of closure or post-closure care requirements is necessary to prevent threats to human health and the environment.

(c) The Department may amend a permit to require the permittee to modify the plan if it is necessary to prevent the threat of adverse impact on public health, safety and the environment. Also, the Department may extend or reduce the post-closure care period or alter the closure or post-closure care requirements based on cause.

FINANCIAL ASSURANCE

340-61-034 (1) Financial assurance plans shall include but not be

limited to:

(a) A written estimate of the costs of:

(A) Closing the land disposal site;

(B) Installing, operating and maintaining any environmental control system required on the disposal site;

(C) Monitoring and providing security for the land disposal site; and

(D) Complying with any other requirement the Department may impose as a condition of renewing the permit.

(b) A detailed description of the form of the financial assurance.

(c) A method and schedule for providing for or accumulating any required amount of funds which may be necessary to meet the financial assurance requirement.

(d) A proposal to the Department for disposing of any excess moneys received or interest earned on moneys received for financial assurance. To the extent practicable, the applicant's provisions for disposing of the excess moneys received or interest earned on moneys shall provide for:

(A) A reduction of the rates a person within the area served by the land disposal site is charged for solid waste collection service as defined by ORS 459.005; or

(B) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received.

(2) Amount of Financial Assurance Required. The amount of financial assurance required shall be established based upon the estimated closure and post-closure care costs included in the approved closure plan. This required amount may be adjusted as the plan is amended.

(a) In reviewing the adequacy of the amount of financial assurance proposed by the applicant, the Department shall consider the following:

(A) Amount and type of solid waste deposited in the site.

(B) Amount and type of buffer from adjacent land and from drinking water sources.

(C) Amount, type, availability and cost of required cover.

(D) Seeding, grading, erosion control and surface water diversion required.

(E) Planned future use of the disposal site property.

(F) Type, duration of use, initial cost and maintenance cost of any active system necessary for controlling or stopping discharges.

(G) The portion of the site property closed before final closure of the entire site.

(H) Any other conditions imposed on the permit relating to closure or post-closure of the site.

(I) The financial capability of the applicant.

(b) After reviewing the proposed amount of financial assurance, the Department may either:

(A) Approve the amount proposed by the applicant; or

(B) Disapprove the amount and require the applicant to submit a revised amount consistent with the factors considered by the Department.

(3) Form of Financial Assurance. The financial assurance may be in any form proposed by the applicant if it is approved by the Department.

(a) The Department will approve forms of financial assurance to cover the ongoing closure activities occurring while the land disposal site is still receiving solid waste where the applicant can prove to the satisfaction of the Department that all of the following conditions can be met:

(A) That financial assurance moneys in excess of the amount approved by the Department will not be set aside or collected by the disposal site operator. The Department may approve an additional amount of financial assurance during a review conducted in conjunction with a subsequent

application to amend or renew the disposal site permit or a request by the owner or operator of a disposal site to extend the useful life of the disposal site. Nothing in this subsection shall prohibit a site operator from setting aside an additional reserve from funds other than those collected from ratepayers specifically for closure and post-closure and such a reserve shall not be part of any fund or set aside required in the applicable financial assurance plan.

(B) That the use of financial assurance is restricted so that the financial resources can only be used to guarantee that the following activities will be performed or that the financial resources can only be used to finance the following activities and that the financial resources cannot be used for any other purpose:

(i) Close the disposal site according to the approved closure plan.

(ii) Install, operate and maintain any required environmental control systems.

(iii) Monitor and provide security for the disposal site.

(iv) Comply with conditions of the closure permit.

(C) That, to the extent practicable, all excess moneys received and interest earned on moneys shall be disposed of in a manner which shall provide for:

(i) A reduction of the rates a person within the area served by the land disposal site is charged for solid waste collection service (as defined by ORS 459.005); or

(ii) Enhancing present or future solid waste disposal facilities within the area from which the excess moneys were received; or

(iii) Where the disposal site is operated and exclusively used to dispose of solid waste generated by a single business entity, excess moneys and interest remaining in the financial assurance reserve shall be

released to that business entity at the time that the permit is terminated.

(b) If the permittee fails to adequately perform the ongoing closure activities in accordance with the closure plan and permit requirements, the permittee shall provide an additional amount of financial assurance in a form meeting the requirements of OAR 340-61-034(3)(c) within 30 days after receiving a written Notice of Assessment of Civil Penalty from the Department. The total amount of financial assurance must be sufficient to cover all remaining closure and post-closure activities.

(c) The Department will approve only the following forms of financial assurance for the final closure and post-closure activities which will occur after the land disposal site stops receiving solid waste:

(A) A closure trust fund established with an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the Department. Within 60 days after receiving itemized bills for closure activities, the Department will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified and, if so, will send a written request to the trustee to make reimbursements.

(B) A surety bond guaranteeing payment into a closure trust fund issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby trust fund must also be established by the permittee. The purpose of the standby trust fund is to receive any funds that may be paid by the permittee or surety company. The bond must guarantee that the permittee will either fund the standby trust fund in an amount equal to the penal sum of the bond before the site stops

receiving waste or within 15 days after an order to begin closure is issued by the Department or by a court of competent jurisdiction; or that the permittee will provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby trust account.

(C) A surety bond guaranteeing performance of closure issued by a surety company listed as acceptable in Circular 570 of the U.S. Department of the Treasury. The wording of the surety bond must be acceptable to the Department. A standby trust fund must also be established by the permittee. The purpose of the standby trust fund is to receive any funds that may be paid by the surety company. The bond must guarantee that the permittee will either perform final closure and post-closure maintenance or provide alternate financial assurance acceptable to the Department within 90 days after receipt of a notice of cancellation of the bond from the surety. The surety shall become liable on the bond obligation if the permittee fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. If the permittee has not provided alternate financial assurance acceptable to the Department within 90 days of the cancellation notice, the surety must pay the amount of the bond into the standby trust account.

(D) An irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency. The wording of the letter of credit must be acceptable to the Department. A standby trust fund must also be established by the permittee. The purpose of the standby trust fund is to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit must be irrevocable and issued for a period of at least 1 year unless the issuing institution notifies both the permittee and the Department at least 120 days before the current expiration date. If the permittee fails to perform closure and post-closure activities according to the closure plan and permit requirements, or if the permittee fails to provide alternate financial assurance acceptable to the Department within 90 days after notification that the letter of credit will not be extended, the Department may draw on the letter of credit.

(E) A closure insurance policy issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus lines insurer in one or more states. The wording of the certificate of insurance must be acceptable to the Department. The closure insurance policy must guarantee that funds will be available to complete final closure and post-closure maintenance of the site. The policy must also guarantee that the insurer will be responsible for paying out funds for reimbursement of closure and post-closure expenditures after notification by the Department that the expenditures are in accordance with the closure plan or otherwise justified. The policy must provide that the insurance is automatically renewable and that the insurer may not cancel, terminate or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may not terminate the policy

until at least 120 days after the notice of cancellation has been received by both the permittee and the Department. Termination of the policy may not occur and the policy must remain in full force and effect if the Department determines that the land disposal site has been abandoned; or closure has been ordered by the Department or a court of competent jurisdiction; or the permittee is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or the premium due is paid. The permittee is required to maintain the policy in full force and effect until the Department consents to termination of the policy when alternative financial assurance is provided or when the permit is terminated.

(F) A private corporation meeting the financial test may provide a corporate guarantee that closure and post-closure activities will be completed according to the closure plan and permit requirements. To qualify, a private corporation must meet the criteria of either paragraphs (i) or (ii) of this subsection:

(i) Financial Test. To pass the financial test, the permittee must have:

(a) Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(b) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(c) Tangible net worth of at least \$10 million; and

(d) Assets in the United States amounting to at least 90% of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) Alternative Financial Test. To pass the alternative financial test, the permittee must have:

(a) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Bbb as issued by Moody's;

(b) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(c) Tangible net worth of at least \$10 million; and

(d) Assets in the United States amounting to at least 90% of his total assets or at least six times the sum of the current closure and post-closure cost estimates.

(iii) The permittee shall demonstrate that he passes the financial test at the time the financial assurance plan is filed and reconfirm that annually 90 days after the end of the corporation's fiscal year by submitting the following items to the Department:

(a) A letter signed by the permittee's chief financial officer that provides the information necessary to document that the permittee passes the financial test; that guarantees that the funds to finance closure and post-closure activities according to the closure plan and permit requirements are available; that guarantees that the closure and post-closure activities will be completed according to the closure plan and permit requirements; that guarantees that the standby closure trust fund will be fully funded within 30 days after either receiving written Notice of Assessment of Civil Penalty from the Department for failure to adequately perform closure or post-closure activities according to the closure plan and permit, or receiving a written notice from the Department that the permittee no longer meets the criteria of the financial test; that guarantees that the permittee's chief financial officer will notify the

Department within 15 days any time that the permittee no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; and that acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee.

(b) A copy of the independent certified public accountant's report on examination of the permittee's financial statements for the latest completed fiscal year.

(c) A special report from the permittee's independent certified public accountant stating that he has compared the data which the letter from the permittee's chief financial officer specifies as having been derived from the independently audited year end financial statements for the latest fiscal year with the amounts in such financial statements, and that no matters came to his attention which caused him to believe that the specified data should be adjusted.

(d) A trust agreement demonstrating that a standby closure trust fund has been established with an entity which has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. The wording of the trust agreement must be acceptable to the Department.

(iv) The Department may, based on a reasonable belief that the permittee no longer meets the criteria of the financial test, require reports of the financial condition at any time from the permittee in addition to the annual report. If the Department finds, on the basis of such reports or other information, that the permittee no longer meets the criteria of the financial test, the permittee shall fully fund the standby closure trust fund within 30 days after notification by the Department.

(G) Alternative forms of financial assurance where the applicant can prove to the satisfaction of the Department that the level of security is equivalent to subsections (A) through (F) of this section and that the criteria of OAR 340-61-034(3)(a) are met.

(4) Accumulation and Use of Any Financial Assurance Funds:

(a) The applicant shall set aside funds in the amount and frequency specified in the financial assurance plan approved by the Department. The total amount of financial assurance required shall be available in the form approved by the Department at the time that solid waste is no longer received at the site.

(b) The financial assurance plan shall contain adequate accounting procedures to insure that the disposal site operator does not collect or set aside funds in excess of the amount approved by the Department or use the funds for any purpose other than required by OAR 340-61-034(3)(a)(B).

(c) The permittee is subject to audit by the Department (or Secretary of State) and shall allow the Department access to all records during normal business hours for the purpose of determining compliance with OAR 340-61-034.

(d) If the Department determines that the permittee did not set aside the required amount of funds for financial assurance in the form and at the frequency required by the approved financial assurance plan, or if the Department determines that the financial assurance funds were used for any purpose other than as required in OAR 340-61-034(3)(a)(B), the permittee shall, within 30 days after notification by the Department, deposit a sufficient amount of financial assurance in the form required by the approved financial assurance plan along with an additional amount of financial assurance equal to the amount of interest that would have been earned, had the required amount of financial assurance been deposited on time or had it not been withdrawn for unauthorized use.

DETAILED PLANS AND SPECIFICATIONS REQUIRED

340-61-035 Except as provided in Section 340-61-025(4):

(1) Any person applying for a Solid Waste Disposal Permit shall submit plans and specifications to the Department sufficiently detailed and complete so that the Department may evaluate all relevant criteria before issuing a permit.

The Department may refuse to accept plans and specifications that are incomplete and may request such additional information as it deems necessary to determine that the proposed disposal site and site operation will comply with all pertinent rules of the Department.

(2) Engineering plans and specifications submitted to the Department shall be prepared and stamped by a professional engineer with current Oregon registration.

(3) If in the course of facility construction any person desires to deviate significantly from the approved plans, the permittee shall submit a detailed description of the proposed change to the Department for review and approval prior to implementation.

CONSTRUCTION CERTIFICATION

~~340-61-036 Except as provided in Section 340-61-025(4):~~

(1) The Department may require, upon completion of major or critical construction at a disposal site, that the permittee submit to the Department a final project report signed by the project engineer or manager as appropriate. The report shall certify that construction has been completed in accordance with the approved plans including any approved amendments thereto.

(2) If any major or critical construction has been scheduled in the plans for phase development subsequent to the initial operation, the

Department may require that the permittee submit additional certification for each phase when construction of that phase is completed.

AUTHORIZED AND PROHIBITED DISPOSAL METHODS

340-61-038 (1) Sanitary Landfill. Disposal of solid waste is authorized only at a sanitary landfill.

(2) Open Dump. The establishment, operation, or maintenance of an open dump is prohibited.

SPECIAL RULES PERTAINING TO LANDFILLS

340-61-040 (1) Plan Design Requirements. Unless an exemption has been granted under section 340-61-025(4), in addition to the requirements of rule 340-61-025, detailed plans and specifications for landfills shall include but not be limited to:

(a) Topographic maps which show natural features of the site; the location and design of all pertinent existing and proposed structures, such as berms, dikes, surface drainage control devices, access and on-site roads, water and waste water facilities, gas control devices, monitoring wells, fences, utilities, maintenance facilities, shelter and buildings; legal boundaries and property lines, and existing contours and projected finish grades. Unless otherwise approved by the Department, the scale of the plan drawings shall be no greater than one inch equals 200 feet, with contour intervals not to exceed five feet. Horizontal and vertical controls shall be established and tied to an established bench mark located on or near the site. Where the Department deems it essential to ensure compliance with these rules, the bench mark shall be referenced to the Oregon State Plane Co-ordinate System, Lambert Projection.

(b) A minimum of two perpendicular cross section drawings through the

landfill. Each cross section shall illustrate existing grade, excavation grade, proposed final grade, any additions for groundwater protection, water table profile and soil profile. Additional cross sections shall be provided as necessary to adequately depict underlying soils, geology and landfill contours, and to display the design of environmental protection devices or structures.

(c) A description of the design assumptions and methods used to forecast flows and to determine the sizing of pumps, pipes, ditches, culverts and other hydraulic equipment used for the collection, treatment and disposal of leachate and for the control of surface drainage.

(d) A detailed operational plan and timetable which describes the proposed method of operation and progressive development of trenches and/or landfill lifts or cells. Said plan shall include a description of the types and quantities of waste materials that will be received (estimated maximum daily and average annual quantities); methods of waste unloading, placement, compaction and covering; areas and/or procedures to be used for disposal of waste materials during inclement weather; types and weights of equipment to be used for site operation; detailed description of any salvaging or resource recovery operations to take place at the facility; such measures for the collection, containment, treatment or disposal of leachate as may be required; provisions for managing surface drainage; and measures to be used for the control of fire, dust, decomposition gases, birds, disease vectors, scavenging, access, flooding, erosion, and blowing debris, as pertinent.

(2) Open Burning. No person shall conduct the open burning of solid waste at a landfill, except in accordance with plans approved and permits issued by the Department prior to such burning. The Department may authorize the open burning of tree stumps and limbs, brush, timbers, lumber

and other wood waste, except that open burning of industrial wood waste is prohibited.

(3) Leachate. Any person designing, constructing, or operating a landfill shall ensure that leachate production is minimized. Where required by the Department, leachate shall be collected and treated or otherwise controlled in a manner approved by the Department.

(4) Groundwater:

(a) Each landfill permittee shall ensure that:

(A) The introduction of any substance from the landfill into an underground drinking water source does not result in a violation of any applicable federal or state drinking water rules or regulations beyond the solid waste boundary of the landfill or an alternative boundary specified by the Department.

(B) The introduction of any substance from the landfill into an aquifer does not impair the aquifer's recognized beneficial uses, beyond the solid waste boundary of the landfill or an alternative boundary specified by the Department, consistent with the Commission's adopted Groundwater Quality Protection Policy and any applicable federal or state rules or regulations.

(b) Where monitoring is required, monitoring wells shall be placed between the solid waste boundary and the property line if adequate room exists.

(c) The Department may specify an alternative boundary based on a consideration of all of the following factors:

(A) The hydrogeological characteristics of the facility and surrounding land;

(B) The volume and physical and chemical characteristics of the leachate;

(C) The quantity and directions of flow of groundwater;
(D) The proximity and withdrawal rates of groundwater users;
(E) The availability of alternative drinking water supplies;
(F) The existing quality of the groundwater including other sources of contamination and their cumulative impacts on the groundwater; and
(G) Public health, safety, and welfare effects.

(5) Surface Water:

(a) No person shall cause a discharge of pollutants from a landfill into public waters, including wetlands, in violation of any applicable state or federal water quality rules or regulations.

(b) Each landfill permittee shall ensure that surface runoff and leachate seeps are controlled so as to minimize discharges of pollutants into public waters.

(6) Monitoring:

(a) Where the Department finds that a landfill's location and geophysical conditions indicate that there is a reasonable probability of potential adverse effects on public health or the environment, the Department may require a permittee to provide monitoring wells to determine the effects of the landfill on groundwater and/or on the concentration of methane gas in the soil.

(b) If the Department determines that monitoring wells are required at a landfill, the permittee shall provide and maintain the wells at the locations specified by the Department and, at the Department's request, shall submit a copy of the well logs to the Department within thirty (30) days of completion of construction.

(c) Where the Department determines that self-monitoring is practicable, the Department may require that the permittee collect and analyze samples of surface water, groundwater and/or gas, at intervals

specified and in a manner approved by the Department, and submit the results within a time frame specified by the Department.

(d) The Department may require permittees who do self-monitoring to periodically split samples with the Department for the purpose of quality control.

(7) Endangered Species. No person shall establish, operate, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted:

(a) Harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing or collecting of any endangered or threatened species of plants, fish, or wildlife.

(b) Direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(8) Gas Control. No person shall establish, operate, expand or modify a landfill such that:

(a) The concentration of methane (CH_4) gas at the landfill exceeds twenty-five (25) percent of its lower explosive limit in facility structures (excluding gas control or gas recovery system components) or its lower explosive limit at the property boundary.

(b) Malodorous decomposition gases become a public nuisance.

(9) Surface Drainage Control. Each permittee shall ensure that:

(a) The landfill is designed, constructed and maintained so that drainage will be diverted around or away from active and completed operational areas.

(b) The surface contours of the landfill are maintained such that ponding of surface water is minimized.

(10) Floodplains. No permittee of a landfill located in a floodplain

shall allow the facility to restrict the flow of the base flood, reduce the temporary water storage capacity of the floodplain, or result in washout of solid waste so as to pose a hazard to human life, wildlife or land or water resources.

(11) Cover Material. Each permittee shall provide adequate quantities of cover material of a type approved by the Department for the covering of deposited solid waste at a landfill in accordance with the approved operational plan, permit conditions and these rules.

(12) Cover Frequency. Each permittee shall place a compacted layer of at least six inches of approved cover material over the compacted wastes in a landfill at intervals specified in the permit. In setting a requirement for cover frequency, the Department may consider such factors as the volume and types of waste received, hydrogeologic setting of the facility, climate, proximity of residences or other occupied buildings, site screening, availability of equipment and cover material, any past operational problems and any other relevant factor.

(13) Access Roads. Each permittee shall ensure that roads from the landfill property line to the active operational area and roads within the operational area are constructed and maintained so as to minimize traffic hazards, dust and mud and to provide reasonable all-weather access for vehicles using the site.

(14) Access Control. Each permittee shall insure that the landfill has a perimeter barrier or topographic constraints adequate to restrict unauthorized entry.

(15) Site Screening. To the extent practicable, each permittee shall screen the active landfill area from public view by trees, shrubbery, fence, stockpiled cover material, earthen berm, or other appropriate means.

(16) Fire Protection:

(a) Each landfill permittee shall make arrangements with the local fire control agency to immediately acquire their services when needed and shall provide adequate on-site fire protection as determined by the local fire control agency.

(b) In case of accidental fires at the site, the operator shall be responsible for initiating and continuing appropriate fire-fighting methods until all smoldering, smoking and burning ceases.

(c) No operator shall permit the dumping of combustible materials within the immediate vicinity of any smoldering, smoking or burning conditions at a landfill, or allow dumping activities to interfere with fire-fighting efforts.

(17) Special Handling. Large dead animals, sewage sludges, septic tank pumpings, hospital wastes and other materials which may be hazardous or difficult to manage, shall not be deposited at a disposal site unless special provisions for such disposal are included in the operational plan or otherwise approved by the Department.

(18) Signs. Each permittee of a landfill open to the public shall post a clearly visible and legible sign or signs at the entrance to the disposal site specifying the name of the facility, the hours and days the site is open to the public, an emergency phone number and listing the general types of materials which either will be accepted or will not be accepted.

(19) Truck Washing Facilities. Each permittee shall ensure that any truck washing areas at a landfill are hard surfaced and that any on-site disposal of wash waters is accomplished in a manner approved by the Department.

(20) Sewage Disposal. Each landfill permittee shall ensure that any

on-site disposal of sewage is accomplished in a manner approved by the Department.

(21) Salvage:

(a) A permittee may conduct or allow the recovery of materials such as metal, paper and glass from the landfill only when such recovery is conducted in a planned and controlled manner approved by the Department.

(b) No person may salvage food products, hazardous materials or furniture and bedding with concealed filling from a landfill.

(22) Litter:

(a) Each permittee shall ensure that effective measures such as compaction, the periodic application of cover material or the use of portable fencing or other devices are taken to minimize the blowing of litter from the active working area of the landfill.

(b) Each landfill operator shall collect windblown materials from the disposal site and adjacent property and properly dispose of same at sufficient frequency to prevent aesthetically objectionable accumulations.

(23) Vector and Bird Control:

(a) Each permittee shall ensure that effective means such as the periodic application of earth cover material or other techniques as appropriate are taken at the landfill to control or prevent the propagation, harborage, or attraction of flies, rodents, or other vectors and to minimize bird attraction.

(b) No permittee of a landfill disposing of putrescible wastes that may attract birds and which is located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport used by only piston-type aircraft shall allow the operation of the landfill to increase the likelihood of bird/aircraft

collisions.

(24) Weighing. The Department may require that landfill permittees provide scales and weigh incoming loads of solid waste, to facilitate solid waste management planning and decision making.

(25) Records. The Department may require records and reports it considers reasonably necessary to ensure compliance with conditions of a permit or these rules.

[(27) Closure of Landfills:]

CLOSURE OF LAND DISPOSAL SITES

340-61-042 (1) When solid waste is no longer received at a land disposal site, the person who holds or last held the permit issued under ORS 459.205 or, if the person who holds or last held the permit fails to comply with this section, the person owning or controlling the property on which the disposal site is located, shall close and maintain the site according to the requirements of ORS Chapter 459, any applicable rule adopted by the Commission under ORS 459.045 and any requirement imposed by the Department as a condition to renewing or issuing a disposal site permit.

(2) [(a)] Unless otherwise approved or required in writing by the Department, no person shall permanently close or abandon a [landfill] land disposal site, except in the following manner:

(a) [(A)] All filled areas not already closed in a manner approved by the Department shall be covered with at least [two (2)] three (3) feet of compacted [earth] soil of a type approved by the Department graded to a minimum two (2) percent and maximum thirty (30) percent slope unless the Department authorizes a lesser depth or a different kind of cover material. In applying this standard, the Department will consider the

potential for adverse impact from the disposal site on public health, safety or the environment, and the ability for the permittee to generate the funds necessary to comply with this standard before the disposal site closes. A permittee may request that the Department approve a lesser depth of cover material based on the type of waste, climate, geological setting, degree of environmental impact. For those land disposal sites existing on January 1, 1984 which will close, or the parts of those sites which will close, prior to January 1, 1989, only a minimum of two feet of approved soil will be required unless the Department finds that additional cover material is necessary to minimize environmental impacts from the site.

(b) [(B)] Final cover material shall be applied to each portion of a [landfill] land disposal site within sixty (60) days after said portion reaches approved maximum fill elevation. In the event of inclement weather, final cover may be applied as soon as practicable.

(c) The finished surface of the filled areas shall consist of soils of a type or types consistent with the planned future use and approved by the Department. Unless otherwise approved by the Department, a vegetative cover of native grasses shall be promptly established over the finished surface of the disposal site.

(d) All surface water must be diverted around the area of the disposal site used for waste disposal or in some other way prevented from contacting the waste material.

(e) All systems required by the Department to control or contain discharges to the environment must be completed and operational.

(3) [(b) Unless otherwise approved by the Department as provided in section 340-61-025(4), permanent c]Closure of [landfills] land disposal sites shall be in accordance with detailed plans approved in writing by the Department pursuant to rule 340-61-033.

[(3) The finished surface of the filled areas shall consist of soils of a type or types consistent with the planned future use and approved by the Department. Where appropriate, the finished surface shall be promptly seeded with native grasses or other suitable vegetation.]

(4) Closure Approval:

(a) When closure is completed, the permittee shall submit a written request to the Department for approval of the closure.

(b) Within thirty days of receipt of a written request for closure approval, the Department shall inspect the facility to verify that closure has been effected in accordance with the approved closure plan and the provisions of these rules.

(c) If the Department determines that closure has been properly completed, the Department shall approve the closure in writing. Closure shall not be considered complete until such approval has been made. The date of approval notice shall be the date of commencement of the post-closure period.

[(28) Completed Landfills:]

POST-CLOSURE CARE OF LAND DISPOSAL SITES

340-61-043 (1) Post-Closure Requirements:

(a) Upon completion or closure of a landfill, a detailed description of the site including a plat should be filed with the appropriate county land recording authority by the permittee. The description should include the general types and location of wastes deposited, depth of fill and other information of probable interest to future land owners.

[(b) Completed landfills shall be inspected and maintained by the permittee as necessary to prevent significant surface cracking, erosion, or ponding of water and to comply with these rules.]

(b) During the post-closure care period, the permittee must, at a minimum:

(A) Maintain the approved final contours and drainage system of the site:

(B) Consistent with final use, ensure that a healthy vegetative cover is established and maintained over the site:

(C) Operate and maintain each leachate and gas collection, removal and treatment system present at the disposal site:

(D) Operate and maintain each groundwater and surface water monitoring system present at the disposal site:

(E) Comply with all conditions of the closure permit issued by the Department.

(2) Post-Closure Care Period. Post-closure care must continue for ten years after the date of completion of closure of the land disposal site, unless otherwise approved or required by the Department according to rules 304-61-028(6) and (7).



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Agenda Item No. H, January 6, 1984, EQC Meeting

Approval of Proposed Solid Waste Disposal
Permit Fees, OAR 340-61-115

Background

At its October 7, 1983, meeting, the Commission granted the Department authority to conduct a public hearing on proposed Solid Waste Disposal Permit fees (copy of staff report for Agenda Item No. E, October 7, 1983, EQC Meeting, attached). Pursuant to public notice, hearings were held on November 15, 1983, in the cities of Bend, Medford, Pendleton and Portland. Hearing Officer's reports are attached. Following the hearings, the proposed fee schedule was revised substantially. The Department's Response to Public Comment and the revised proposed fee schedule are attached.

The Commission may choose to adopt the fee schedule as proposed or with some changes. However, the Department is requesting that the Commission approve the schedule without final adoption for reasons described further into this report.

Several important issues were raised during the hearing process on the proposed fee schedule. These are summarized and discussed in the attached Response to Public Comment. Foremost was the issue of equity. Virtually everyone who testified complained that the initial draft of the fee schedule was not equitable and requested that the fees be more responsive to the population served and amount of solid waste received by a disposal site. To many, this represents the relative overall contribution to the solid waste "problem" and the probable overall amount of attention drawn from the Department.

The Department agrees with these comments. In fact, it was originally the staff's recommendation to base the fees on a fixed per ton unit charge. However, when this concept was presented to the Solid Waste Division's Task Force on Rules and Program Direction, which represents the regulated community, it was rejected. Also, testimony by task force members to the Legislature resulted in a DEQ budget note that directed the Department to "develop a schedule of fees commensurate with benefits received by various operators of disposal sites." Now the regulated community, including



members of that task force, has considered this matter and is saying that something closer to a unit charge approach does represent overall "benefits received."

In the attached Response to Public Comment, the staff has identified the benefits of the Department's compliance assurance activities to both the disposal site operator and the public. Some may want to recognize only activities seen on a given site. However, many of the benefits are indirect to the disposal site operator or are difficult to assign a clear dollar cost. It is further considered that the public is the primary beneficiary of this regulatory program and that the public will ultimately be the one who pays for it in the form of disposal charges or local taxes.

The fee schedule now proposed represents a compromise. It resembles a range of rates that one might expect under a unit charge system, while still reflecting specific service-related costs. In developing this schedule, the Department has reduced the fees related to small and generally less significant sites and increased the fees in the state's largest population areas. The single remaining all-purpose landfill in the Portland metro area (St. Johns) now receives several times more waste than its nearest counterpart, as a result of the closure of Rossmans Landfill. Its fee category is also proportionately higher, with most of the Department's metro area permit-related activity now reflected through the St. Johns Landfill permit. The fees amount to about 14 cents per ton of waste received. A typical residence in the Portland area produces about one ton of garbage and refuse a year. In comparison to the Department's proposed fees, each ton of waste generated in the Portland metro area is currently assessed \$1.68 at the disposal site to support the solid waste management program of the Metropolitan Service District.

In an effort to reduce the initial impact of these new fees to an absolute minimum, the Department has decided to delay the hiring of one of the two new staff needed to do the work required by SB 405 (Oregon's new Recycling Opportunity Act) until fiscal year 1986. Some borrowing from other recycling staff may occur late in fiscal 1985. This action will reduce the total recycling-related fees by one-half for the first year.

The proposed fees will be due to the Department beginning July 1, 1984. Local governments are preparing budgets soon and need to be advised as soon as possible what their fees will be. In addition to formal adoption by the Commission, however, the proposed fee schedule is also subject to review and prior approval of the Legislative Emergency Board (E-Board). If the fees are formally adopted now, a significant delay could result if it is deemed necessary to amend the fee schedule following E-Board review. For this reason, the Department recommends that the proposed fees not be formally adopted at this time. Instead, the Department requests that the Commission approve the fee schedule with intent to adopt the schedule following E-Board review.

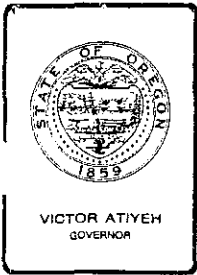
Director's Recommendation

It is recommended that the Commission approve the Solid Waste Disposal Permit fee schedule proposed by the Department and concur with the Department's intent to seek Legislative Emergency Board review of the schedule prior to formal Commission adoption.


Michael J. Downs

- Attachments
1. Staff Report, Agenda Item No. E, October 7, 1983 EQC Meeting
 2. Hearing Officer's Report
 3. Department's Response to Public Comment
 4. Proposed Fee Schedule, OAR 340-61-115
 5. Statement of Need
 6. Land Use Consistency Statement

William H. Dana:c
SC1338
229-6266
December 19, 1983



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. E, October 7, 1983, EQC Meeting

Request for Authorization to Conduct a Public Hearing
on Proposed Solid Waste Disposal Permit Fees,
OAR 340-61-115

Background

During the development of a budget for fiscal years 1983-85, the Department was directed to reduce General Fund expenditures and to develop an alternative means of financing. The Solid Waste Division, working with its Task Force on Rules and Program Direction, developed the concept of permit fees and a tentative schedule of fees were agreed upon. As part of its budget package, the Department introduced HB 2236 to obtain authority to require permit-related fees for solid waste disposal sites. The Legislature passed HB 2236 as an integral part of the Department's budget.

In addition, the Legislature passed the Opportunity to Recycle Bill (SB 405), sponsored by the Oregon Environmental Council and others. Implementation of this bill places a heavy workload on the Department and requires the addition of two new staff positions. Funding for this additional work and staff positions by permit-related fees is authorized in the bill.

The Department has drafted a schedule of fees as anticipated in the 1983-85 budget and to provide additional funds necessary for the implementation of SB 405. Authorization to conduct a public hearing on these proposed fees is requested. The Commission is authorized to adopt such rules by ORS 459.045.

Alternatives and Evaluation

The proposed schedule of fees may best be evaluated by describing the two distinct programs involved as follows:

1. Regulatory Program. The proposed filing fee, application processing fee and annual compliance determination fee would be used to support existing staff positions and work in the solid

waste disposal site regulatory program. Fees would support two staff positions this biennium and an additional two or three existing positions next biennium. Services provided by these fees include plan review, permit issuance, compliance assurance monitoring and inspections, and technical assistance. The proposed schedule of fees for support of the regulatory program is the minimum necessary to maintain the current level of service. It is virtually identical to the tentative fee schedule formally supported by the Task Force during our budgeting process.

2. Recycling Program. The proposed recycling program implementation fee would be used to add two new staff positions to implement SB 405. In legislative hearings on this bill, the Department indicated that, at a minimum, two new positions would be required and the Legislature agreed that funding for these positions could be obtained by permit-related fees. Work to be done includes the writing of rules, issuance and modification of permits to include provisions for recycling activities, compliance assurance and technical assistance. The proposed fee schedule would generate the funds required to support the two staff positions plus a 10% contingency fund.

The Department seeks authority to conduct a public hearing on this matter for the purpose of receiving testimony. The Legislature's Emergency Board must also confirm the schedule before fees can actually be assessed. The Commission could consider modifying the proposed fee schedule. Any reductions in the level of fees proposed would result in corresponding reduction in service on the part of the Department.

The proposed fee schedule (Attachment 4) would consist of a fixed filing fee, a variable application processing fee, a variable compliance determination fee and a variable recycling program implementation fee. Variable fees would be based on the population served or the amount of waste received by a disposal site. The complexity of the facility is also considered. The proposed filing fee would be \$50. The application processing fee would range from \$50 to \$1,000. The compliance determination fee would range from \$150 to \$10,000. The recycling implementation fee would range from \$100 to \$6,000.

Summation

1. The Department has been directed to offset General Fund expenditures for existing and proposed new programs.
2. The Legislature has passed HB 2236 and SB 405 authorizing the Commission to adopt a schedule of fees for solid waste disposal sites.

3. Fees are necessary to maintain the Department's existing solid waste disposal regulatory program and to implement an expanded recycling program in accordance with SB 405.
4. The Department has drafted a proposed fee schedule and requests authorization to conduct a public hearing.
5. The Commission is authorized to adopt such rules by ORS 459.045.

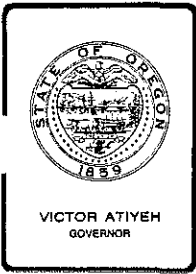
Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed Solid Waste Disposal Permit fee schedule, OAR 340-61-115.

William H. Young

- Attachments
1. Draft Statement of Need and Fiscal Impact
 2. Draft Hearing Notice
 3. Draft Land Use Consistency Statement
 4. Draft Rule OAR 340-61-115

William H. Dana:c
SC1203
229-6266
September 15, 1983



Environmental Quality Commission

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

MEMORANDUM

TO: Environmental Quality Commission DATE: December 1, 1983

FROM: Elaine A. Glendening, Hearing Officer

SUBJECT: Report on Public Hearing Held November 15, 1983, Concerning
Adoption of Proposed Solid Waste Permit Fees

Summary of Procedure

Pursuant to Public Notice, a public hearing was convened in the City of Portland (Room 1400, 522 SW 5th) on November 15, 1983, at 10:00 a.m. The purpose of the hearing was to receive testimony concerning adoption of the proposed solid waste permit fees.

Summary of Verbal Testimony

Ezra Koch, Riverbend Landfill, McMinnville, expressed inequity in the proposed fees. He indicated larger sites such as St. Johns Landfill should be charged a higher rate and other sites less. He also expressed that there was no need for extra staff (recycling fee) since the industry was already far along in recycling.

Jon Oshel, Tillamook County Public Works Director, submitted a letter from the Tillamook County Commission in opposition to the fee schedule. He also gave verbal testimony that money should be collected for services rendered by the Department other than inspection. He also indicated their fee would be equal to five percent of their budget for solid waste.

Bob Wilson, Linn County Health Department, stated transfer station fees were too high. Fees should be placed at point of final disposal. He also stated that there should be brackets above 100,000 population.

Allen Willis, Boise-Cascade Corp., submitted written testimony and summarized that testimony as follows:

1. Application and processing fees seem realistic.
2. Annual compliance fee should be lower (\$150-500) for those sites in compliance. If a site gets out of compliance, they should be charged according to amount of time spent by the Department.

Randall Hledik, Corvallis Sand and Gravel, submitted written testimony and asked for clarification of language on construction and demolition fees.

Phil Holsheimer, former operator of Santosh Landfill (now closed), expressed opposition to fees on closed sites. He indicated he had no way to generate revenue.

Bill Schlitt, president of Oregon Sanitary Services Institute and operator of Brown's Island Landfill, submitted the following:

1. Any fee reflects on the ratepayer.
2. Should be billed only for services performed.
3. No equity in rates (Brown's Island 10% of St. Johns volume - same fee).
4. Should be no fees on transfer stations.
5. Franchise fees should be used to implement recycling act, not permit fees.

Roger Emmons, Executive Secretary of Oregon Sanitary Services Institute, submitted written testimony and summarized it as follows:

1. Application and permit fees are OK.
2. Compliance fees are out of line.
 - a. Can existing staff be diverted to recycling act?
 - b. Do we need \$156,000 a biennium for recycling - what would 2 FTE do?
 - c. Locals can implement recycling act at no cost.
3. Inequity in fee structure. St. Johns should pay more with one-half the garbage going there.
4. Double payment if charge at transfer station.

Judge E. M. Sewell, Malheur County Judge, stated that the county operated 9 landfills and that the proposed fees would be 27% of the present solid waste budget. He submitted the following alternatives:

1. Sites serving less than 5,000 persons and operated by local governments be exempt, or
2. Place all sites operated by a local government under one permit.

Tom Donaca, Associated Oregon Industries, submitted written testimony and summarized as follows:

1. In three-part fee structure, add "if applicable" to application fee.
2. A \$3,000 fee is equivalent to 60 hours of work a year.

3. Sites should be charged on actual costs.
4. Exclude demolition sites from recycling act fee.
5. Break demolition sites into two categories.
 - a. Open to the public.
 - b. Private operation (lower fee).
6. At demo sites, exclude cover material from weight calculations.

Summary of Written Testimony

Jon Oshel, Bob Wilson, Allen Willis, Randall Hledik, Roger Emmons, Judge E. M. Sewell and Tom Donaca submitted written testimony at the hearing. Their comments are summarized above.

In addition, Maureen Steinberger, representing the Oregon Environmental Council, submitted written testimony in support of fees to implement SB 405.

Respectfully submitted,

Elaine A. Glendening

Elaine A. Glendening
Hearing Officer

SC1303

Attachments: 1. Hearing attendance list
2. Written testimony



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission Date: December 6, 1983
From: William H. Dana, Hearing Officer
Subject: Report on Public Hearing Held November 15, 1983, in Pendleton Concerning Proposed Solid Waste Permit Fees

Summary of Procedure

Pursuant to public notice, a public hearing was convened at 10:00 a.m., November 15, 1983, in Suite 360 of the State Office Building, 700 SE Emigrant, Pendleton, Oregon. The purpose of the hearing was to receive testimony concerning a proposed schedule of fees for Solid Waste Disposal Permits. Six people attended the hearing, in addition to Department staff. Five people testified.

Summary of Verbal Testimony

Susan McHenry, representing Pendleton Sanitary Service, testified that the proposed fee schedule categories were too broad. She feels that small facilities are being assessed too much and that large facilities are not paying their fair share. She suggested that the fees be based on the actual amount of waste received.

Merle Jewett, representing Sanitary Disposal Landfill, Inc., testified that he agreed with Ms. McHenry. He also believes that the fees should be based on the actual amount of waste received or on actual population served instead of placing disposal sites in broad categories.

Mike Jewett, also representing Sanitary Disposal Landfill, Inc., testified briefly that he agreed with the testimony of Ms. McHenry and Mr. Merle Jewett.

Betty McAuslan, a solid waste management consultant, testified that the proposed fee schedule is inequitable. She feels that smaller facilities are being assessed too much and larger facilities not enough. Ms. McAuslan also questioned the Department's need for this much revenue, particularly to implement SB 405. She stated that the Department should demonstrate more clearly how the fees will be used.

Art Braun, representing Northern Wasco County Landfill, Inc., testified that the proposed fee schedule is not equitable to small, rural facilities. He suggested that the fees be based on the actual amount of waste received or actual population served, instead of broad categories. He also suggested that the fees should more closely reflect the actual amount of time that the Department spends at a disposal site.

In regard to the proposed recycling fee, Mr. Braun questioned the Department's need to hire additional staff. He stated that industry was willing and able to provide a lot of the information that the Department will need to implement SB 405.

Summary of Written Testimony

Susan McHenry, Merle Jewett, Mike Jewett, Betty McAuslan and Art Braun each submitted written testimony in addition to their verbal testimony. Their comments are summarized above. In addition, the following written testimony was received by the Department's Solid Waste Division in Portland:

Thomas Gorman, representing Cascade Utilities, suggested that a category be added for industrial waste landfills receiving less than 500 tons of waste per year. He also suggested that the fee for this category should be no more than \$50.

Murley Larimer, representing Stayton Sanitary Service, stated that a recycling fee should not be assessed in areas where recycling is not economically viable.

Charles Schrader, representing Wildish Corvallis Co., stated that the proposed fees for demolition landfills was excessive. He suggested that such facilities that are closed to the public be put in a separate category and that the fee be no more than \$350.

Craig Starr, representing Lane County, stated that the proposed fee for transfer stations was excessive based on the amount of staff time required to monitor them. He also stated that transfer stations and landfills should not be assessed twice for the same waste. In addition, he views the recycling fee as a tax on waste, not a fee for services, and he feels that the tax should be the same for all disposal sites.

Don Forsyth, representing Ontario Sanitary Service, wrote that the proposed fees were excessive based upon the amount of time required to inspect his disposal site.

J. R. Oard, representing Oard's Service & Garage, stated that the proposed fee for his sewage sludge disposal site was excessive based on the small amount of waste he receives.

Ma Prem Karuna, representing the City of Antelope, suggested that a category be provided for landfills serving less than 500 people. She also suggested that the recycling fee be made as low as possible so as to not discourage recycling.

The Ontario City Council passed a resolution stating that the proposed fees placed a disproportionate share of the burden on the smaller, less populated areas of the state. They suggested that fees be established on a per capita basis.

Gerri Stevens, representing the City of Richland, wrote that the proposed fee for the City's landfill was excessive and would place an undue hardship on the community. She also objected to the recycling fee on the basis that recycling would not be feasible in Richland.

Wallace Mathews and Gary Rahn, representing the Umatilla County Solid Waste Committee, requested that fees be charged by the cubic yard or weight of waste received. They object to the proposed category approach.

J. R. Perkins, representing Coos County, suggested that the proposed 10,000 to 50,000 category was too broad. He proposed a category for disposal sites serving 10,000 to 25,000. He also suggested that a straight per ton fee would be most equitable.

Louis Lamb, representing Lake County Board of Commissioners, stated that the proposed fees would place an excessive burden on the County's general fund. He also pointed out that the County's population is very low and that the Board already has existing budget problems.

The Umatilla County Board of Commissioners wrote in opposition to the proposed fee schedule. They believe fees should be assessed by the cubic yard or tonnage of waste received.

Albert Hoover, Wheeler County Judge, objected to the state attempting to balance its budget by forcing charges on local government. He also stated that the proposed 0 to 5,000 category was too broad and that towns of 500 or less should be in a separate category.

Hans Newberger, Baker City Councilman, stated that the proposed fees were excessive and inflationary. In addition, he stated that raising money to support recyclers was not in the best interest of Baker County or the state as a whole.

George Gwilliam, Mayor of the City of Baker, wrote that the proposed fees were excessive, especially in this time of financial austerity. He suggested that the Department needed to be more aware of and more concerned about the potential impact of the fees on affected parties.

Earle Misener, Union County Judge, stated that the proposed fees were inequitable in that smaller facilities would pay more on a per capita or per ton basis than would large facilities such as the St. Johns Landfill in Portland.

Lillian Ross, representing the City of Powers, wrote that the 0 to 5,000 category was too broad and that the proposed fee was too high for small communities.

Byron Henry, representing Baker Valley Enterprises, Inc., stated that the proposed fees are excessive, especially in these economic conditions. He also objected to the recycling fee since he is in direct competition with a federally subsidized recycling program in the City of Baker.

Ronald Larvik, representing Grande Ronde Recovery Center, Inc., incorrectly calculated the fees for several disposal sites in Union County and stated that the fees were excessive.

Mike Huddleston, representing the Asphalt Pavement Association of Oregon, stated that fees should be based on the amount of time spent regulating a disposal site. He also suggested that for a demolition waste disposal site the fee should not exceed \$300.

John Rath, representing Hood River Recycling and Transfer Station, Inc., stated that the proposed fees were inequitable. He believes that the fees should be paid on the basis of either waste received or population served. Also, he pointed out that assessing a fee at a transfer station and again at a landfill was taxing the same waste twice.

Donald Armstrong, Mayor of the City of Umatilla, wrote that he supported the concept of user fees, but that some benchmark needed to be established to control future increases in fees. He also stated that fees should be based on the actual amount of waste received or the actual population served, rather than on broad categories.

Jack King, representing the City of Milton-Freewater, expressed fears that higher user fees would lead to increased illicit dumping. He also stated that it was premature to assess recycling program fees before the public had been advised about what the program would be. In addition, he suggested that the fees should be more in proportion to the actual amount of waste received.

Marsh Meyers, representing the Umatilla County Solid Waste Committee, agreed with the need for fees, but stated that the proposed schedule was inequitable. He suggested that fees should be based on the actual amount of waste received instead of on broad categories.

Frank Harkenrider, Hermiston City Councilman, stated that the proposed broad fee categories placed too much financial burden on small landfill operators to be equitable. He also requested that the Department provide more justification for the proposed level of funding.

D. B. Trask, representing the U.S. Forest Service, stated that disposal sites on National Forest lands should be exempt from state fees. He also stated that the proposed fees for small sludge disposal facilities were excessive. In regard to the recycling program fee, he stated that sludge facilities should be exempt, but that some industrial wastes should be included.

Dick Hoppes, Crook County Judge, stated that the proposed fees appear to be weighted against smaller facilities. On a per capita basis, smaller facilities are paying higher fees than larger facilities.

Report on Public Hearing Held November 15, 1983, in
Pendleton Concerning Proposed Solid Waste Permit Fees
December 6, 1983
Page 5

Larry Smith, Baker County Judge, wrote that the proposed fee for Baker Valley Enterprises, Inc., is excessive. He requests that the proposed fees be given more thought and more local input should be considered.

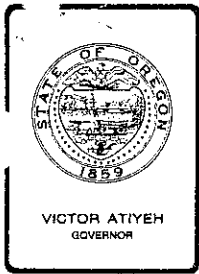
John Crockett, representing the City of Astoria, requested that the proposed recycling program fee be delayed until a current county-wide solid waste management planning effort is completed.

Respectfully submitted,

William H. Dana
Hearing Officer

SC1310.A

Attachments: 1. Hearing attendance list
2. Written testimony



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission Date: December 2, 1983

From: Larry L. Jack, Hearing Officer

Subject: Report on Public Hearing Held November 15, 1983, in Medford, on Proposed Solid Waste Permit Fees

Summary of Procedure

Pursuant to public notice, a public hearing was convened in Room 300 of the Jackson County Courthouse, 10 South Oakdale, Medford, Oregon, on November 15, 1983, at 10:00 a.m. The purpose of the hearing was to receive testimony on proposed fees for Solid Waste Disposal Permits.

Summary of Verbal Testimony

Robert Parkhill, representing Douglas County, testified in opposition to the proposed fees. The County does not charge fees at disposal sites and does not want to start charging simply to support a state program. Mr. Parkhill was also opposed to assessing fees on transfer stations, since the same waste is taxed again at the disposal site. In addition, he is opposed to the recycling fee at rural facilities where recycling is not practiced and he feels that the fees should more closely reflect the actual population served.

Richard Stark, representing Rogue Disposal Service, Inc. (dba City Sanitary Service), testified that the fees should be based on population served or actual tonnage received. He stated that the proposed fee schedule was not equitable for small- and medium-sized facilities. He also testified that the recycling fee was inequitable in Jackson County where recycling was minimal.

Pat Fahey, representing Tri-Co Disposal, testified that he agreed with the comments made by Mr. Stark.

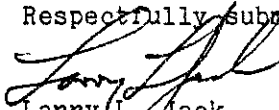
Doug John, representing Roseburg Disposal Co. and Oregon Sanitary Service Institute, testified that the proposed fee schedule was inequitable. He stated that the St. Johns Landfill in Portland served 10 times the population of Douglas County, and yet the fees for the two were about the same. He also questioned whether or not additional staff was needed to implement SB 405. He believes that industry can provide much of the needed information.

Report on Public Hearing Held November 15, 1983,
in Medford, on Proposed Solid Waste Permit Fees
December 2, 1983
Page 2

Summary of Written Testimony

Doug John submitted written testimony elaborating on the verbal testimony described above. No other written testimony was received.

Respectfully submitted,



Larry L. Jack
Hearing Officer

SC1310

Attachments: 1. Attendance list for hearing
2. Witness registration forms
3. Written testimony



Department of Environmental Quality
CENTRAL REGION

2150 N.E. STUDIO ROAD, BEND, OREGON 97701 PHONE (503) 388-6146

MEMORANDUM

To: Environmental Quality Commission

From: Donald L. Bramhall, Hearing Officer

Subject: Report on Public Hearing Held
November 15, 1983, Concerning
Adoption of Proposed Solid
Waste Permit Fees

Summary of Procedure

Pursuant to Public Notice, a public hearing was convened in the City of Bend on November 15, 1983 at 10:11 a.m. The purpose of the hearing was to receive testimony concerning adoption of the proposed solid waste permit fees.

Summary of Oral Testimony

Keith Read, Director of Klamath County Department of Solid Waste Management, read a letter which he then submitted as a part of the record. The letter is attached. He felt that the proposed compliance determination fee is not equitable and does not reflect the cost of compliance determination work done by the Department. He is opposed to any recycling fee, as recycling does not now meet or exceed the cost of landfilling and the additional fee will further impact this difference. If rural sites are closed, local government must respond to the problems. DEQ needs to study the question of fees before proposing a fee schedule.

Roy Kerr, representing the Lake County Court, expressed opposition to any landfill permit fees. The fee does not reflect the cost of inspections.

Don Wood, representing Jefferson County, also objected to the fee proposal. Jefferson County does not charge user fees and does not require a lot of attention by the DEQ. The county feels the citizens are already paying enough for landfill costs through their taxes.

Neil Hudson of Deschutes County expressed concern that the small county landfills already operate at significant losses and cannot afford additional expenses through permit fees. Fees for small landfills may force them to close. Fees for large landfills that are paying their own way are acceptable.

Dave Riggs, representing Crook County, read a letter from the County Court. A copy of the letter is attached. Based on a census, their fee would be \$1100 per year. Using volume from their monitoring reports they would pay a fee of \$250.00. The concept of basing fees on population places an unfair burden on small landfills. Passing costs on to users tends to reduce use of the landfill while increasing promiscuous dumping.

No other oral testimony was received.

Summary of Written Testimony

The written testimony from Klamath and Crook Counties is summarized above. The letters are enclosed with this report.

Respectfully submitted,

Donald L. Bramhall

Donald L. Bramhall
Hearing Officer
November 15, 1983

Seal of the Oregon
Dept. of Environmental Quality
RECEIVED
NOV 16 1983

Department's Response to Public Comment

The following is a summary of comments received in response to the proposed schedule of fees for Solid Waste Disposal Permits, OAR 340-61-115, and the Department's responses to those comments:

Comment: The overwhelming majority of those who commented stated that the proposed fees are inequitable. As an alternative, it was requested that the fees be assessed on the basis of actual population served or the actual amount of waste received rather than on the basis of a few broad categories.

Response: The staff agrees that assessing fees strictly on the basis of population served or actual amount of waste received would be the most equitable method. In fact, when the Department first proposed the concept of permit fees to its Task Force on Rules and Program Direction before the legislative session, we recommended the fees be assessed on a unit charge basis. The task force did not support this concept, however, nor did the Legislature in response to their testimony. A note attached to the Department's budget by the Legislature requires that the Department develop a fee schedule which "assigns costs in a manner which is commensurate with benefits received by various operators of solid waste disposal sites." This seems to preclude the assessment of fees strictly on a per ton or per capita unit basis.

Also, during the development of the fee schedule, it has become apparent to the staff that we currently do not have very accurate information on the exact amount of waste received or exact population served by most disposal sites. Thus, assessing fees on this basis would initially be difficult and would require very accurate and detailed recordkeeping on the part of permittees and the Department on an ongoing basis.

The revised fee schedule represents a compromise. It resembles a range of rates that one would expect under a unit charge system, while retaining structure and specific service-related costs that the Legislature anticipated. It is hoped that this compromise will satisfy the majority of those affected. This revised schedule will be reviewed by the Legislative Emergency Board and must be approved and adopted by the Environmental Quality Commission before it can be put into effect.

Comment: Several people in the higher fee categories questioned how the Department could justify fees of \$10,000 or more in view of the Legislature's instructions that the fees be commensurate with benefits received (i.e., what benefits does the Department provide to a disposal site operator that are worth \$10,000 or more?).

Response: The Department provides direct and indirect services to disposal site operators in a variety of ways. The Department issues permits that allow operators to do business and which provide some legitimacy and status that is beneficial in terms of public image, credit rating and in other ways. Under the Department's rules, which require proposed new disposal sites to demonstrate need, operators of existing disposal sites are afforded some protection from competition. Also, the Department's rules protect responsible operators from unfair competition by shoddy or irresponsible operators. The Department's independent, expert analysis of proposed new disposal sites and our willingness to support our findings at public hearings and in written and verbal correspondence to the public helps immeasurably in the establishment of new facilities. The Department also provides a substantial amount of technical assistance and consulting services to operators with respect to finding suitable locations for new disposal sites, designing new disposal sites and finding solutions to problems at existing disposal sites. This is particularly true in the case of the operators of smaller facilities who do not have staff of their own and who cannot afford to hire private consultants.

The Department's inspections and monitoring provide an operator with evidence that can be used in courts of law, should the operator be sued for any perceived damage to public or private property or to the environment. Also, if the Department is named as a co-defendant in such a suit, as is often the case, the operator has the benefit of having the Department's legal resources applied to the defense. The existence of the Department's regulatory program is an operator's primary and perhaps only defense in the event of a citizen suit under the federal Resource Conservation and Recovery Act (RCRA).

All of the above services are somewhat difficult to put a price on. However, if the issue is whether or not a disposal site can be established or can remain in existence in the face of law suits or unfair competition, then it is obvious that the larger a disposal site the greater the benefit, in terms of dollars, that can be derived from the existence of the Department's regulatory program.

In the final analysis, however, it must be remembered that the Department's ultimate responsibility is to the public and not to the operator, even if the operator is another public agency. The Department exists primarily to protect public health and the environment. Therefore, it seems reasonable to assess the highest fees at those disposal sites that serve the greatest number of people and which, because of their size and location, could potentially impact the greatest number of people. Ultimately, it is the public who will pay the fees, in the form of disposal charges or local taxes.

Comment: Related to the above concerns was the comment made by a number of people that the proposed fee categories are too broad and that facilities that are substantially different in size, potential environmental impact and ability to pay are being lumped together.

Response: The staff agrees with this concern. The schedule has been revised to include substantially more categories in all areas, including the permit processing fee, compliance assurance fee and recycling program fee. In addition, new categories for disposal sites with special monitoring requirements were added.

Comment: Several people commented that by assessing the recycling program fee at both transfer stations and at landfills, we were taxing the same waste twice.

Response: The staff agrees that this is a valid point. The fee schedule has been revised so that transfer stations are exempt from the recycling program fee.

Comment: A number of people questioned the Department's need to add two more staff people to implement SB 405, the Opportunity to Recycle Bill.

Response: During legislative hearings on SB 405, the Department testified that two additional staff would be needed initially to do the substantial amount of work required by this bill. The Legislature agreed and authorized the Department to hire the additional staff. However, in an effort to reduce the initial impact of these new fees, the Department has agreed to delay the hiring of one of the two people for a year. This will reduce the total amount of the recycling fee by one-half for fiscal year 1985 (July 1, 1984 to June 30, 1985).

Comment: Many people testified that the proposed recycling program fee should not be assessed in rural areas. They argued that recycling was not practical in rural areas and that rural residents would receive no benefit from the program.

Response: It is premature to argue at this time about what materials can or cannot reasonably be recycled in rural areas. These debates will occur as the Department develops the rules required by SB 405. It is clear, however, that the Legislature passed SB 405 with the intention of creating a statewide program. Section 15 of the bill states in part "the Legislative Assembly finds and declares that:

- (a) The planning, development and operation of recycling programs is a matter of statewide concern.
- (b) The opportunity to recycle should be provided to every person in Oregon."

The Department agrees that the recycling program fees should be minimal in rural areas. As described above, all fees for rural disposal sites have been reduced substantially in the revised fee schedule.

Comment: Several people suggested that the fees should be based more directly on the number of inspections made and on the actual amount of time spent at a particular disposal site (i.e., that the problem disposal sites should pay more than the facilities that are in compliance and require less attention).

Response: The staff rejects this proposal for several reasons. First, the disposal sites that require extra time and effort will change from year-to-year and even from month-to-month. This uncertainty would make it difficult for the Department to budget and would create cash flow problems. It would also be difficult for permittees to budget, since fees could fluctuate substantially from year-to-year. In addition, such a system would tend to reduce the level of service to operators of smaller facilities, since they would have the least ability to pay. Lastly, such a system would tend to increase animosity between the Department and operators, since every visit would be viewed as an additional expense.

Comment: Several people commented that the recycling program fee should not be assessed at sewage sludge disposal sites or at disposal sites which receive primarily land clearing debris and building demolition and construction wastes and which are not open to the general public.

Response: It was never intended that the recycling program fee be assessed to such facilities. The proposed rules and fee schedule has been rewritten to clarify this point.

JFS:c
SC1337
(12/20/83)

A new rule, OAR 340-61-115, is proposed as follows:

PERMIT FEES

340-61-115 (1) Beginning July 1, 1984, each person required to have a Solid Waste Disposal Permit shall be subject to a three-part fee consisting of a filing fee, an application processing fee and an annual compliance determination fee as listed in Table A. In addition, each disposal site receiving domestic solid waste shall be subject to an annual recycling program implementation fee as listed in Table A. The amount equal to the filing fee, application processing fee, the first year's annual compliance determination fee and, if applicable, the first year's recycling program implementation fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and application processing fee shall be submitted as a required part of any application for renewal or modification of an existing permit.

(2) As used in this rule, the term "domestic solid waste" includes, but is not limited to, residential, commercial and institutional wastes; but the term does not include:

- (a) Sewage sludge or septic tank and cesspool pumpings.
- (b) Building demolition or construction wastes and land clearing debris, if delivered to disposal sites that are not open to the general public.
- (c) Yard debris, if delivered to disposal sites that receive no other residential wastes.

(3) The annual compliance determination fee and, if applicable, the annual recycling program implementation fee must be paid for each year a disposal site is in operation. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1. Any annual compliance determination fee and, if applicable, any recycling program implementation fee submitted as part of an application for a new permit shall apply to the fiscal year the permitted disposal site is put into operation. For the first year's operation, the full fee(s) shall apply if the disposal site is placed into operation on or before April 1. Any new disposal site placed into operation after April 1 shall not owe a compliance determination fee and, if applicable, a recycling program implementation fee until July 1. The Director may alter the due date for the annual compliance determination fee and, if applicable, the recycling program implementation fee upon receipt of a justifiable request from a permittee.

(4) For the purpose of determining appropriate fees, each disposal site shall be assigned to a category in Table A based upon the amount of solid waste received and upon the complexity of each disposal site. Each disposal site which falls into more than one category shall pay whichever fee is higher. The Department shall assign a site to a category on the basis of estimated annual tonnage or gallonage of solid waste received unless the actual amount received is known. Estimated annual tonnage will be based on one ton per resident in the service area of the disposal site. Loads of solid waste consisting exclusively of soil, rock, concrete rubble or asphalt shall not be included when calculating the annual amount of solid waste received.

(5) Modifications of existing, unexpired permits which are instituted by the Department due to changing conditions or standards, receipt of additional information or any other reason pursuant to applicable statutes and do not require re-filing or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

(6) Upon the Department accepting an application for filing, the filing fee shall be non-refundable.

(7) The application processing fee may be refunded in whole or in part when submitted with an application if either of the following conditions exist:

(a) The Department determines that no permit will be required.

(b) The applicant withdraws the application before the Department has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, the Department has approved or denied the application.

(8) All fees shall be made payable to the Department of Environmental Quality.

WHD:c
SC1326
12/20/83

TABLE A

PERMIT FEE SCHEDULE

1. Filing Fee. A filing fee of \$50 shall accompany each application for issuance, renewal, modification, or transfer of a Solid Waste Disposal Permit. This fee is non-refundable and is in addition to any application processing fee or annual compliance determination fee which might be imposed.

2. Application Processing Fee. An application processing fee varying between \$50 and \$1,000 shall be submitted with each application. The amount of the fee shall depend on the type of facility and the required action as follows:
 - a. A new facility (including substantial expansion of an existing facility):

(A) Major facility ¹	.....	\$ 1,000
(B) Intermediate facility ²	.....	\$ 500
(C) Minor facility ³	.....	\$ 175

 - b. Preliminary feasibility only (Note: the amount of this fee may be deducted from the complete application fee listed above):

(A) Major facility	.....	\$ 600
(B) Intermediate facility	.....	\$ 300
(C) Minor facility	.....	\$ 100

¹Major Facility Qualifying Factors:

- (a) Received more than 25,000 tons of solid waste per year; or
- (b) Has a collection/treatment system which, if not properly constructed, operated and maintained, could have a significant adverse impact on the environment as determined by the Department.

²Intermediate Facility Qualifying Factors:

- (a) Received at least 5,000 but not more than 25,000 tons of solid waste per year; or
- (b) Received less than 5,000 tons of solid waste and more than 25,000 gallons of sludge per month.

³Minor Facility Qualifying Factors:

- (a) Received less than 5,000 tons of solid waste per year; or
- (b) Received less than 25,000 gallons of sludge per month.

All tonnages based on amount received in the immediately preceding fiscal year, or in a new facility the amount to be received the first fiscal year of operation.

- c. Permit renewal (including new operational plan, closure plan or improvements):
 - (A) Major facility \$ 500
 - (B) Intermediate facility \$ 250
 - (C) Minor facility \$ 75
- d. Permit renewal (without significant change):
 - (A) Major facility \$ 200
 - (B) Intermediate facility \$ 100
 - (C) Minor facility \$ 50
- e. Permit modification (including new operational plan, closure plan or improvements):
 - (A) Major facility \$ 500
 - (B) Intermediate facility \$ 250
 - (C) Minor facility \$ 75
- f. Permit modification (without significant change in facility design or operation):
 - All categories \$ 25
- g. Permit modification (Department initiated):
 - All categories no fee

3. Annual Compliance Determination Fee (In any case where a facility fits into more than one category, the permittee shall pay only the highest fee):

- a. Domestic Waste Facility:
 - (A) A landfill which received 500,000 tons or more of solid waste per year: \$60,000
 - (B) A landfill which received at least 400,000 but less than 500,000 tons of solid waste per year: \$48,000
 - (C) A landfill which received at least 300,000 but less than 400,000 tons of solid waste per year: \$36,000
 - (D) A landfill which received at least 200,000 but less than 300,000 tons of solid waste per year: \$24,000
 - (E) A landfill which received at least 100,000 but less than 200,000 tons of solid waste per year: \$12,000
 - (F) A landfill which received at least 50,000 but less than 100,000 tons of solid waste per year: \$ 6,000
 - (G) A landfill which received at least 25,000 but less than 50,000 tons of solid waste per year: \$ 3,000

- (H) A landfill which received at least 10,000 but less than 25,000 tons of solid waste per year: \$ 1,200
- (I) A landfill which received at least 5,000 but not more than 10,000 tons of solid waste per year: \$ 500
- (J) A landfill which received at least 1,000 but not more than 5,000 tons of solid waste per year: \$ 100
- (K) A landfill which received less than 1,000 tons of solid waste per year: \$ 50
- (L) A transfer station, incinerator, resource recovery facility and each other facility not specifically classified above which received more than 10,000 tons of solid waste per year: \$ 500
- (M) A transfer station, incinerator, resource recovery facility and each other facility not specifically classified above which received less than 10,000 tons of solid waste per year: \$ 50

b. Industrial Waste Facility:

- (A) A facility which received 10,000 tons or more of solid waste per year: \$ 1,000
- (B) A facility which received at least 5,000 tons but less than 10,000 tons of solid waste per year: \$ 500
- (C) A facility which received less than 5,000 tons of solid waste per year: \$ 100

c. Sludge Disposal Facility:

- (A) A facility which received 25,000 gallons or more of sludge per month: \$ 100
- (B) A facility which received less than 25,000 gallons of sludge per month: \$ 50

d. Closed Disposal Site:

Each landfill which closes after July 1, 1984: 10% of the fee which would be required, in accordance with Subsections 3a, 3b, and 3c above, if the facility were still in operation or \$50 whichever is greater.

e. Facility with Monitoring Well:

In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane or which has surface water sampling points or any other structures or locations requiring the collection and analysis of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:

- (A) A facility with six or less monitoring wells or sampling points: \$ 1,000
- (B) A facility with more than six monitoring wells or sampling points: \$ 2,000

4. Annual Recycling Program Implementation Fee. An annual recycling program implementation fee shall be submitted by each domestic waste disposal site, except transfer stations and closed landfills. This fee is in addition to any other permit fee which may be assessed by the Department. The amount of the fee shall depend on the amount of solid waste received as follows:

- a. A disposal site which received 500,000 tons or more of solid waste per year: \$19,000
- b. A disposal site which received at least 400,000 but less than 500,000 tons of solid waste per year: \$15,200
- c. A disposal site which received at least 300,000 but less than 400,000 tons of solid waste per year: \$11,400
- d. A disposal site which received at least 200,000 but less than 300,000 tons of solid waste per year: \$ 7,600
- e. A disposal site which received at least 100,000 but less than 500,000 tons of solid waste per year: \$ 3,800
- f. A disposal site which received at least 50,000 but less than 100,000 tons of solid waste per year: \$ 1,900
- g. A disposal site which received at least 25,000 but less than 50,000 tons of solid waste per year: \$ 950
- h. A disposal site which received at least 10,000 but less than 25,000 tons of solid waste per year: \$ 375
- i. A disposal site which received at least 5,000 but less than 10,000 tons of solid waste per year: \$ 175
- j. A disposal site which received at least 1,000 but less than 5,000 tons of solid waste per year: \$ 30
- k. A disposal site which received less than 1,000 tons of solid waste per year: \$ 15

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Adoption of	)	Statutory Authority,
Solid Waste Disposal Permit Fees,	)	Statement of Need,
OAR Chapter 340, Section 61-115	)	Principal Documents Relied Upon,
	)	and Statement of Fiscal Impact

1. Citation of Statutory Authority

ORS 459.045, which requires the Environmental Quality Commission to adopt rules pertaining to solid waste management. Also, HB 2236 and SB 405, 1983 Legislature, which authorize the establishment of permit fees.

2. Statement of Need

The Department of Environmental Quality needs to offset reductions in state general funds with permit fees in order to maintain its existing solid waste disposal regulatory program. In addition, fees are needed to implement the Opportunity to Recycle Bill (SB 405) passed by the 1983 Oregon Legislature.

3. Principal Documents Relied Upon in This Rulemaking

- a. House Bill 2236, 1983 Oregon Legislature
- b. Senate Bill 405, 1983 Oregon Legislature
- c. Department of Environmental Quality, Water Quality Division, Permit Fee Schedule, OAR 340-45-070
- d. Oregon Blue Book, 1983-84 Edition

4. Statement of Fiscal Impact

This action will have a fiscal or economic impact upon persons applying for or holding a Solid Waste Disposal Permit. Such persons will be assessed a fee for the permit to cover the Department's costs for issuing the permit, assuring compliance and implementing the Opportunity to Recycle Bill. Small businesses will be impacted if they apply for or hold a permit. The amount of the fees will be dependent upon the population served or the amount of waste received by a disposal site and upon the complexity of the disposal site. It is anticipated that this increased cost of doing business for disposal site operators will be passed on to the public in the form of somewhat higher disposal rates.

Implementation of the Opportunity to Recycle Bill will result in an increase in the conservation and recovery of material resources (recyclable goods) and will stimulate the recycling industry.

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Adoption of)
Solid Waste Disposal Permit Fees,)
OAR Chapter 340, Section 61-115)

Land Use Consistency

The proposals described herein appear to be consistent with statewide planning goals. These proposals appear to conform with Goal No. 6 (Air, Water and Land Resources Quality) and Goal No. 11 (Public Facilities and Services). There is no apparent conflict with the other goals.

With regard to Goal No. 6, the proposal would establish a schedule of permit fees for solid waste disposal sites. The fees will help support the Department's existing regulatory program and allow expansion of the recycling program. The proposed fees are necessary to assure continued protection of public health and safety, and the air, water and land resources of the state. This action by definition complies with Goal No. 6.

With regard to Goal No. 11, the proposed fees would apply to solid waste disposal sites. Disposal sites are "public facilities" that "serve as a framework for urban and rural development." Goal No. 11 specifically requires that local comprehensive plans include a provision for solid waste disposal sites.

Public comment on these proposals is invited and may be submitted in the manner described in the accompanying NOTICE OF PUBLIC HEARING.

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

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

After public hearing the Commission may adopt a fee schedule identical to the one proposed, adopt a modified schedule as a result of hearing testimony, or decline to adopt a fee schedule. The Commission's deliberation should come in January 1984 as part of the agenda of a regularly scheduled Commission meeting.

WHD:c
SC1203.3
12/20/83,

A new rule, OAR 340-61-115, is proposed as follows:

PERMIT FEES

340-61-115 (1) Beginning July 1, 1984, each person required to have a Solid Waste Disposal Permit shall be subject to a three-part fee consisting of a filing fee, an application processing fee and an annual compliance determination fee as listed in Table A. In addition, each disposal site receiving domestic solid waste shall be subject to an annual recycling program implementation fee as listed in Table A. The amount equal to the filing fee, application processing fee, the first year's annual compliance determination fee and, if applicable, the first year's recycling program implementation fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and application processing fee shall be submitted as a required part of any application for renewal or modification of an existing permit.

(2) As used in this rule, the term "domestic solid waste" includes, but is not limited to, residential, commercial and institutional wastes; but the term does not include:

- (a) Sewage sludge or septic tank and cesspool pumpings.
- (b) Building demolition or construction wastes and land clearing debris, if delivered to disposal sites that are not open to the general public.
- (c) Yard debris, if delivered to disposal sites that receive no other residential wastes.

(3) The annual compliance determination fee and, if applicable, the annual recycling program implementation fee must be paid for each year a disposal site is in operation. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1. Any annual compliance determination fee and, if applicable, any recycling program implementation fee submitted as part of an application for a new permit shall apply to the fiscal year the permitted disposal site is put into operation. For the first year's operation, the full fee(s) shall apply if the disposal site is placed into operation on or before April 1. Any new disposal site placed into operation after April 1 shall not owe a compliance determination fee and, if applicable, a recycling program implementation fee until July 1. The Director may alter the due date for the annual compliance determination fee and, if applicable, the recycling program implementation fee upon receipt of a justifiable request from a permittee.

(4) For the purpose of determining appropriate fees, each disposal site shall be assigned to a category in Table A based upon the amount of solid waste received and upon the complexity of each disposal site. Each disposal site which falls into more than one category shall pay whichever fee is higher. The Department shall assign a site to a category on the basis of estimated annual tonnage or gallonage of solid waste received unless the actual amount received is known. Estimated annual tonnage will be based on one ton per resident in the service area of the disposal site. Loads of solid waste consisting exclusively of soil, rock, concrete rubble or asphalt shall not be included when calculating the annual amount of solid waste received.

(5) Modifications of existing, unexpired permits which are instituted by the Department due to changing conditions or standards, receipt of additional information or any other reason pursuant to applicable statutes and do not require re-filing or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

(6) Upon the Department accepting an application for filing, the filing fee shall be non-refundable.

(7) The application processing fee may be refunded in whole or in part when submitted with an application if either of the following conditions exist:

(a) The Department determines that no permit will be required.

(b) The applicant withdraws the application before the Department has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, the Department has approved or denied the application.

(8) All fees shall be made payable to the Department of Environmental Quality.

WHD:c
SC1326
12/20/83

TABLE A

PERMIT FEE SCHEDULE

1. Filing Fee. A filing fee of \$50 shall accompany each application for issuance, renewal, modification, or transfer of a Solid Waste Disposal Permit. This fee is non-refundable and is in addition to any application processing fee or annual compliance determination fee which might be imposed.

2. Application Processing Fee. An application processing fee varying between \$50 and \$1,000 shall be submitted with each application. The amount of the fee shall depend on the type of facility and the required action as follows:
 - a. A new facility (including substantial expansion of an existing facility):

(A) Major facility ¹	\$ 1,000
(B) Intermediate facility ²	\$ 500
(C) Minor facility ³	\$ 175

 - b. Preliminary feasibility only (Note: the amount of this fee may be deducted from the complete application fee listed above):

(A) Major facility	\$ 600
(B) Intermediate facility	\$ 300
(C) Minor facility	\$ 100

¹Major Facility Qualifying Factors:

- (a) Received more than 25,000 tons of solid waste per year; or
- (b) Has a collection/treatment system which, if not properly constructed, operated and maintained, could have a significant adverse impact on the environment as determined by the Department.

²Intermediate Facility Qualifying Factors:

- (a) Received at least 5,000 but not more than 25,000 tons of solid waste per year; or
- (b) Received less than 5,000 tons of solid waste and more than 25,000 gallons of sludge per month.

³Minor Facility Qualifying Factors:

- (a) Received less than 5,000 tons of solid waste per year; or
- (b) Received less than 25,000 gallons of sludge per month.

All tonnages based on amount received in the immediately preceding fiscal year, or in a new facility the amount to be received the first fiscal year of operation.

c. Permit renewal (including new operational plan, closure plan or improvements):

- (A) Major facility \$ 500
- (B) Intermediate facility \$ 250
- (C) Minor facility \$ 75

d. Permit renewal (without significant change):

- (A) Major facility \$ 200
- (B) Intermediate facility \$ 100
- (C) Minor facility \$ 50

e. Permit modification (including new operational plan, closure plan or improvements):

- (A) Major facility \$ 500
- (B) Intermediate facility \$ 250
- (C) Minor facility \$ 75

f. Permit modification (without significant change in facility design or operation):

All categories \$ 25

g. Permit modification (Department initiated):

All categories no fee

3. Annual Compliance Determination Fee (In any case where a facility fits into more than one category, the permittee shall pay only the highest fee):

a. Domestic Waste Facility:

- (A) A landfill which received 500,000 tons or more of solid waste per year: \$60,000
- (B) A landfill which received at least 400,000 but less than 500,000 tons of solid waste per year: \$48,000
- (C) A landfill which received at least 300,000 but less than 400,000 tons of solid waste per year: \$36,000
- (D) A landfill which received at least 200,000 but less than 300,000 tons of solid waste per year: \$24,000
- (E) A landfill which received at least 100,000 but less than 200,000 tons of solid waste per year: \$12,000
- (F) A landfill which received at least 50,000 but less than 100,000 tons of solid waste per year: \$ 6,000
- (G) A landfill which received at least 25,000 but less than 50,000 tons of solid waste per year: \$ 3,000

- (H) A landfill which received at least 10,000 but less than 25,000 tons of solid waste per year: \$ 1,200
- (I) A landfill which received at least 5,000 but not more than 10,000 tons of solid waste per year: \$ 500
- (J) A landfill which received at least 1,000 but not more than 5,000 tons of solid waste per year: \$ 100
- (K) A landfill which received less than 1,000 tons of solid waste per year: \$ 50
- (L) A transfer station, incinerator, resource recovery facility and each other facility not specifically classified above which received more than 10,000 tons of solid waste per year: \$ 500
- (M) A transfer station, incinerator, resource recovery facility and each other facility not specifically classified above which received less than 10,000 tons of solid waste per year: \$ 50

b. Industrial Waste Facility:

- (A) A facility which received 10,000 tons or more of solid waste per year: \$ 1,000
- (B) A facility which received at least 5,000 tons but less than 10,000 tons of solid waste per year: \$ 500
- (C) A facility which received less than 5,000 tons of solid waste per year: \$ 100

c. Sludge Disposal Facility:

- (A) A facility which received 25,000 gallons or more of sludge per month: \$ 100
- (B) A facility which received less than 25,000 gallons of sludge per month: \$ 50

d. Closed Disposal Site:

Each landfill which closes after July 1, 1984: 10% of the fee which would be required, in accordance with Subsections 3a, 3b, and 3c above, if the facility were still in operation or \$50 whichever is greater.

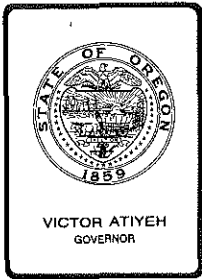
e. Facility with Monitoring Well:

In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane or which has surface water sampling points or any other structures or locations requiring the collection and analysis of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:

- (A) A facility with six or less monitoring wells or sampling points: \$ 1,000
- (B) A facility with more than six monitoring wells or sampling points: \$ 2,000

4. Annual Recycling Program Implementation Fee. An annual recycling program implementation fee shall be submitted by each domestic waste disposal site, except transfer stations and closed landfills. This fee is in addition to any other permit fee which may be assessed by the Department. The amount of the fee shall depend on the amount of solid waste received as follows:

- a. A disposal site which received 500,000 tons or more of solid waste per year: \$19,000
- b. A disposal site which received at least 400,000 but less than 500,000 tons of solid waste per year: \$15,200
- c. A disposal site which received at least 300,000 but less than 400,000 tons of solid waste per year: \$11,400
- d. A disposal site which received at least 200,000 but less than 300,000 tons of solid waste per year: \$ 7,600
- e. A disposal site which received at least 100,000 but less than 500,000 tons of solid waste per year: \$ 3,800
- f. A disposal site which received at least 50,000 but less than 100,000 tons of solid waste per year: \$ 1,900
- g. A disposal site which received at least 25,000 but less than 50,000 tons of solid waste per year: \$ 950
- h. A disposal site which received at least 10,000 but less than 25,000 tons of solid waste per year: \$ 375
- i. A disposal site which received at least 5,000 but less than 10,000 tons of solid waste per year: \$ 175
- j. A disposal site which received at least 1,000 but less than 5,000 tons of solid waste per year: \$ 30
- k. A disposal site which received less than 1,000 tons of solid waste per year: \$ 15



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Agenda Item No. I, January 6, 1984, EQC Meeting

Request for Approval of Preliminary Plan, Specifications and Schedule for Sewerage System and Treatment Works to Serve Alleged Health Hazard Area of Westport, Clatsop County; Certification of Approval to Health Division in Accordance with ORS 431.720.

Background

Westport is an unincorporated area in east Clatsop County along the Columbia River and U.S. Highway 30. It has a population of about 510 people in an area of 90 acres.

Numerous studies for sewage collection treatment and disposal have been made for the area--including Wauna and other subareas--during the past. The most recent studies are a 1979 waste water facilities plan report and a 1981 amendment to this report.

Westport has the largest concentration of people and sewage problems in the area and appears to have local support for a sewage system.

As a result, the Board of County Commissioners have, in accordance with ORS 431.715, adopted a Resolution and Order (Attachment No. 1) on November 9, 1983, which asks the Health Division "to ascertain whether conditions dangerous to public health as defined in ORS 431.705 exist in the affected area" (Westport) and "whether such condition could be removed or alleviated by service facilities recommended." Boundaries of a proposed County Service District to be created by the Board are a part of this resolution.

By letter of November 14, 1983, the Board submitted, through the Health Division, a plan, specifications, and time schedule for Waste Water Facilities for the proposed Westport Sanitary Sewerage District (Attachment No. 2). The plan described in the project narrative is more fully described in amendment to the facilities plan report which is available for your review.



Contains
Recycled
Materials

The service area, referred to as "attached map", is also available for your review. This map shows the boundary and property (tax lots) therein of the proposed County Service District as legally described in the County Resolution and Order.

To enter findings in an order directing service facilities to be provided, the Health Division must hold a public hearing to determine (a) if a danger to public health exists and (b) that such danger could be removed or alleviated by the service facilities proposed. The Environmental Quality Commission must review the adequacy of plans, specifications and time schedule; and certify approval or disapproval to the Health Division where sewage facilities are proposed. In addition, the requesting body (Clatsop County) must be informed of your action.

Evaluation

The proposal is to create a new County Service District and construct new collection, treatment and disposal system.

Facilities are planned to serve the year 2003 population of 758 people. A per capita flow allowance of 70 gallons is estimated with a peaking factor of four.

A pressure sewer collection system is proposed where only septic tank effluent is collected and treated. Effluent would be pumped into the collection system at each lot or group of lots. About 88 initial septic tank effluent pumping (STEP) systems would be installed. Approximately 180 units (living units or commercial properties) would be served initially.

Treatment of septic tank effluent would be provided at a central site near the Westport Slough by a recirculating sand filter. Discharge of final effluent would be to the Westport Slough after disinfection. Design flow would be about 53,000 gallons per day.

Septic tanks would be pumped each five to seven years and septage disposed of at regional facilities for this purpose by licensed haulers.

Completion of construction and system operation is scheduled for the fall of 1985, which is reasonable.

Thus, the staff concludes that the proposed service facilities will remove conditions alleged dangerous to public health.

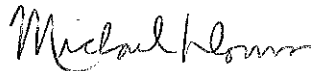
Summation

1. On November 9, 1983, Clatsop County adopted a Resolution requesting the Health Division to ascertain whether conditions dangerous to public health exist in Westport and whether such conditions could be removed or alleviated by the service facilities proposed.

2. Preliminary plans and specifications and a time schedule have been prepared to remove the alleged hazard.
3. County resolution and preliminary plans and specifications and time schedule have been submitted to the Commission through the Health Division.
4. ORS 431.720 requires the Commission to certify to the Health Division its approval if it considers the proposed facilities and time schedule adequate to remove or alleviate the health hazard. Also, the Commission must inform the County of its approval.
5. The Department staff has reviewed the preliminary plans, specifications, and time schedule and considers it approvable. The sanitary sewers proposed will remove the alleged health hazard within Westport.

Acting Director's Recommendation

Based upon our findings in the Summation, it is recommended that the Commission approve the proposal of Clatsop County, certify said approval to the Health Division, and inform Clatsop County of said approval.



Michael J. Downs

Attachments: (2)

1. Resolution & Order
2. Report: Waste Water Facilities for Westport, Oregon

James L. Van Domelen:l
WL2950
229-5310
December 15, 1983

BOOK 608 PAGE 652

IN THE BOARD OF COUNTY COMMISSIONERS

FOR CLATSOP COUNTY, OREGON

IN THE MATTER OF REQUESTING FORMATION)	
OF A COUNTY SANITARY SERVICE DISTRICT)	RESOLUTION & ORDER
PURSUANT TO ORS 431.715 TO THE OREGON)	
DEPARTMENT OF HUMAN RESOURCES HEALTH)	NO. 83-11- 17
DIVISION.)	

NOV 14 1983

NOW, BEFORE THE BOARD OF COUNTY COMMISSIONERS, sitting for the transaction of county business on the 2nd day of November, 1983 is the above entitled matter; and

IT APPEARING to the Board that at its regular meeting of July 13, 1983, the Board passed and adopted Resolution and Order No. 83-7-116 requesting the Oregon Department of Human Resources Health Division to form a County Sanitary Service District in the Westport area; and

IT FURTHER APPEARING to the Board that it has come to their attention that Resolution and Order NO. 83-7-116 did not fulfill the requirements of the Health Division for such a request and said Resolution and Order should be rescinded in its entirety; and

IT FURTHER APPEARING to the Board that the boundaries of the affected area proposed for formation of a sanitary district as defined by ORS 431.705(2) is as set forth in Exhibit A attached hereto and incorporated herein by this reference; and

IT FURTHER APPEARING to the Board that the conditions existing in the affected areas which allege to create a danger to the public health as defined by ORS 431.705(5) are as follows:

1. surface sewage;
2. failing septic tanks;
3. pollution of running streams with raw sewage; and

IT FURTHER APPEARING to the Board that it would be in the best interests of the citizens of the affected area if the Health Division were to ascertain whether such conditions exist in the affected area and if such conditions could be removed or alleviated by the

CLATSOP COUNTY COUNSEL
COURTHOUSE ASTORIA OREGON 97103
TELEPHONE 325-8615

1 installation of the service facilities proposed in the Executive Summary of the supplemental
2 alternatives wastewater facilities plan for Wauna-Westport dated July , 1981; and

3 IT FURTHER APPEARING to the Board that a county service district formed
4 under ORS 451 could be put in place to provide the service facilities recommended in said
5 plan,

6 NOW, THEREFORE, IT IS HEREBY RESOLVED AND ORDERED that a request
7 be made to the Health Division of the Department of Human Resources of the State of Oregon
8 to ascertain whether conditions dangerous to public health as defined in ORS 431.705 exist in
9 the affected area described in Exhibit "A" attached hereto and whether such conditions could
10 be removed or alleviated by service facilities recommended in the Executive Summary of the
11 supplemental alternatives wastewater facilities plan for Wauna-Westport dated July, 1981,
12 and that upon receipt of a certified copy of the findings of the Assistant Director for Health
13 as provided by ORS 431.740 or ORS 431.750, proceed with formation of a county service
14 district to provide installation of the facilities herein described as provided by Oregon Laws; and


15 IT IS FURTHER RESOLVED AND ORDERED that Resolution and Order No.
16 83-7-116. dated July 13, 1983, be and it hereby is recinded in its entirety.


17 DONE and DATED this 9th , day of November , 1983.


18

19

BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By 
Roger A. Berg, Chairman

By 
Don R. Church, Commissioner

By 
Joan M. Dukes, Commissioner

23

24

25

CLATSOP COUNTY COUNSEL
COURTHOUSE ASTORIA, OREGON 97103
TELEPHONE 325-8615

Beginning at a 1 inch iron pipe at the intersection of the East right of way line of County Road No. 153 and the Northerly right of way line of the S.P. & S. Railway Co., said point being 1598.1 feet North of and 353.6 feet East of the standard quarter section corner on the South line of Section 36, Township 8 North Range 6 West, Willamette Meridian;

thence along the Easterly line of County Road No. 153, North $16^{\circ} 28'$ West, 763.7 feet to a 1 inch iron pipe, which is the point of beginning, said point also being the Southwest corner of that tract described in Book 366, Page 105, Deed Records, Clatsop County;

thence North $74^{\circ} 33'$ East 449.1 feet to an 1 inch iron pipe;

thence North $44^{\circ} 14'$ West, 280 feet to a 1 inch iron pipe;

thence South $48^{\circ} 23'$ West 111.9 feet to a 1 inch iron pipe;

thence South $16^{\circ} 11'$ West 102 feet to a 1 inch iron pipe;

thence North $50^{\circ} 11'$ West 91.7 feet to an iron pipe;

thence North $44^{\circ} 34'$ West 268.6 feet to an iron pipe;

thence South $81^{\circ} 56'$ West 79.8 feet to an iron pipe on the Westerly right of way line of County Road No. 153;

thence Northerly along the Westerly right of way line of said County Road, 69.7 feet to an iron pipe at the point of intersection of the Westerly right of way line of County Road No. 153 and the Southerly line of County Road No. 153 extended;

thence South $80^{\circ} 35'$ West 169.4 feet along the Southerly line of said County Road to an iron pipe;

thence South $83^{\circ} 26'$ West, 271.3 feet along the Southerly line of said County Road and extension thereof to an iron pipe, said pipe being the Northwest corner of that tract described in Book 300, Page 270, Deed Records, Clatsop County;

thence South $8^{\circ} 06'$ West 359.1 feet to an iron pipe on the Northerly right of way line of the S.P. & S. Railway, said iron pipe being the Southwest corner of that tract described in Book 377, Page 180;

thence in a Southwesterly direction to a point on the Southerly right of way line of the S.P. & S. right of way which point is the Northwest corner of that tract described in Book 361, Page 962, Deed Records, Clatsop County;

thence at right angles to said right of way, along the West line of that tract described in Book 361, Page 962 and the extension thereof to the point of intersection with the North right of way line of the re-located Columbia River Highway;

thence Southeasterly along the North line of said highway to the point of intersection with the West line of County Road No. 42;

thence Southerly to the point of intersection of the Southerly right of way line of the Columbia River Highway and the East bank of Plympton Creek;

thence Southwesterly along said creek to the Northwest corner of that tract described in Book 552, Page 693, Deed Records, Clatsop County;

thence South $4^{\circ} 50'$ East a distance of 65.1 feet to a $\frac{1}{2}$ inch iron pipe;

thence North $85^{\circ} 10'$ East, a distance of 152.0 feet to an $\frac{1}{2}$ inch iron pipe, said pipe being on the West right of way line of a County Road;

thence Southerly along the West side of said County Road to the Northeast corner of that tract described in Book 178, Page 27, Deed Records, Clatsop County;

thence South $86^{\circ} 24'$ West a distance of 50 feet more or less, to the Northwest corner of said described tract;

thence South $3^{\circ} 36'$ East a distance of 100 feet to a point;

thence North $86^{\circ} 24'$ East 50 feet, more or less, to the West line of a County Road;

thence continuing Easterly to the East right of way line of said County Road;

thence Southerly and Easterly along said County Road to the East bank of West Creek;

thence Southerly along the East bank of West Creek to the South line of Section 36, Township 8 North, Range 6 West, Willamette Meridian;

thence East along the South line of said Section 36 to the West right of way line of a County Road;

83-11-17

thence Northerly along the West right of way line of said County Road to the point of intersection with the South right of way line of the Columbia River Highway;

thence Northerly to the point of intersection of the Northerly right of way line of the Columbia River Highway and the South line of that tract described in Book 395, Page 534, Deed Records, Clatsop County;

thence North $73^{\circ} 41'$ East to the Southeast corner of said tract;

thence North $16^{\circ} 19'$ West 200 feet to a point;

thence North $73^{\circ} 41'$ East to the South right of way line of the S.P. & S. Railway;

thence Northwesterly along said right of way to the Southeast corner of that tract described in Book 354, Page 397, Deed Records, Clatsop County;

thence Northeasterly to a point which is S $48^{\circ} 06'$ East 345.8 feet of the intersection of the Easterly right of way line of County Road No. 153 and the Northerly right of way line of the S.P. & S. Railway, said point being 1598.1 feet North of and 353.6 feet East of the quarter section corner on the South line of Section 36;

thence North $49^{\circ} 36'$ East 670.8 feet;

thence North $60^{\circ} 12'$ East 329.6 feet;

thence North $44^{\circ} 26'$ West 478.3 feet;

thence South $47^{\circ} 27'$ West 266.1 feet;

thence North $44^{\circ} 14'$ West 36.0 feet;

thence South $72^{\circ} 10'$ West 634.5 feet to a point on the East right of way line of County Road No. 153;

thence along said County Road North $16^{\circ} 28'$ East 445 feet to the point of beginning.

STATE OF OREGON }
County of Clatsop } SS.

I, Norma Hunsinger, Clerk of the County and State aforesaid, do hereby certify that the foregoing has been by me compared with the original, and it is a correct transcript therefrom, and of the whole of such original as the same appears of record and on file at my office and in my custody.

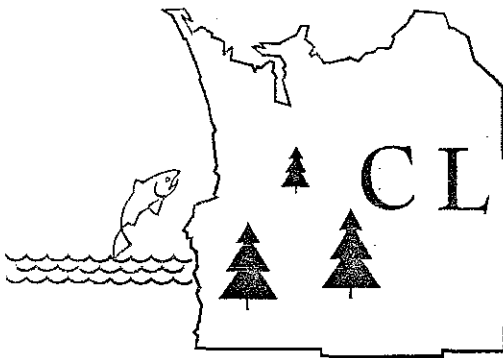
In testimony whereof, I have hereunto set my hand and affixed the seal of said County.

Dated NOV 15 1983
NORMA HUNSINGER, Clerk

By Shelby M. Louthan
Deputy

83-11-17

NOV 16 1983



CLATSOP COUNTY

Courthouse Astoria, Oregon 97103

November 14, 1983

P389.72

Mr. Ron Hall
Office of Environment and Health Systems
State Office Building
1400 S. W. Fourth Avenue
Portland, Oregon 97201

Dear Mr. Hall:

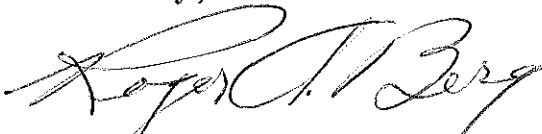
Subject: Westport Sanitary Sewerage District
Clatsop County, Oregon

With the submission of the attached report and figures, Clatsop County is requesting certification of the proposed plan and specifications for construction of a sanitary sewerage system to serve the developed area of Westport, Oregon, as outlined in the supporting documentation. This request is made pursuant to the requirements provided in ORS 431.715, Resolution Requesting Division to Initiate Formation or Annexation.

The County anticipates formation of a sanitary district to alleviate documented health hazards in the Westport area and hereby requests the assistance of the Health Division and the Department of Environmental Quality.

Should you have questions regarding the information provided, please contact the Board of County Commissioners at the Courthouse in Astoria at 325-1000.

Sincerely,



Roger A. Berg, Chairman
Enclosure

cc: Gordon Merseth, CH2M Hill

PROJECT NARRATIVE

WASTEWATER FACILITIES FOR WESTPORT, OREGON

On June 17, 1981, the Clatsop County Board of Commissioners selected for implementation Alternative 1, as presented in the 1981 supplement to the 1979 wastewater facilities plan for Wauna-Westport. Alternative 1 supplements and replaces the alternative selected in the 1979 wastewater facility plan. This alternative was selected primarily because of its lower cost and its capability to provide sanitary sewage service to the landowners generally identified as having failing or potentially failing septic systems.

PLAN DESCRIPTION

The selected wastewater system for Westport includes a septic tank effluent pumping (STEP) system, a pressurized sewage collection system, sand filter treatment, and disinfection by chlorination prior to disposal of the treated wastewater in the Westport Slough.

The attached Figure 4-1, taken from the 1981 supplement to the facilities plan, illustrates the general system configuration and identifies the locations of the pressure collection lines and the filter treatment site. For the most part, the STEP tanks will be located on the private property of homes and businesses to be served, the pressure sewers will be in public right-of-way, and the treatment located on land just south of and bordering on Westport Slough.

Figure 4-3, also taken from the 1981 supplement, illustrates schematically the treatment system layout utilizing a sand filter as the principal treatment component.

The collection system requires construction of approximately 88 STEP installations, 8,900 lineal feet of pressure main, and building connections to about 180 units. The treatment plant will cover about 3 acres near the Westport Slough. It will include a pump station, storage tank, two sand filters, a flow control structure, a chlorine contact system, an outfall, and the control building.

SPECIFICATIONS

General specifications for the collection system include detailed descriptions of the the materials, installation, and payment items for the sewer lines, fittings, and appurtenant features. The collection system will be a polyvinylchloride (PVC) piping system. Because the collection system operates as a pressurized system, the line installation and material quality will be similar to that used in water line construction.

Specifications for the STEP units will identify premanufactured units, for the tank pumping systems, controls, alarms, pumps, and appurtenant features, currently available in the marketplace. A number of these units are currently installed in Oregon and have a good history of operation and maintenance.

The sand filter and chlorination systems will be designed and constructed in accordance with the recently issued Department of Environmental Quality (DEQ) standards for design of onsite treatment systems. The sand filter itself will be of reinforced concrete construction, with plastic pipe used for distribution and collection of the wastewater in the filter area. The chlorination system will be designed in accordance with DEQ criteria, with appropriate redundant features where necessary.

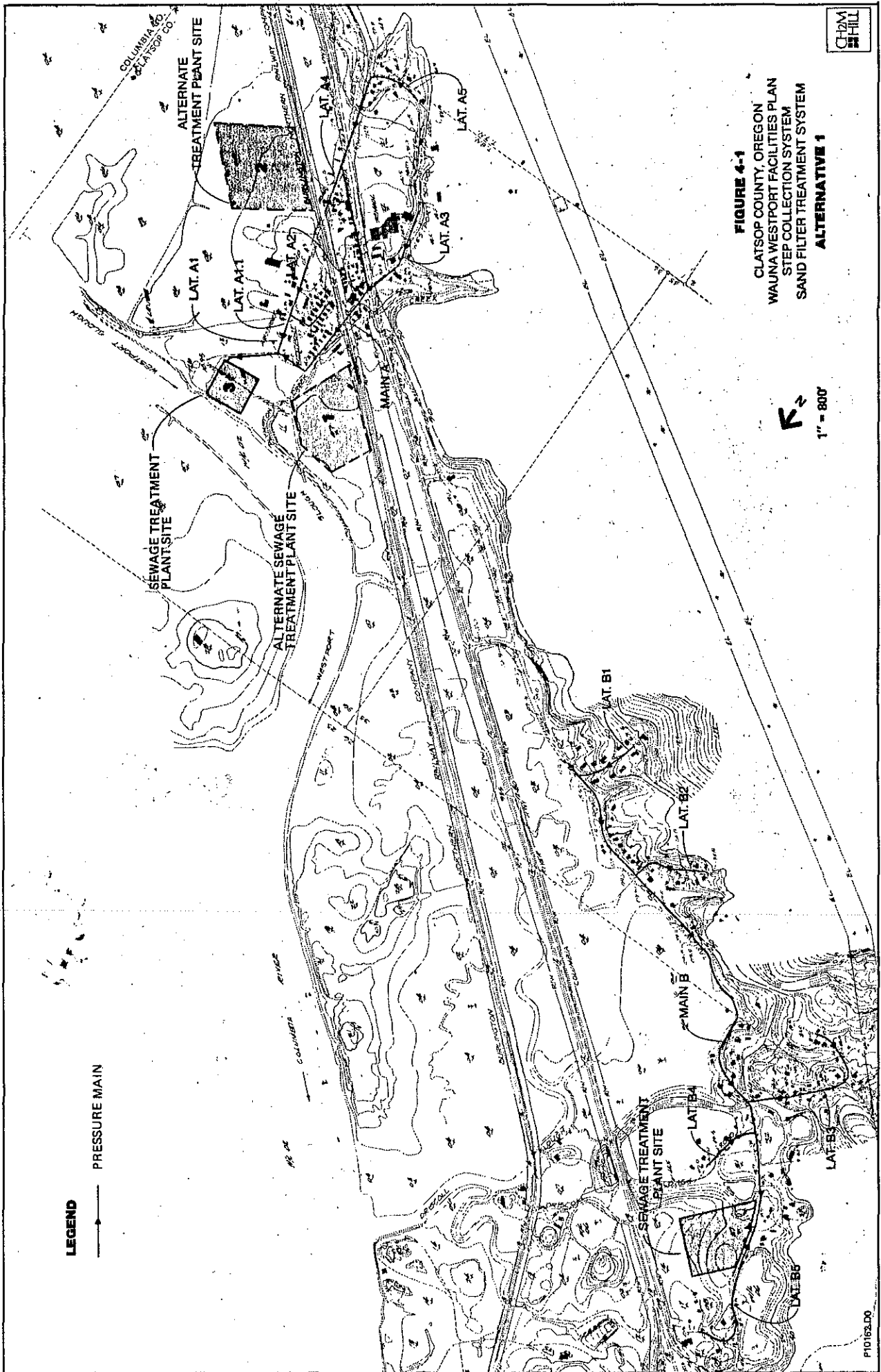
SERVICE AREA

The attached map entitled Westport Area, Clatsop County, Oregon, identifies the tax lots in the area to be served by the proposed collection and treatment system for Westport. The boundary indicated on the map encompasses the parcels to be located within the proposed sanitary district. The same parcels have generally been identified by the Oregon State Department of Health as having documented or potential existing problems with onsite disposal of wastewater.

PROJECT SCHEDULE

The following time schedule lists the deadlines for major project activities in design and construction of the Westport sanitary sewage system.

<u>Activity</u>	<u>Date</u>
District formation hearing	December 16, 1983
Local financing arranged	June 1, 1984
Completion of design	July 1, 1984
Application for EPA grant	July 15, 1984
Construction start	November 1984
System operational	September 1985



LEGEND
 ———→ PRESSURE MAIN

FIGURE 4-1
 CLATSOP COUNTY, OREGON
 WAUNA WESTPORT FACILITIES PLAN
 STEP COLLECTION SYSTEM
 SAND FILTER TREATMENT SYSTEM
ALTERNATIVE 1

K
 1" = 800'



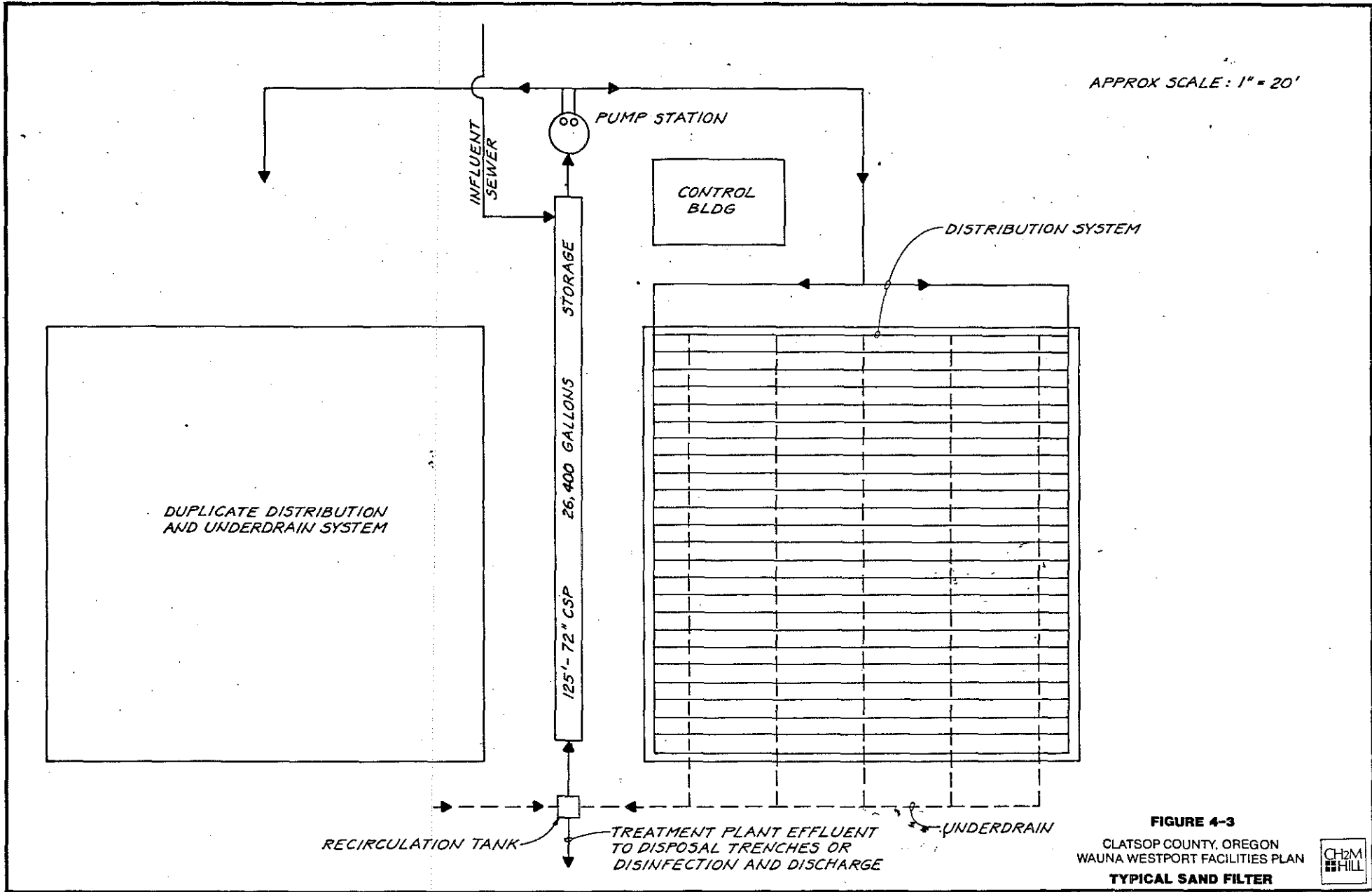
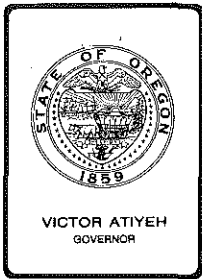


FIGURE 4-3
 CLATSOP COUNTY, OREGON
 WAUNA WESTPORT FACILITIES PLAN
TYPICAL SAND FILTER





Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Acting Director

Subject: Hazardous Waste Program Delegation (Final Authorization)
January 6, 1984 EQC Meeting
Work Session

The Department has been working the last three years to upgrade the hazardous waste program so that EPA can grant DEQ full program delegation under the Resource Conservation and Recovery Act of 1976. On November 18, 1983, the Commission authorized a public hearing on proposed rule changes necessary to seek program delegation. Just prior to the meeting, the Department sent a draft Final Authorization application to EPA which included a copy of the proposed rules.

On December 13, 1983, the Department met with EPA Region X to discuss a set of draft comments that EPA's regional office had prepared. On December 30, 1983, the Department received a set of draft comments from EPA headquarters that reiterated many of the same issues previously raised.

EPA has raised five issues that may significantly affect the content of the proposed rules authorized for hearing. Furthermore, to resolve several of the issues would significantly alter the way we deal with our regulated community and the public. Lastly, the issues serve to further highlight the continuing discussions the Department has had with EPA on an "identical" program vs. an "equivalent in effect" program. Clearly, EPA is only interested in an identical program.

Issue 1: PERMIT AS A SHIELD

In 1980, EPA adopted an untried permitting approach whereby an issued permit would serve in lieu of adopted rules ("permit as a shield"). The alleged advantage of this approach is that for the term of the permit, the permittee would not be impacted by any new rules. In addition to typical permit conditions, EPA also decided to make the permit application, operational plans (i.e., contingency plan, emergency preparedness plan, waste analysis plan, personnel training program), authorized waste types (i.e., acetone, toluene, sulfuric acid, trichloroethylene, etc.) and management units (i.e., surface impoundment, disposal trench, biofarm) permit conditions. Furthermore, EPA decided that any changes to any permit conditions would be considered a major modification involving a draft permit, 45-day public notice and public hearing (if requested by any person).



Contains
Recycled
Materials

What's ironic about EPA's approach is that the permit can't be modified to include regulatory changes (using a compliance schedule if necessary to lessen the immediate impact on existing industries), but will be constantly on public notice for operational changes. Or, the permittee will avoid making operational changes, including improvements, to avoid triggering a major modification. Lastly, each permit modification is a drain on agency resources (to process the paperwork) that could otherwise be used to make compliance inspections.

While EPA does not require a state to adopt the permit-as-a-shield concept, they do expect states to write a permit that would have identical conditions to a federal permit and to agree in a memorandum of understanding to modify a permit under the same circumstances that EPA would. In other words, EPA expects an identical program, but we can call it what we want.

The Department's historic approach in water, air, solid waste and hazardous waste is to have a program where administrative rules and permit conditions complement each other. Rules identify minimum standards that all facilities must comply with, while permit conditions tailor those standards to a specific site and facility. Furthermore, by not having to repeat every rule as a permit condition, the permit is kept to a reasonable number of conditions that are understandable to the source and the public.

At the same time the Department is being advised that the existing program is not equivalent, EPA has spent the last year working with a task force to "improve" its permit program. One likely change is to expand the number of circumstances when a permit modification would be considered minor (requiring action only by the Administrator) to include changes to permit applications, operational plans, waste types and management units. The second change is to develop "class permits" or a set of rules that would apply in lieu of a site-specific permit. Nonetheless, since these are only proposed changes that would make EPA's program operate more like Oregon's, they would find our current program not equivalent.

Issue 2: CLEANUP OF SPILLS

Under the federal program, once the emergency aspects of a spill are over, the remaining cleanup must comply with all the hazardous waste rules. Applied to two recent spills in Oregon, that would have required shipping to Arlington (1) two acres of trees, brush and surface soil from a herbicide spill site near Astoria and (2) the entire seven-day flow of Willow Creek (contaminated with an insecticide). This legalistic interpretation results from a mixing rule that says if you mix a hazardous waste (spilled product) with a nonhazardous waste, the entire mixture is considered a hazardous waste. The rule was adopted to prevent companies from intentionally mixing wastes to escape regulation.

Under the Department's approach, spill cleanup is a case-by-case evaluation as to what's acceptable and feasible. The current environmental rules (air, water, solid waste and hazardous waste) are used as guidelines as to what's acceptable cleanup.

If the Department is forced to adopt the federal approach, there will simply be times when we will knowingly violate our own rules.

Issue 3: ADOPTION OF PROPOSED FEDERAL RULES

As EPA has tried to implement their ambitious regulatory program, they have come across several rules that just don't work in practice, i.e., regulation of wastes that are used as direct substitutes for virgin materials, regulation of waste accumulating inside a manufacturer's area and regulation of used batteries. Their solution has been to propose rule modifications that bring common sense back into the program. Unfortunately, in the above three cases, the proposed rules have never been finalized.

In anticipation of EPA adoption and because we have always interpreted our existing rules in a manner consistent with the proposed EPA rules, the language of their proposed rules has been included into our rule revisions.

The Department has been advised that if it proceeds forward EPA would have to find our program nonequivalent. While we can't legally argue with such an interpretation, it is truly frustrating to know that EPA field staff will privately admit that they are implementing their existing program as if the proposed rules have been adopted. In other words, we are being indirectly advised to adopt their current program but to selectively enforce it in a common sense manner.

Issue 4: PUBLIC PARTICIPATION

Even though it is excessive, the Department has agreed to provide a minimum of a 45-day public notice and comment period on draft permits (vs. a 20-day period previously used). Public notice of draft permits will go to all media statewide, a general mailing list of interested parties and a specific mailing list of parties interested in hazardous waste permits.

EPA says this is not adequate. To have an equivalent program, the Department must buy paid advertising in a newspaper of general circulation and from local radio stations (but not television stations).

Not only could paid advertising be extremely costly, particularly if we agree to their concepts of major permit modifications, but, as the Air Quality Division found in 1979, it is one of the least effective ways to provide public notice. Rather than evaluating whether the program is "equal in effect," EPA insists on an identical program even if it doesn't achieve the intended results.

Issue 5: REGULATION OF PCBs AS A HAZARDOUS WASTE

At the federal level, polychlorinated biphenyls (PCBs) are regulated under the Toxic Substances Control Act (TSCA) rather than the Resource Conservation and Recovery Act (RCRA). Further, TSCA pre-empts more stringent state programs unless a special exemption is received from

Hazardous Waste Program Delegation (Final Authorization)

January 6, 1984

Page 4

the Administrator. While the Department has applied for an exemption to regulate PCBs in a more stringent manner (as a hazardous waste), there is no assurance that the Administrator will act in time or in our favor. We could be in the unfortunate position on February 17, 1984, of adopting rules that would not be legally enforceable when filed with the Secretary of State.

On the other hand, PCBs have very similar persistence and toxicological properties to other substances we're proposing to regulate. Further, PCBs are perceived by the public to be a highly toxic substance, yet EPA could prevent the state from regulating it in a manner consistent with other waste chlorinated hydrocarbons and phenols.

Summary

EPA recently raised five major issues relative to the authorization of the state's hazardous waste program. To resolve some of the issues in the manner currently recommended by EPA would require major wording changes to the proposed rules that were the subject of a public hearing on January 5, 1984. Furthermore, to adopt some of EPA's changes would fundamentally change a program that has worked to acceptably manage hazardous waste in Oregon since 1971. There's no guarantee that EPA's approach would improve the program and, quite frankly, it could set it back.

With the raising of these issues, EPA is causing a major reassessment of the Department's desire to seek program delegation and on what terms to do so. There are at least four distinct choices which could be made at this time:

1. Proceed ahead as proposed and hope the necessary changes are made in the federal rules or interpretations before January 26, 1985.
2. Adopt the federal rules verbatim.
3. Adopt the federal rules verbatim but include the Department's more stringent provisions.
4. Notify EPA that the state has no interest at this time in running an identical program. Allow EPA to implement the federal program.

While the Department's opinion at this time is to proceed with option 1 in the hope that EPA can see that there is a distinction between identical and equal in effect, it clearly is the option with the highest degree of uncertainty right up to January 25, 1985. In the meantime, before February 17, 1984, the Department will be discussing this matter with the Governor's Office, our congressional delegation, environmentalists, the regulated community and EPA to review the Department's opinions and develop recommendations.

Michael J. Downs



RPR:c
ZC1356



Memo

METROPOLITAN SERVICE DISTRICT 527 S.W. HALL ST., PORTLAND, OREGON 97201 503 221-1646
Providing Zoo, Transportation, Solid Waste and other Regional Services

Date: January 5, 1983

To: Environmental Quality Commission

From: Metropolitan Service District
Solid Waste Department

Regarding: Revised Solid Waste Fee Schedule

TESTIMONY

Background

During the 1983 Legislative session, the Department of Environmental Quality asked the Legislature for the authority to implement a permit fee system to partially fund its solid waste activities. During that Legislative session, the Metropolitan Service District supported the permit fees based on the user fee concept for funding. Metro's support for this legislation was based on the concept that those who use needed public services should pay and that the amount one pays should correspond to the level of service that one receives.

It appears that the Legislature agreed with this concept and the law specifically states "The permit fees contained in the schedule shall be based upon the anticipated cost of filing and investigating the application, of issuing or denying the requested permit, and of an inspection program to determine compliance or noncompliance with the permit."

In October 1983, the DEQ presented a fee schedule to this Commission which in our view basically met the intent of the Legislature. While the original schedule did not specifically reflect the cost to review, issue, and monitor permits for the smaller sites, it did appear to approximate this cost. This schedule recognized, except for the very small sites, that a base-level effort, and therefore cost,

is required to properly investigate an application, issue or deny a permit and monitor that permit for compliance.

During the public hearings on the proposed schedule, DEQ received substantial testimony from local governments and operators who own or operate the small to medium-size sites. Quite understandably, this testimony supported the concept that the large sites should generate a larger share of the new fees being implemented by DEQ. We do not believe this concept is appropriate and we do not believe that this was the intent of the Legislature.

As a result of the public hearings, the DEQ Solid Waste staff prepared the revised fee schedule which currently is before the Commission.

Analysis

The revised fee schedule is based strictly on the amount of waste accepted at a facility and is based very little, if at all, on the cost of investigating an application, issuing a permit, or monitoring a permit as required by the new law. In the Memorandum to the Commission, the staff indicates that it agrees with the idea that population served, or the amount of waste, represents the anticipated amount of effort required of the Department. Metro's reading of the law strongly suggests that the Legislature would not agree that this was the intent of the law.

We believe that the level of attention required of DEQ is not exclusively related to either the population served or the amount of waste received. The level of attention is more closely related to the complexity of a permit and the uniqueness of a specific site. The quality of the operator can and does play an equally critical role in the time required of DEQ. Considerably more time is spent on violations and improper site operations. Potential environmental problems are also heavily related to inadequate site operations and subsequent violations.

Testimony - continued
Revised Solid Waste Fee Schedule

The revised fee schedule should be reviewed with several facts in mind.

- . In Section 3a, annual compliance fee schedule, there is only one site that exceeds 200,000 tons per year. That site would be in category A, which has a fee of \$60,000/year.
- . To our knowledge, there are no current sites which would fit into categories (B, C, and D) of Section 3a.
- . There would be approximately 92 permits in Section 3a, categories J and K combined. This would give the DEQ approximately \$6,100 to monitor and inspect these sites.
- . A major resource recovery facility would pay \$500 per year under category 3a L.
- . There would be approximately 90 permits in category 3b C. This would give the DEQ approximately \$9,000 to monitor and inspect these sites.

The DEQ solid waste staff indicates that approximately 1.5 FTE are spent on the Portland metropolitan area and this is equivalent to approximately \$75,000.00. It has also been indicated that the fee structure is intended to generate approximately one-half of this amount. The fees for St. Johns Landfill alone would be approximately \$82,000.00.

The staff memorandum compares the proposed fees to the \$1.68 solid waste user fee collected in the Portland metropolitan area. Rather than comparing the increase of approximately \$.14 per ton for DEQ fees and concluding that it is not that much more, one should realize that this region has already committed itself to proper solid waste management and is willing to fund its program. It is not proper to ask this region to pay for its own program and also subsidize the rest of the state.

Conclusion

We believe the revised fee schedule misses not only the intent of the legislation but also penalizes the concept of regionalization of solid waste facilities. It does nothing to reward a good operation or create a disincentive for a poor operation. We believe it is based merely on the perceived ability to pay. Because the Portland Metropolitan area's solid waste disposal system is more organized and consolidated and because essentially one agency will collect the money, the fee schedule places the burden on one permit, the St. Johns Landfill.

Although the original fee for service approach may result in a lower regulatory unit cost per person in the Portland Metro area, we feel this is simply one of the benefits of effective regional solid waste management in an urban setting. It is clearly not equitable to have the Portland area subsidize the convenience of numerous sites in less populated areas. With each lifestyle occur certain amenities and relevant costs. We believe that the fees involved in solid waste disposal regulation is one of those costs that should be assumed by the benefitted user.

Recommendation

Adopt the fee schedule as originally proposed or one that bases fees upon the anticipated costs of filing and investigating applications, issuing or denying permits and an inspection program to monitor permits as required by ORS 468.065 (2).

The Metropolitan Service District is willing to continue working with DEQ staff to achieve an equitable solution to this problem. Our Solid Waste Department is ready to address the legislative issue with you and would like to consider your input on the fee schedule as outlined.

ESTIMATED REVENUE FROM FEES

A. Compliance Fees:

Facility Type	Annual Fee	# in Category		Total for Category
<u>OVER 200,000</u> 1. Domestic waste facilities serving > 100,000 (< 200,000)	\$10,000	60,000	1	60,000
2. Domestic waste facilities serving 50,000-100,000	\$ 7,000	6,000	4	28,000
3. Domestic waste facilities serving 10,000-50,000 - 20	\$ 3,000	3,000	20	60,000
4. Domestic waste facilities serving 5,000-10,000	\$ 700	500	17	11,900
5. Domestic waste facilities serving < 5,000 > 1000	\$ 150	150	137	20,550
6. Transfer stations serving > 10,000	\$ 3,000	500	2	6,000
7. Industrial waste facilities receiving > 35,000 cu. yds. annually	\$ 3,000	1,000	6*	18,000
8. Industrial waste facilities receiving 17,000-35,000 cu. yds. annually	\$ 700	500	10*	7,000
9. Industrial waste facilities receiving < 17,000 cu. yds. annually	\$ 150	100	86*	12,900
10. Sludge facilities receiving < 25,000 gals. monthly	\$ 300		7	2,100
11. Sludge facilities receiving < 25,000 gals. monthly	\$ 150		8	1,200
12. Closed facilities large or complex	\$ 500		6**	3,000
13. Closed facilities small or non-complex	\$ 150		4**	600
Total:			293	\$211,250

Handwritten notes and corrections:

- Handwritten "25000-50,000" and "10000-25000" above item 4.
- Handwritten "3000" and "1200" above item 4.
- Handwritten "4" above item 4.
- Handwritten "12" above item 4.
- Handwritten "3000" and "50" above item 5.
- Handwritten "62" above item 5.
- Handwritten "49" above item 7.
- Handwritten "5-10,000" above item 8.
- Handwritten "< 5,000" above item 9.
- Handwritten "600" above item 10.
- Handwritten "10" above item 11.
- Handwritten "12" above item 12.
- Handwritten "3920" above item 13.
- Handwritten "311" above the total row.
- Handwritten "186,970" below the total row.
- Vertical labels on the right: "Landfills" (items 1-4), "TRANSFER STATIONS" (items 6-7), "INDUSTRIAL" (items 8-9), "SLUDGE" (items 10-11), "CLOSED" (items 12-13).

Estimated Revenue from Fees (cont'd.)

B. Recycling Program Fees:

Facility Type	Annual Fee	# in Category	Total for Category
1. Facilities serving > 200,000	19,000	1	19,000
> 100,000 < 200,000	\$6,000	4	\$24,000
2. Facilities serving 50,000-100,000	\$4,000	4	\$16,000
3. Facilities serving 10,000-50,000	\$1,750	20	\$35,000
25-50,000	950	4	3800
10-25,000	375	15	5625
4. Transfer stations serving > 10,000	\$1,750	2	\$ 3,500
5. Facilities serving 5,000-10,000	\$ 400	17	\$ 6,800
6. Facilities serving < 5,000	\$ 100	137	\$13,700
> 1000	30	30	900
< 1000	5	62	930
Total:		184	\$99,000
		131	\$51,355

C. Permit Processing Fees:

Revenue may vary considerably from year to year. The trend is toward longer permits (fewer renewals). The 1981 revenue would have been about \$17,500. Assume an average annual revenue of \$10,000.

Grand Total:

A. Compliance Fees	-	\$211,250
B. Recycling Fees	-	\$ 99,000
C. Processing Fees	-	\$ 10,000
		<u>\$320,250</u>

*The number of large and medium-sized industrial waste disposal sites is strictly a guess. Our data is mostly 5 years old. Due to the economy, production is way down and may never be back to previous levels. I estimate there may be six large sites and ten medium ones. There could easily be no large ones and only five medium-sized ones.

**The exact number of closed landfills that will require a permit has not yet been determined. I am aware of 10 that should be under permit. There may be a few more or less permits actually issued.

Note: Large transfer stations have been assigned a fee lower than large disposal sites. The environmental concerns are less and we are taxing the same waste twice (at the transfer site and at the disposal site). However, fees for smaller facilities could be reduced somewhat by charging transfer stations strictly on the basis of tonnage or population served.

A. Compliance Fees:

Facility Type	Revised Schedule	Revised Schedule	Revised Schedule
	Annual Fee (ORIGINAL Schedule) ↓	# in Category (ORIGINAL Schedule) ↓	Total for Category (ORIGINAL Schedule) ↓
Landfills > 500,000 TONS	\$ 10,000 (\$60,000)	(1)	
Landfills 400,000 - 500,000	\$ 10,000 (\$40,000)	(0)	
Landfills 300,000 - 400,000	\$ 10,000 (\$36,000)	(0)	
Landfills 200,000 - 300,000	\$ 10,000 (\$24,000)	(0)	
Domestic waste facilities serving 100,000 - 200,000 TONS	\$ 10,000 (\$12,000)	4 (3)	\$40,000
Domestic waste facilities serving 50,000 - 100,000	\$ 7,000 (\$6,000)	4 (4)	\$28,000
Domestic waste facilities serving 10,000 - 50,000	\$ 3,000 (\$3,000)	20 (4)	\$60,000
Domestic waste facilities serving 5,000 - 10,000	\$ 700 (\$1,200)	17 (15)	\$11,900
Domestic waste facilities serving 1,000 - 5,000	\$ 150 (\$100)	137 (137)	\$20,550
Landfills < 1000	\$ 50 (\$50)		
Transfer stations serving > 10,000	\$ 3,000 (\$500)	2 (2)	\$ 6,000
Transfer Stations < 10,000	\$ 50 (\$50)		
Industrial waste facilities receiving > 35,000 cu. yds. annually (> 10,000 TONS)	\$ 3,000 (\$1,000)	6 ⁰⁰	\$18,000
Industrial waste facilities receiving 17,000 - 35,000 (5 - 10,000) cu. yds. annually	\$ 700 (\$500)	10 ⁰⁰	\$ 7,000
Industrial waste facilities receiving < 17,000 cu. yds. annually (< 5000 TONS)	\$ 150 (\$100)	86 ⁰⁰	\$12,900
Sludge facilities receiving < 25,000 gals. monthly	\$ 300 (\$100)	7	\$ 2,100
Sludge facilities receiving < 25,000 gals. monthly	\$ 150 (\$50)	8	\$ 1,200
Closed facilities large or complex	\$ 500	6 ⁰⁰	\$ 3,000
Closed facilities small or non-complex	\$ 150	4 ⁰⁰	\$ 600
		(12)	(3920)
Total:		311	\$211,250

SALES

Cardboard	\$ 46,000.00
High grade	2,300.00
Newsprint	10,300.00
Scrap iron	10,100.00
Non-ferrous	6,000.00
Glass	5,000.00
Aluminum	13,500.00
Tin cans	1,000.00
Miscellaneous	3,500.00
Surtax revenue (present)	5,300.00
TOTAL REVENUE	<hr/>
	\$103,000.00

COST OF SALES OR PURCHASES OF MATERIAL

Cardboard	6,000.00
Newsprint	900.00
Scrap iron	200.00
Non-ferrous	500.00
Aluminum	1,500.00
Tin cans	200.00
	<hr/>
TOTAL	9,300.00
	<hr/>
	\$93,700

EXPENSES

Working manager wages	18,000.00
Plant wages	14,250.00
Outreach wages	14,250.00
Summer wages	2,000.00
Health insurance	6,200.00
Social security	3,300.00
Unemployment	2,000.00
Workmens' comp.	3,000.00
Additional benefits	500.00
Fuels	5,500.00
Interest	1,000.00
Vehicle reimbursement	100.00
Vehicle repair/maintenance	14,300.00
Equipment repair/maintenance	3,800.00
Insurance expense	650.00
License	200.00
Promotions/ advertising	500.00
Delivery/freight	3,300.00
Recycling supplies	1,100.00
Equipment rental	20,500.00
Facility rental	6,600.00
Vehicle rental	6,390.00
Professional fee	2,630.00
Dues/subscriptions	145.00
Office supplies	650.00
Advertising	400.00
Electricity	570.00
Miscel.	300.00
	<hr/>
	132,135.00

Projected cost

Operational deficit

38,435.

operational
at this

RECYCLED MATERIALS SUMMARY
Recycling at Riverbend

October 1982 through September 1983

Material	Projected			This Month		
	Tons	Price	Income	Tons	Price	Income
Glass	11.840	\$ 37.50	\$ 444.00	124.50		\$4,859.43
Aluminum	2.856	\$440.00	\$1256.55	19.58		13,978.39
Batteries	17.2 *	\$ 1.50	\$ 25.80	67. ea		194.15
Brass, Red	0.025	\$660.00	\$ 16.50	2.51		1,568.87
Brass, Yel.	0.165	\$480.00	\$ 80.75	1.29		854.43
Brass, Yel.B.	0.217	\$400.00	\$ 86.72			
Breakage				12.21		1,362.34
Copper-#1	0.124	\$820.00	\$ 101.35	.22		304.08
Copper-#2	0.093	\$140.00	\$ 13.07	.54		404.22
Copper-#3	0.001	\$400.00	\$ 0.24	.36		316.64
Copper-#1Ing	0.116	\$280.00	\$ 32.48	1.07		536.69
Copper-#2Ing	0.062	\$200.00	\$ 12.32	32.94		280.23
Iron Scrap***	19.520	\$ 45.00	\$ 878.40	202.54		9826.09
Kovar Bor.	-----	-----	-----	.03		18.00
Kovar Slabs	-----	-----	-----	.071		71.00
Lead	0.054	\$180.00	\$ 9.63	.69		138.92
Al&Cu Rad.	0.007	\$480.00	\$ 3.36	.09		65.59
Steel Rad.	0.007	\$620.00	\$ 4.46	.84		77.38
Stainless	0.019	\$340.00	\$ 6.42	.72		173.74
Tin, Block	0.001	2200.00	\$ 1.54			
Tin Cans	2.730	\$ 30.00	\$ 81.90	7.52		150.40
Motor Oil	112.0 **	\$ 0.25	\$ 28.00			57.50
Computer	0.375	\$160.00	\$ 59.94	6.81		1,054.59
Computer Tab	0.040	\$180.00	\$ 7.20	1.35		221.37
Cardboard	29.100	\$ 37.50	\$1091.25	411.92		31,478.80
Hi-Grade, Clrd	0.520	\$100.00	\$ 52.00	59.53		216.99
Hi-Grade, Wh	0.950	\$115.00	\$ 109.25	8.83		793.01
Kraft	0.177	\$ 70.00	\$ 12.42			
Newsprint	11.100	\$ 44.50	\$ 493.95	204.31		12,127.74
Plastic	0.023	\$200.00	\$ 4.64			83.49
Returnables			\$ 13.10			
Reuse Store			\$ 100.00			3,498.67
Hi-Grade Manilla				.074		8.88
TOTALS	82.936		\$5308.64	1,167.55		\$84,721.63

* Each
 ** Gallons
 *** 6.62 tons sold at \$40.00 per ton