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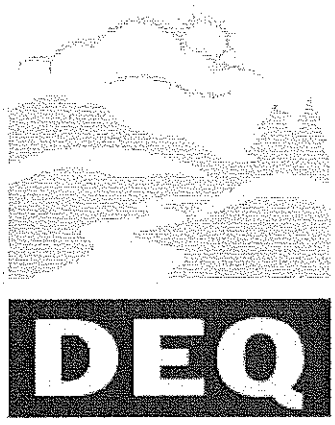
6/29/1984

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of Environmental Quality

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

June 29, 1984

Naterlin Community Center
Room 11, 169 S.W. Coast Highway
Newport, OR 97365

TENTATIVE AGENDA

10:00 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 the May 18, 1984, meeting.

B. Monthly Activity Report for April 1984.

C. Tax Credits.

10:10 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 hold public hearing on proposed revisions to the State Air Quality Implementation Plan (OAR 340-20-047) to address Class I visibility monitoring and to amend new source review rules (OAR 340-20-220 through 270) to add requirements to assess visibility impacts of major new or modified sources on Class I areas.

E. Request for authorization to conduct a public hearing on proposed rule amendments establishing noise emission standards for light duty motor vehicles subject to the Portland area Motor Vehicle Inspection Program, OAR Chapter 340, Division 24.

F. Request for authorization to conduct a public hearing on the modification of hazardous waste management rules, OAR Chapter 340, Divisions 100 to 110.

G. Request for authorization to conduct a public hearing on proposed changes to the indirect source rule in the Medford area (amendments to OAR 340-20-100 to 20-135).

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.

* H. Proposed adoption of pollution control tax credit rules, OAR Chapter 340, Division 16, as a revision to the State Implementation Plan.

* I. Proposed adoption of amendments to the General Groundwater Quality Protection Policy, OAR 340-41-029, to incorporate additional policies for control program implementation.

* J. Proposed adoption of a rule exempting certain classes of disposal sites from the Solid Waste Permit requirements, OAR 340-61-020(2).

K. Request by Crook County for variance from rules prohibiting open burning of industrial wood waste, OAR 340-61-040(2).

L. Informational Report: EQC and DEQ Landfill Siting (SB925 - 1979 Legislature)

M. Significant Willamette Valley Region activities in Lincoln County.

WORK SESSION

The Commission reserves this time, if needed, for further consideration of any item on the agenda.

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 10:00 am to avoid missing any item of interest.

The Commission will not hold a breakfast meeting. They will lunch with local government officials at the Naterlin Community Center.

The next Commission meeting will be August 10 in Pendleton.

DOY63
EQC.AG (5/83)

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

June 29, 1984

Naterlin Community Center
Room 11, 169 S.W. Coast Highway
Newport, OR 97365

REVISED AGENDA

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F. Request for authorization to conduct a public hearing on the modification of hazardous waste management rules, OAR Chapter 340, Divisions 100 to 110.

G. Request for authorization to conduct a public hearing on proposed changes to the indirect source rule in the Medford area (amendments to OAR 340-20-100 to 20-135).

ACTION AND INFORMATION ITEMS

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L. Informational Report: EQC and DEQ Landfill Siting (SB925 - 1979 Legislature)

M. Significant Willamette Valley Region activities in Lincoln County.

SPECIAL ITEM

Proposal for EQC to declare a threat to drinking water in a specifically defined area in mid-Multnomah County pursuant to the provisions of ORS 454.275 et. seq.

WORK SESSION

The Commission reserves this time, if needed, for further consideration of any item on the agenda.

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 10:00 am to avoid missing any item of interest.

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DOY63
EQC.AG (5/83)

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-SEVENTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

June 29, 1984

On Friday, June 29, 1984, the one hundred fifty-seventh meeting of the Oregon Environmental Quality Commission convened in room 11 of the Naterlin Community Center, 169 SW Coast Highway, Newport, Oregon. Present were Commission Chairman James Petersen, and Commission members Mary Bishop, Arno Denecke and Wallace Brill. Present on behalf of the Department were its Director, Fred Hansen, 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

The Commission did not hold a breakfast meeting.

FORMAL MEETING

AGENDA ITEM A: Minutes of the May 18, 1984 EQC meeting.

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

AGENDA ITEM B: Monthly Activity Report for April 1984.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that the April 1984 Monthly Activity Report be approved.

AGENDA ITEM C: Tax Credit Applications.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that the Tax Credit Applications be approved.

PUBLIC FORUM:

Kathy Williams, Coastal Citizens for Alternatives to Pesticides, asked the Commission to provide for monitoring of slash burning on the Coast. She is concerned about the burning of slash which has been treated with herbicides. Ms. Williams offered to work with the Department to see that samples were taken in the right places. Chairman Petersen referred Ms. Williams to Tom Bispham, Administrator of the Air Quality Division, to followup on her concerns.

AGENDA ITEM D: Request for authorization to hold a public hearing on proposed revisions to the State Air Quality Implementation Plan (OAR 340-20-047) to address Class I visibility monitoring and to amend new source review rules (OAR 340-20-220 through -270) to add requirements to assess visibility impacts of major new or modified sources on Class I areas.

In December of 1980, the Environmental Protection Agency adopted its rules protecting visibility in the nation's National Parks and Wilderness areas. Subsequent legal challenges stalled EPA's program, leading to the Commission's April 1982 decision to postpone adoption of Department Visibility Monitoring and New Source Review rule. Recent court decisions have clarified EPA's rule and now require states to adopt Visibility Monitoring and New Source Review rule revisions by the end of 1984.

To meet these requirements and to insure that Oregon's scenic resources are protected, the Department is requesting Commission authorization to hold public hearings on the first phase of a visibility protection plan. Key provisions of the plan include:

- An amendment to the State Implementation Plan committing the Department to operation of a visibility monitoring network and,

- Revision of the New Source Review Rule to include visibility impairment analysis for Class I areas.

The second phase of the visibility protection plan addressing control strategies, integral vistas and several other issues, must be adopted by December, 1986.

The Department requests the Commission's approval to proceed with public hearings on the first phase of these rules.

Director's Recommendation

Based on the summation, the Director recommends that the EQC authorize public hearings to consider public testimony on the proposed visibility protection plan State Implementation Plan (SIP) revision which includes a major new or modified stationary source impact protection provision under the New Source Review Rules of OAR 340-20-220 through -270 and revision of the State of Oregon Air Monitoring Network, OAR 340-20-047, Section 5.2.

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

AGENDA ITEM E: Request for authorization to conduct a public hearing on proposed rule amendments establishing noise emission standards for light duty motor vehicles subject to the Portland area Motor Vehicle Inspection Program, OAR Chapter 340, Division 24.

At the May 18, 1984 Commission meeting, a rulemaking petition was considered and accepted. The petition requests that rulemaking be initiated that would add noise emission requirements to the Portland metropolitan vehicle inspection program. The petitioners requested that these rules include automobiles, light trucks, buses, motorcycles, and heavy duty trucks. In accepting this petition, the Commission directed the Department to evaluate several issues as a first step in the rulemaking process and report progress at this meeting.

Since that time, and as an experiment over 1,000 light duty vehicles (autos and pickups) have been noise inspected at our vehicle test stations. Staff has developed an alternative noise test procedure for light duty vehicles that has several advantages over the procedure proposed by the petitioner. An evaluation of other vehicle categories has been initiated; however, no alternative to the petitioner's request is offered, as we believe further study and information is needed.

At this time, the Department is asking for authorization to hold public hearings on the petitioner's proposal for all categories of motor vehicles and on the Department's alternative for the category that includes automobiles and light trucks.

Director's Recommendation

Based on the summation, it is recommended that the Commission authorize public hearings to take testimony on the proposed amendments to establish noise emission standards for light duty motor vehicles subject to the Portland area motor vehicle inspection program, OAR Chapter 340, Division 24 and the proposal of the petitioner to subject light duty vehicles, trucks, buses and motorcycles to the standards of OAR Chapter 340, Division 35, Section 30, Table 2.

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

AGENDA ITEM F: Request for authorization to conduct a public hearing on the modification of hazardous waste management rules, OAR Chapter 340, Divisions 100 to 110.

The Commission adopted the hazardous waste rules on April 20, 1984. Since then the EPA has adopted a uniform hazardous waste manifest system. The primary purpose of these rule modifications is to adopt the uniform manifest into the state program as is required by EPA.

Several "housekeeping" modifications are also proposed to clarify the rules and to ensure their equivalence to the federal rules.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed modifications of OAR Chapter 340, Divisions 100 to 110.

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

AGENDA ITEM G: Request for authorization to conduct a public hearing on proposed changes to the indirect source rule in the Medford Area (amendments to OAR 340-20-100 to 20-135).

This item concerns authorization to hold a public hearing on proposed permanent changes to the Indirect Source Rules in the Medford area. The Commission adopted temporary changes to the Indirect Source Rules on April 6, 1984, which will expire on October 3, 1984. The temporary changes need to be made permanent in the Medford area to maintain firm requirements for the City of Medford to develop a more aggressive core area parking and circulation plan. Also, permanent changes will help ensure that a parking project or combination of projects would not upset a revised carbon monoxide attainment plan, or otherwise interfere with the attainment and maintenance of the carbon monoxide health standard.

Director Hansen told the Commission he had received a request from the City of Medford asking that this matter be postponed. He said he explained to the City Manger that this was a necessary administrative process to authorize the holding of hearings. He added that given the time frame of the 180 day limit for the existing temporary rule and the scheduling of Commission meetings, this was the last date the Commission could authorize hearings in time for a hearing to be held and a permanent rule adopted before the temporary rule expired in October, 1984.

Chairman Petersen asked why the City asked for a postponement and if they offered any alternatives. Director Hansen replied that the City did not offer any alternatives and he suspected they did not want the Commission to put into place a permanent rule they found burdensome if the City found other strategies to solve their air quality problem.

Director Hansen said he assured the City Manager that if the City came up with a plan that clearly met the requirements for attainment, and if that plan was verifiable, that the Commission and the Department would be happy to consider any modifications to the permanent rule that would be appropriate. The City Manager said they understood, but still asked that a consideration of the proposed rule be put off.

Director's Recommendation

Based upon the summation, the Director recommends that the Commission authorize a public hearing to consider public testimony on adopting permanent revisions to OAR 340-20-100 to 20-135 for indirect sources in the Medford area which are currently in effect as Temporary Rules which will expire on October 3, 1984.

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

AGENDA ITEM H: Proposed adoption of pollution control tax credit rules, OAR Chapter 340, Division 16, as a revision to the State Implementation Plan.

This item proposes adoption of the pollution control tax credit rules. Adoption of the rules would implement statutory authority given the EQC to adopt rules providing guidance for calculation of the percent allocable to pollution control facilities. They would, also, meet the need to provide guidance related to applying and qualifying for tax credits and make minor amendments to existing tax credit related rules.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed Pollution Control Tax Credit Rules, Chapter 340, Division 16, as amended and revise the State Implementation Plan.

Director Hansen also presented the following additional recommendation relating to minor amendments to the rule in front of the Commission.

It is further recommended that Oregon Administrative Rules for Pollution Control Tax Credits, Chapter 340, Division 16 be amended as follows:

Page 16-10, line 3, Item (c) Rejection, delete the word "the".
Page 16-11, line 5, Item (3) Appeal, replace the word "or" with "of".
Page 16-16, line 2, Item (c), delete slash mark (/) between the words "resource recovery".
Page 16-28, line 3, Item No. 4, move entire line to end of Item (a) so as to follow "... information within ...".

Tom Donaca, Associated Oregon Industries, testified that they supported the rules and commended the staff for their work in developing the rules. He requested that when the rules were adopted a summary of them be sent to all affected parties, such as previous applicants for tax credit, Certified Public Accountant and Public Accountant organizations, and the Oregon Economic Development Department.

Mr. Donaca said there may be a potential problem with 340-16-015(b) and (e) requiring filing 30 days in advance of construction. He said that for smaller applicants who may not be familiar with the law it may pose a problem. Mr. Donaca also suggested that subsection (e) be moved closer to subsection (b) for better understanding of the rule.

Michael J. Downs, Administrator of the Department's Management Services Division, responded that the section Mr. Donaca referred to on the 30-day filing requirement was written into the rule because presently there was no provision for adequate review prior to construction. The 30 days would allow the Department time to review a project and make recommendations. Mr. Downs said the Department would make every attempt to inform applicants of the requirement by such things as special notice and prominent display on the application.

Mr. Downs also agreed that subsection (e) of 340-16-015 should be moved closer to subsection (b). And, the Department was planning on notifying the parties suggested by Mr. Donaca.

Chairman Petersen expressed concern about the definition of special circumstances, OAR 340-16-010(10). He said that once special circumstances are a part of the rule then opportunities are created for special loopholes. However Chairman Petersen thought it was generally a good idea to define special circumstances if chances for loopholes are covered.

Chairman Petersen proposed the following amendments to the special circumstances definition, OAR 340-16-010(10):

> ... cases where applicant has relied on incorrect information provided by Department personnel as demonstrated by letters, records of conversations or [similar evidence] other written evidence, or similar circumstances adequately documented ...

Commissioner Denecke commented that every once in a while there is an applicant for tax credit who did not apply for preliminary certification, and it did not seem to make a difference if they were a large or small company. He cited an instance where PGE had not applied on a large project for the Trojan nuclear plant, even though they had applied for other projects connected with the plant. Mr. Downs replied that in the case of PGE, they apparently at one time did not intend to apply for tax credit for the Trojan plant, but now were and some projects just may have been missed.

It was MOVED by Commissioner Denecke that the Pollution Control Tax Credit Rules with the amendment proposed by Chairman Petersen to OAR 340-16-010(10), and subsection (e) of OAR 340-16-015 be moved to between subsections (a) and (b) of OAR 340-16-015, and the further amendments proposed by the Director be adopted. The motion was seconded by Commissioner Bishop and passed unanimously.

AGENDA ITEM I: Proposed adoption of amendments to the General Groundwater Quality Protection Policy, OAR 340-41-029, to incorporate additional policies for control program implementation.

This agenda item proposes to amend the existing state groundwater protection policy. The proposed amendments would add a problem statement policies section, delete certain existing policy statements, and make several minor language and rule numbering changes.

Director's Recommendation

Based on the summation, it is recommended that the Commission amend the existing General Groundwater Protection Policy to include problem abatement policies and to make several housekeeping changes which include deleting two existing policies

Kathy Williams, Coastal Citizens for Alternatives to Pesticides, supported the Director's Recommendation and encouraged increased funding to monitor groundwater used for drinking.

Chairman Petersen replied that the Department was committed to frequent monitoring within its resources.

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

AGENDA ITEM J: Proposed adoption of a rule exempting certain classes of disposal sites from the Solid Waste Permit requirements, OAR 340-61-020(2).

On the advice of legal counsel, the Department is proposing a rule which will formally exempt certain classes of disposal sites from the solid waste permit requirements. The purpose of this action is to formalize existing, informal policy.

At its April 6, 1984 meeting the Commission granted the Department authority to conduct a public hearing on this matter. On May 17, 1984, a hearing was held and verbal and written testimony was received and evaluated. The Department now seeks adoption of this proposed rule.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed rule, OAR 340-61-020(2).

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

AGENDA ITEM K: Request by Crook County for variance from rules prohibiting open burning of industrial wood waste, OAR 340-61-040(2).

Crook County has requested a variance to allow for burning of industrial wood waste at the Crook County Landfill (Prineville). The staff report explains the County's request and outlines the Department's reasons for recommending denial of the request.

Director's Recommendation

Based upon the findings in the summation, it is recommended that the Commission deny Crook County a variance from rules prohibiting open burning of industrial wood waste, OAR 340-61-040(2).

Greg Hendrix, Crook County Counsel, testified in favor of granting the variance. He said that air quality was not a significant issue at this site and that reuse and recycling was already occurring in the area. Mr. Hendrix said that due to the rocky soil and irrigated farmland in the area there was no place to site another landfill. Mr. Hendrix presented pictures and a map of the landfill site to the Commission. He said they would be willing to double the disposal rates if necessary.

Chairman Petersen asked what time period the county would like the variance for. Mr. Hendrix replied they would like a permanent variance but would accept whatever the Commission offered. If the Commission wanted to grant a variance with a yearly review, that would be alright also, he said.

Director Hansen said the Department did feel the County's request had merit, but the Department does not want to see open burning of wastes throughout the state. He said that the Department did not find overwhelming evidence that a variance should be granted to Crook County.

Chairman Petersen felt that the only reason to grant a variance was if there were no alternative sites available. As he understood it, the Department did not know at this time if other suitable sites existed. However under RCRA there may not be a choice in that industrial woodwaste would no longer be able to be burned after 1986, and the County should be aware they needed to be looking for alternatives.

It was MOVED by Commissioner Brill that a variance be granted for one year, with the exception of any burning of vinyl or pentachlorophenol or any other chemicals that might be added to the wood. The motion was seconded by Commissioner Denecke and passed unanimously.

Commissioner Denecke said it was his understanding of the motion that the treated wood wastes would be separated from the pile before the untreated wood was burned.

AGENDA ITEM L: Informational Report: EQC and DEQ Landfill Siting (SB 925--1979 Legislature).

The Department has examined the "supersiting" process established by SB 925 from the 1979 Legislature to evaluate the process and associated problems. It appears that the process is lengthy and as a result of the way the statute is written, ensure that any challenges to siting apply equally the actions taken by local governments as well as contemplated actions by the EQC.

As this report was informational in nature, no action of the Commission was necessary and the Commission had no comment.

AGENDA ITEM M: Significant Willamette Valley Region activities in Lincoln County.

John Borden, Willamette Valley Region Manager presented a summary of significant environmental activities in Lincoln County. The Commission thanked Mr. Borden for his report.

SPECIAL ITEM: Proposal for EQC to declare a threat to drinking water in a specifically defined area in mid-Multnomah County pursuant to the provisions of ORS 454.275 et. seq.

On June 27, 1984, the governing bodies of Multnomah County Central County Service District No. 3, the City of Gresham, and the City of Portland, filed with the Environmental Quality Commission resolutions which, for each jurisdiction:

1. Adopt a sewerage facilities plan for providing sewer service to the areas presently served by cesspools within their ultimate sewer service boundary (as designated in the METRO master sewerage plan) and submit the plan to the EQC as directed by the EQC in OAR 340-71-335(2)(b): and

2. Adopt pursuant to ORS 454.285, preliminary findings of a threat to drinking water, adopt boundaries of the affected area, and submit these to the Environmental Quality Commission for review and investigation, and to hold a public hearing to determine whether a threat to drinking water exists in the affected area.

ORS 454.295 requires the Commission, after receipt of the resolution(s), to review and investigate the conditions in the affected area. If substantial evidence reveals the existence of a threat to drinking water, the Commission is required to hold a public hearing within or near the affected area. The hearing is to be held not less than 50 days after the Commission completes its review and investigation. The purpose of the hearing is to determine whether a threat to drinking water exists in the affected area, whether the conditions could be eliminated or alleviated by the sewage treatment works proposed in the submitted plans, and whether the proposed treatment works are the most economical method to alleviate the conditions.

Director's Recommendation

Based on the summation, it is recommended that the Commission evaluate the information presented in this report and review and investigate the conditions in the affected area as defined in the report entitled Threat to Drinking Water Findings.

It is further recommended that the Commission schedule a special meeting by conference call at the earliest practicable date to receive additional information from the Department, conclude its review and investigation, if substantial evidence reveals a threat to drinking water in the affected area, and schedule a hearing as required by ORS 454.295.

The Commission agreed to review the staff report and meet by special conference call at 9:00 a.m. on Tuesday, July 10, 1984 to take action.

SPECIAL ITEM: Request for Commission to institute proceedings pursuant to Oregon Revised Statutes (ORS) 459.276(2) and ORS 468.100 against Hal C. Blanchard of Florence, Oregon to enforce compliance with to restrain violations of ORS Chapter 459, 468 and the Commission's rules.

The Commission was presented with a memorandum from Gary Messer, of the Department's Willamette Valley Region, summarizing his observations and findings during a June 6, 1984 inspection of an illegal solid waste disposal site along with documents from Lane County staff summarizing the history of this problem.

The property owner and operator of the site, Mr. Hal C. Blanchard, has refused to stop the disposal of additional solid waste at the site and to clean up the illegally deposited materials. The dumping site is in a ravine through which a creek flows to Woahink Lake, a source of domestic water supplies.

he Department is issuing a Notice of Violation and Intent to Assess Civil Penalty to encourage Mr. Blanchard's cooperation in ceasing any further dumping and by removing the solid waste from the ravine. That action alone may not be sufficient to encourage compliance. Therefore, the Department requests that the Commission institute proceedings to restrain Mr. Blanchard from dumping additional solid waste into the ravine and requiring him to remove the existing solid waste.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that the Department be authorized to seek injunctive relief in this matter if necessary.

There being no further business, the formal meeting was adjourned.

The Commission then had lunch with various local officials. Gordon MacPherson, Lincoln City Council member, announced the formation of a consortium which will move forward to establish a new solid waste diposal site at Agate Beach. Planning grant monies expended by the county could appear to have to be paid back to the state under this new arrangement. County officials requested DEQ to explore ways of crediting those funds against the project to avoid paying them back.

Respectfully submitted,

Carol A. Splettstaszer

Carol A. Splettstaszer
EQC Assistant

CAS:d

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-SIXTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

May 18, 1984

On Friday, May 18, 1984, the one hundred fifty-sixth meeting of the Oregon Environmental Quality Commission convened in room 602 of the Multnomah County Courthouse, 1021 SW Fourth Avenue, Portland, Oregon. Present were Commission Chairman James Petersen, Vice-Chairman Fred Burgess, and members Mary Bishop and Arno Denecke. Commissioner Wallace Brill was absent. Present on behalf of the Department were its Director, Fred Hansen, 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

Chairman Petersen, Vice-Chairman Burgess, and members Bishop and Denecke were present at the breakfast meeting along with Director Hansen and several members of the Department staff.

1. Update on field burning acreage registration; questions on Annual Report; field burning along highways study. Sean O'Connell of the Department's Field Burning Office reported on the status of registration for the 1984 burning season. As of this date 310,370 acres had been registered and 5,700 fields had been registered. The Commission did not have any questions on the Field Burning Annual Report.

2. Report on unlimited dragster noise. This report by John Hector of the Department's Noise Section, was prompted by the appearance at the April 6, 1984 meeting during public forum of Mr. James B. Lee who was concerned that the Department's noise control rules for motor racing exempted "top fuel" drag race vehicles from any muffler requirements. Mr. Hector said that review of this rule was scheduled to occur prior to January 31, 1985 and that staff felt this was a reasonable timeframe to completely review this issue.

3. September meeting date. Because of a conflict with the Bar Convention, the September meeting date was moved to the 14th. This meeting will be in Bend.

4. Legislative Concepts. Division Administrators reviewed with the Commission the legislative concepts to be forwarded to the Governor. The Commission agreed with the proposals.

5. Application to EPA for final authorization to operate Oregon Hazardous Waste Program. It was MOVED by Mary Bishop, seconded by Arno Denecke and passed unanimously that the Chairman be authorized to sign the final authorization application for hazardous waste.

FORMAL MEETING

AGENDA ITEM A: Minutes of the April 6, 1984 regular EQC meeting, and the April 20, 1984 special meeting.

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

AGENDA ITEM B: Monthly Activity Report for March 1984.

It was MOVED by Commissioner Bishop, seconded by Commissioner Burgess and passed unanimously that the March 1984 Monthly Activity Report be approved.

AGENDA ITEM C: Tax Credit Applications

It was MOVED by Commissioner Burgess, seconded by Commissioner Denecke and passed unanimously that the Tax Credit Applications be approved.

PUBLIC FORUM:

No one appeared.

AGENDA ITEM D: Request for authorization to conduct a public hearing to amend standards of performance for new stationary sources, OAR 340-25-510 to -675, to include new federal rules for metallic mineral processing and four volatile organic compound sources; and to amend the State Implementation Plan.

In the last year, EPA has adopted five New Source Performance Standards (NSPS). Oregon has an agreement with EPA to annually adopt new NSPS rules and request EPA delegation to administer them in Oregon. This agenda item starts this year's rule adoption process with a request for hearing.

Director's Recommendation

It is recommended that the Commission authorize the Department to hold a hearing to consider the amendments to OAR 340-25-510 to 340-25-690, rules on Standards of Performance for New Stationary Sources, and to submit those rule changes to EPA as amendments to the State Implementation Plan.

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

AGENDA ITEM E: Review of FY 85 State/EPA Agreement and opportunity for public comment.

Each year the Department and the Environmental Protection Agency (EPA) negotiate an agreement whereby EPA provides basic program grant support to the air, water and solid waste programs in return for commitments from the Department to perform planned work on environmental priorities of the state and federal government.

The Department is asking for Commission comment on the strategic policy implications of the program descriptions contained in the draft State/EPA Agreement, and for public comment on the draft Agreement.

Director's Recommendation

It is recommended that the Commission (1) provide opportunity for public comment on the draft State/EPA Agreement; and (2) provide staff its comments on the policy implications of the draft agreement. The public comment period will be open until May 28, 1984.

The Commission had no comments, and no one appeared.

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

AGENDA ITEM F: Petition to incorporate mandatory noise inspections into the Portland area vehicle inspection program.

We have received a rulemaking petition, signed by a number of supporters, to incorporate mandatory noise inspections into our Portland area "clean air" vehicle inspection program. Statutory authority exists to add noise inspections to this program. Thus, the Commission may adopt standards and procedures that would require passing both an air and noise emission test prior to vehicle registration or license plate renewal.

We believe there are a number of issues that must be resolved before rules are approved. However, we also believe the petition has merit and should not be denied. Therefore, it is recommended the Commission direct the Department to initiate studies as part of their rulemaking proceedings. If these issues can be resolved, we will recommend proposed rules be adopted, subject to public hearings.

Representative Jane Cease, House District 19, requested that the EQC fulfill the intent of the statutes and go to rulemaking on this petition. She said this would be an effort to get noisy vehicles off neighborhood streets and onto arterials.

Chris Wrench, Northwest District Association, stressed the need to make traffic compatible with dense population. She said the EQC was obligated to control noise under the existing vehicle inspection program.

Molly O'Reilly, Noise Review Board, City of Portland, testified that noise drives people out of cities. Noise testing would be an effort to get vehicles quieter. This would be an opportunity to get better enforcement of noise rules at racing events.

Elsa Coleman, for Portland City Commissioner Mike Lindberg, said the citizens of Portland considered noise control important to the quality of neighborhoods. The detrimental effects of noise led the City Council to adopt a noise ordinance. State regulation would be more effective than a city ordinance.

Mary Cyetta Peters, NWDA, testified in support of the petition saying it would aid in lessening the noise in Portland.

Michael Sievers, Irvington Community Association, said his group had been trying to manage traffic in their area through the Portland Police to lessen speed and noise. However, this was not a preventative approach to the problem, but a rule change would be. He endorsed the proposal.

Tom Gihring, Coalition for Livable Streets, said that now only about 100 vehicles per year are voluntarily checked for noise. This is an enormously disturbing problem in heavy traffic corridors adjacent to neighborhoods and causes people to move away and neighborhoods to be turned into commercial strips. People do not get used to noise. Police enforcement is not enough. He supported the petition.

Ray Polani, Citizens for Better Transit, wanted a curb on Tri-Met bus noise. He supported electric buses as quieter and recommended that the Tri-Met bus fleet be included in the proposal.

Linore Allison, Livable Streets Coalition, supports the petition. It is reasonable to require mobile sources to quiet down as well as stationary sources. People cannot get away from damage caused by mobile source noise. Motorcycle noise, buses and trucks need to be addressed also. This approach would have little cost to the public except for those with noncomplying vehicles. This proposal would require a lot of self-policing and preventative maintenance.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission accept the petition and direct the Department to initiate rulemaking.

The petitioners had asked for Commission action within 60 days of receipt of the petition. As the next Commission meeting was scheduled for June 29, 14 days after the 60-day deadline, Chairman Petersen asked the representatives of the petitioners if they would agree to the extra time. Linore Allison, speaking for the petitioners, said they did not have a problem with the extra time; their main concern was that the Commission move forward in a timely manner.

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

AGENDA ITEM G: Request by City of Powers for extension of variance from rules prohibiting open burning dumps, OAR 340-61-040(2).

The City of Powers is requesting a long-term extension of an existing variance from the Department's solid waste management rules. The variance would allow continued open burning of solid waste at the City's dump site. A long-term variance would conflict with federal solid waste management regulations. Accordingly, the Department is recommending that only a short-term variance be granted.

Frances Ellen McKenzie, City of Powers, testified that the City had made drastic changes to the site since January. The current site is two miles from the City; the Beaver Hill site is 70 miles. It would place an enormous burden on this small community with many elderly and low income residents to have to haul their garbage to Beaver Hill. The City was doing everything they could to remedy the problem and asked that the Commission consider no less than a five-year variance from the rule. They could purchase a garbage truck from the county for a reasonable amount, but they needed more time.

Mable Schorb, Mayor, City of Powers, said the road to the dump was very hazardous and there was no money to fix it. Coos County cannot help and the City has very low resources. She said they were doing everything they could with their limited resources.

Director Hansen commended Powers for their efforts.

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission grant the City of Powers an extension of their variance from rules prohibiting open burning of solid waste, OAR 340-61-040(2), until May 29, 1986. It is also recommended that the City be placed on notice that there is not at present any opportunity for a variance past that date and other options should be pursued.

It was MOVED by Commissioner Burgess, seconded by Commissioner Denecke and passed unanimously that the Director's Recommendation be approved, however, deleting the last sentence regarding no opportunity for a variance past May 29, 1986.

AGENDA ITEM H: Proposed adoption of hazardous waste management facility permit fees.

The Department is currently collecting annual fees from persons who hold hazardous waste storage, treatment or disposal facility permits. The amount of the fee is determined by the Department to cover some or all site-related administrative, monitoring and surveillance costs.

The most recent fee assessed to the Arlington disposal facility was $103,654. The most recent fees for storage and treatment facilities varied from $250 to $2,500. No past effort was made to separate the fees into administrative, monitoring and surveillance categories.

As a result of statutory changes during the 1983 regular session of the Legislature, hazardous waste permit fees must be established by rule of the Commission. In addition, authority to assess generator and transporter fees was granted if necessary to maintain the program (i.e., to cover loss of federal funds). Current revenue projections, particularly if Congress appropriates $55 to $60 million for state programs in FY85 as they say they will, suggest adequate revenues through July 1985.

Therefore, the Department is recommending adoption of a modified hazardous waste permit fee program, separating out permit application filing and processing fees from compliance determination fees.

A public hearing was held on April 17, 1984, on the proposed rules. No verbal or written comments have been received regarding the proposed adoption of these fees.

Director's Recommendation

Based upon the findings in the summation of the staff report, it is recommended that the Commission adopt hazardous waste management facility permit fee schedule, OAR 340-105-070.

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

AGENDA ITEM I: Proposed adoption of amendments to rules governing on-site sewage disposal, OAR 340-71-100 through 340-71-600 and 340-73-075.

At the February 24, 1984, meeting, the Commission authorized a public hearing proposed amendments to the On-Site Sewage Disposal Rules. After proper notice, a hearing was held in Portland on April 3. Staff reviewed and discussed the issues raised at the hearing, and revised several of the proposed amendments accordingly.

Director's Recommendation

Based upon the findings in the summation of the staff report, it is recommended that the Commission adopt the proposed amendments to OAR 340-71-100 through 340-71-600 and 340-73-075.

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

AGENDA ITEM J: Proposed adoption of amendments to rules for open burning, OAR Chapter 340, Division 23, to ban burning of yard debris in the Portland metropolitan area; to add regulations of fourth priority agricultural open burning in the Willamette Valley; and to amend the State Implementation Plan.

At the direction of the Commission, the Department held several hearings throughout the Portland area on a proposed rule which would ban open burning of yard debris and provide a hardship burning permit to those few individuals who do not have reasonable alternative disposal methods available to them.

Hearing testimony generally opposed the proposed rules with those opposed generally being elderly who testified that they had large lots and large quantities of yard debris to dispose of, but not sufficient financial resources to pay for the removal. Many of these individuals appeared likely candidates for hardship permits.

The Department believes the best course of action on this issue to meet air quality objectives while addressing many of the concerns raised by hearing testimony is to amend the proposed rules to add, among other things:

- -- Economic criteria for issuance of hardship permits.
- -- A waiver provision for hardship permit fees in cases of extreme economic hardship.
- -- A prohibition on burning grass clippings and leaves.
- -- A restriction on burning if significant rainfall is expected.
- -- Limiting hardship burning to three days per season unless justification is made for a higher frequency.
- -- Excluding the area generally east of 181st Avenue from the burn ban on the basis of extreme remoteness to existing landfills and recycling centers.

It will be the Department's intent to increase its enforcement activities with respect to backyard burning and the addition of the permit system in the proposed rules will provide resources and tools to do so.

The Department, therefore, recommends that the Commission reaffirm its findings that a ban on yard debris burning in the Portland metropolitan area is necessary to meet air quality standards, and that reasonable alternative disposal methods are available to a substantial majority of the affected individuals, and the Department further recommends that the revised proposed rules be adopted.

Gordon Crimes, testified that he could not claim personal hardship, but asked about senior citizens on fixed incomes who would find paying fees prohibitive. He agreed with Mayor Ivancie that there was no need to ban backyard burning.

Jeanne Roy, League of Women Voters, supported the rules and said the most recent three amendments were improvements. She was concerned about enforcement and the length of time that hardship permits could be used, and believed yearly permits would make enforcement very difficult. Ms. Roy believes DEQ needs more staff to handle enforcement so someone could go out on every complaint. She asked for a well-publicized number to call in complaints.

Owen P. Cramer, asked who was going to monitor the number of days hardship permittees burn. He suggested it would be more appropriate to tighten up on weather conditions for burn days. Mr. Cramer said no effort had been made to educate burners on proper burning methods. A good fire can result on rainy days if set properly and it was a mistake to prevent burning on rainy days. It is good to prohibit the burning of leaves and grass. Mr. Cramer suggested that the words "or any other plant material that will not burn in a flaming fire" be added. In any event, he asked that a "flaming fire" be required.

Elsa Coleman, for Portland City Commissioner Mike Lindberg, said the City did not have a position on backyard burning, however Commissioner Lindberg does support the ban. Commissioner Lindberg also supports neighborhood cleanup and composting programs and hopes this will help.

John Lang, Portland City Council Task Force, said the task force concluded that citywide collection was essential if a burning ban was imposed. Once the ban was in place, the task force will pursue the matter.

Bobby Simons, supported the ban but was concerned about adequate enforcement. She encouraged recycling and neighborhood cleanups.

Vern Lenz, was concerned about enforcement of the hardship permits. He recommended a shorter term of five to seven days with a lower fee.

Maureen Steinberger, Oregon Environmental Council, supported the ban but preferred the hardship permit for just a one-time burn. She also encouraged recycling.

Robert Mountain, West Linn Recycling Committee, testified for himself. He said that recycling needs education; he promotes on-site composting, and said that grass and leaves should not go to the dump.

Ann Kloka, Physiologist, supported the ban with the proposed changes, and said it was a reasonable compromise that should substantially reduce air pollution.

Robert Smith, supported the ban but had reservations about the exclusion of Gresham. He asked the Commission to consider including this area when a disposal site becomes available. He agreed that grass and leaves should not be burned, and congratulated the EQC on their stand on backyard burning.

Judy Dehen, commended the Commission's hearing officer, Linda Zucker. She said people needed the will to recycle and they would find a way. She hoped extra yard debris would not end up in the dump but be recycled.

S. R. Haatjedt, is an advocate of organic gardening. He sells a chipper/shredder as an alternative to backyard burning.

Commissioner Denecke commended the staff for their efforts in this matter.

Commissioner Burgess made the motion with the following comments:

"Well, Mr. Chairman, as you know this is my last meeting of the Environmental Quality Commission and I'd like to have the prerogative of making the motion. This June I'll have worked for 34 years since graduating from Oregon State University engineering professionally in the field of environmental engineering--teaching, research, consulting with industry, and as an employee of both industry and government agencies. I think before I make my motion I'd just like to make a comment or two.

Oregon has made enormous strides in that period of time. When I went to work for the old State Sanitary Authority, the City of Portland just had a primary plant just barely under completion. Portland and most every other city in the Willamette Valley were dumping raw sewage into the Willamette River. Virtually every industry was dumping it's industrial waste directly into the nearest nearby stream because it was convenient and it was cheap, and the cities used the same argument. All industries were pumping air pollution into the atmosphere with really no control and unfortunately really no concern. Garbage was simply dumped wherever it was convenient. If you went along the Willamette River you'd find that most cities--I don't want to mention any names--but there were many; many of the larger cities simply dumping their garbage over the nearby bank, the fire department would burn it, and the river would wash it away in time.

That was the level of environmental concern that was in Oregon. Whenever you'd try to change that, as the State Sanitary Authority did, invariably they got the same type of excuses that are on this piece of paper (referring to a summary of hearing testimony that was distributed at the meeting). It's too costly, it's inconvenient, and it violates my rights. Well, the people of Oregon finally got fed up with that and the Legislature acted the will of the people. Pollution laws were enacted. Over the years the Department of Environmental Quality and the other agencies were very effective in implementing those laws. Cities, industries and government responded and today the amount of pollution that we have from those sources is indeed a fairly minor part of the overall pollution we have in our atmosphere and our streams. Our problems are largely from nonpoint sources. Backyard burning is one of those nonpoint sources. I think that as we dealt with industries and cities and other point sources of pollution, to the arguments that it is inconvenient, it's too costly, and it violates my rights--people said garbage, we don't believe that now or ever again.

YOU DO NOT HAVE ANY GOD-GIVEN RIGHT TO POLLUTE ANOTHER PERSON'S AIR, WATER OR LAND.

And with that little lecture, it is now, I think, incumbent upon the people of Oregon, because most of our pollution problems today are not point source problems of pollution, but are essentially nonpoint sources because they involve dispersed areas. Much of that comes from the activities of individual people. Clearly it's time for individuals to accept their full responsibility for the improvement of our atmosphere, our waters and our environment in general.

With that little lecture from an aging professor at Oregon State University, I make the motion that we approve the Director's Recommendation with the amendments as shown."

The motion was seconded by Commissioner Bishop and passed unanimously.

There being no further business, the formal meeting was adjourned.

Respectfully submitted,

Carol A. Splettstaszer
EQC Assistant

CAS:d

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, June 29, 1984, EQC Meeting

April 1984 Program Activity Reports

Discussion

Attached is the April 1984 Program Activity Report.

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

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

The purposes of this report are:

1. To provide information to the Commission regarding the status of reported activities and an historical record of project plan and permit actions;

2. To obtain confirming approval from the Commission on actions taken by the Department relative to air contaminant source plans and specifications; and

3. To provide logs of civil penalties assessed and status of DEQ/EQC contested cases and status of variances.

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.

Fred Hansen

Fred Hansen

KNPayne:d
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

April 1984

Table of Contents

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions (Reporting Unit) — April 1984 (Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans
	Month	FY	Month	FY	Month	FY	Pending
Air							
Direct Sources	12	142	10	133	0	0	28
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	12	142	10	133	0	0	28
Water							
Municipal	15	133	5	130	0	3	17
Industrial	4	42	2	44	-	1	11
Total	19	175	7	174	0	4	28
Solid Waste							
Gen. Refuse	-	22	2	19	-	1	5
Demolition	1	4	1	3	-	-	1
Industrial	2	8	2	7	-	-	4
Sludge	-	2	-	4	-	-	-
Total	3	36	5	33	0	1	10
Hazardous Wastes	-	6	-	8	-	-	-
GRAND TOTAL	34	359	22	348	0	5	66

MD907
MAR.2 (1/83)

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PLAN ACTIONS COMPLETED

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
MULTNOMAH	955	SHELL OIL COMPANY	TANK INSTALLATION	03/01/84	APPROVED
LINN	956	TELEDYNE WAH CHANG	PNEUMATIC CONNECTORS	04/10/84	APPROVED
MULTNOMAH	958	ESCO CORPORATION PLANT 1	DUST COLLECTION SYSTEM	03/29/84	APPROVED
MULTNOMAH	961	PORTLAND RENDERING CO	VAPOR CONTROLLER	04/06/84	APPROVED
LINN	964	DURAFLAKE CO	PALLMAN REFINER ADDITION	04/10/84	APPROVED
LINN	966	SOUTHWEST FOREST INDUSTR.	VENEER DRYER REPLACEMENT	04/10/84	APPROVED
SHERMAN	968	PACIFIC GAS TRANS CO	REPL GAS TURB/COMPRESS SET	03/26/84	APPROVED
LAKE	971	OIL-DRI PRODUCTION CO.	BAGHOUSE	04/09/84	APPROVED
LINN	974	HALSEY PULP COMPANY	ELECTROSTATIC PRECIPITATOR	04/03/84	APPROVED
UNION	976	HOFF-RONDE VALLEY LUMBER	ASH & PARTICULATE COLLECTOR	03/25/84	APPROVED

TOTAL NUMBER QUICK LOOK REPORT LINES 10

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — April, 1984 (Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received Month	Permit Actions Received FY	Permit Actions Completed Month	Permit Actions Completed FY	Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
Direct Sources							
New	2	19	0	21	15		
Existing	3	20	3	14	23		
Renewals	6	158	19	149	98		
Modifications	2	22	1	33	11		
Total	13	219	23	217	147	1650	1688
Indirect Sources							
New	2	16	1	13	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	0	0	0	0	0		
Total	2	16	1	13	3	219	222
GRAND TOTALS	15	235	24	230	150	1869	1910

Number of Pending Permits	Comments
32	To be reviewed by Northwest Region
16	To be reviewed by Willamette Valley Region
23	To be reviewed by Southwest Region
2	To be reviewed by Central Region
5	To be reviewed by Eastern Region
15	To be reviewed by Program Operations Section
40	Awaiting Public Notice
14	Awaiting end of 30-day Public Notice Period
147	

MAR.5 (8/79)
AA4407

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
MORROW	READYMIX SAND & GRAVEL	25 0013	12/19/83	PERMIT ISSUED	04/05/84	RNW	
MULTNOMAH	K F JACOBSON	26 1764	01/17/84	PERMIT ISSUED	04/06/84	RNW	
MULTNOMAH	NICOLAI COMPANY	26 2074	11/22/83	PERMIT ISSUED	04/06/84	RNW	
UMATILLA	READYMIX SAND & GRAVEL	30 0002	12/19/83	PERMIT ISSUED	04/06/84	RNW	
PORT.SOURCE	TRANSTATE ASPHALT CO	37 0192	02/23/84	PERMIT ISSUED	04/06/84	RNW	
PORT.SOURCE	WILDISH MEDFORD S & G CO.	37 0250	02/23/84	PERMIT ISSUED	04/06/84	RNW	
GRANT	JOHN DAY LUMBER CO.	12 0015	12/06/83	PERMIT ISSUED	04/09/84	RNW	
MULTNOMAH	COBB LUMBER CO INC	26 2539	02/29/84	PERMIT ISSUED	04/09/84	RNW	
MULTNOMAH	MULTNOMAH SCHOOL OF BIBLE	26 2785	02/27/84	PERMIT ISSUED	04/09/84	RNW	
MULTNOMAH	PIONEER CREMATORIUM INC.	26 3116	12/20/83	PERMIT ISSUED	04/09/84	EXT	
UNION	DEL MONTE CORP PLANT 131	31 0031	02/02/84	PERMIT ISSUED	04/09/84	RNW	
WASHINGTON	WADE MANUFACTURING CO	34 2667	09/18/81	PERMIT ISSUED	04/09/84	EXT	
MORROW	EASTERN OREGON FARMING CO	25 0012	10/21/82	PERMIT ISSUED	04/11/84	MOD	
PORT.SOURCE	COOS BAY TIMBR OPRTRS INC	37 0057	03/20/84	PERMIT ISSUED	04/11/84	RNW	
MULTNOMAH	OREGON ASPHALTIC PAVING	26 1766	12/05/83	PERMIT ISSUED	04/16/84	RNW	
MULTNOMAH	WAGNER MINING EQUIP CO	26 3039	07/09/81	PERMIT ISSUED	04/16/84	EXT	
UMATILLA	PUREGRO CO	30 0091	12/28/83	PERMIT ISSUED	04/16/84	RNW	
WALLOWA	STAPNER LUMBER CO	32 0003	09/09/83	PERMIT ISSUED	04/16/84	RNW	
WALLOWA	WALLOWA LAKE FOREST IND	32 0012	08/08/83	PERMIT ISSUED	04/16/84	RNW	
WASHINGTON	LAURELWOOD ACADEMY	34 2564	11/10/83	PERMIT ISSUED	04/16/84	RNW	
PORT.SOURCE	DESCHUTES READY MIX S & G	37 0038	03/19/84	PERMIT ISSUED	04/16/84	RNW	
PORT.SOURCE	QUALITY ASPHALT PAVING	37 0195	03/22/84	PERMIT ISSUED	04/16/84	RNW	
PORT.SOURCE	CHARLES W. ROYER	37 0221	02/27/84	PERMIT ISSUED	04/16/84	RNW	

TOTAL NUMBER QUICK LOOK REPORT LINES 23

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — April, 1984 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Indirect Sources			
Multnomah	American Red Cross Hq., 319 Spaces, File NO. 26-8403	04/25/84	Final Permit Issued

MAR.6 (5/79)
AA4405

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1984 (Month and Year)

PLAN ACTIONS COMPLETED 7

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES 5			
Tillamook	Thousand Trails Bath House #5 Subsurface System	4/15/84	Comments to Astoria Branch
Tillamook	Thousand Trails Expansion Sites Subsurface System	4/25/84	Comments to Astoria Branch
Marion	Hubbard STP Expansion	4/16/84	P.A.
Lane	Florence Paul Mumford Property Sanitary Sewer	5/8/84	P.A.
Douglas	Green S.D. Landers Lane Sanitary Sewer	5/8/84	P.A.

MAR.3 (5/79) WL3349

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1984 (Month and Year)

PLAN ACTIONS COMPLETED 7

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES 2			
Benton	Horning Farms, Inc. Animal Waste Control System Corvallis	4/11/24	Approved
Polk	Praegitzer Industries Metals Pretreatment Systems Dallas	4/25/84	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1984 (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.			
	* /**	* /**	* /**	* /**	* /**	* /**	* /**
Municipal							
New	0 / 1	5 /10	0 /0	4 /10	4 / 4		
Existing	0 / 0	0 / 0	0 /0	0 / 0	0 / 0		
Renewals	4 / 0	44 /16	1 /0	36 /14	38 /10		
Modifications	0 / 0	1 / 2	0 /0	0 / 1	1 / 1		
Total	4 / 1	50 /28	1 /0	40 /25	43 /15	237/137	241/141
Industrial							
New	2 / 0	7 / 4	0 / 1	3 / 6	4 / 3		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	0 / 0	27 /17	2 / 2	25 /21	33 /11		
Modifications	1 / 0	5 / 0	0 / 0	2 / 0	2 / 0	(withdrew 1 NPDES Mod.)	
Total	3 / 0	39 /21	2 / 3	30 /27	39 /14	190/164	194/167
Agricultural (Hatcheries, Dairies, etc.)							
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 / 4	0 / 0		
Modifications	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Total	0 / 0	0 / 0	0 / 0	0 / 4	0 / 0	2 /12	2 /12
GRAND TOTALS	7 / 1	89 /49	3 / 3	70 /56	82 /29	429/313	437/320

* NPDES Permits
** State Permits

3 General Permits Granted
Sources Under Permit Ajusted by Subtracting 330 General Permits

MAR.5W (8/79) WL3312

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1984 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL AND INDUSTRIAL SOURCES	NPDES (3)		
Clackamas	Oregon Portland Cement Co. Lake Oswego Plant	4/3/84	Permit Renewed
Clatsop	City of Seaside STP	4/3/84	Permit Renewed
Multnomah	Ameron Inc. Portland	4/6/84	Permit Renewed
MUNICIPAL AND INDUSTRIAL SOURCES	WPCF (3)		
Yamhill	Gray & Company Dayton Plant	4/3/84	Permit Renewed
Clackamas	Molalla Sand & Gravel Co., Liberal	4/3/84	Permit Renewed
Washington	Tankersley - Food Processing Hillsboro	4/3/84	Permit Issued
MUNICIPAL AND INDUSTRIAL SOURCES	GENERAL PERMITS (3)		
Cooling Water, Permit 0100-J, File 32550 (1)			
Clackamas	Ivan Altman, M.D. West Linn	4/23/84	General Permit Granted
Portable Suction Dredge, Permit 0700-J, File 32600 (1)			
Jackson	Delbert Dalton Grants Pass	4/23/84	General Permit Granted
Oily Storm Runoff, Permit 1300-J, File 32577 (1)			
Multnomah	ARCO Petroleum Products Portland	4/3/84	Transferred to General Permit

MAR.6 (5/79) WL3313

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — April 1984 (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			
General Refuse							
New	-	12	-	6	5		
Existing	-	-	-	-	-		
Renewals	5	21	-	3	20		
Modifications	1	7	-	5	2		
Total	6	40	0	14	27	170	170
Demolition							
New	-	2	-	2	-		
Existing	-	-	-	-	-		
Renewals	-	5	-	1	3		
Modifications	-	1	-	1	-		
Total	0	8	0	4	3	15	15
Industrial							
New	1	4	1	3	4		
Existing	-	-	-	-	-		
Renewals	-	10	-	3	16		
Modifications	1	2	-	1	3		
Total	2	16	1	7	23	97	97
Sludge Disposal							
New	-	-	-	-	-		
Existing	-	-	-	-	-		
Renewals	-	7	-	4	3		
Modifications	-	-	-	2	-		
Total	0	7	0	6	3	15	15
Hazardous Waste							
New	-	1	-	2	5		
Authorizations	91	1024	91	1024	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	91	1025	91	1026	6	14	19
GRAND TOTALS	99	1096	92	1057	62	311	316

SC1513.B
MAR.5S (4/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — April 1984 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Tillamook	Don Aufdermeyer New wood waste disposal site	4/17/84	Letter authorization issued

SC1513.C
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division (Reporting Unit) — April 1984 (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 - 91				
OREGON - 34				
4/3	Soil and water samples	Research lab	0	50 drums
4/3	PCB-contaminated sawdust	Site cleanup	10 drums	0
4/3	Paint sludge	Mining equip.	1100 gal.	4400 gal.
4/3	Heavy metal sludge	Electronic co.	550 gal.	2700 gal.
4/3	Ink sludge	Ink formulation	4500 gal.	18,000 gal.
4/4	Contaminated lab equipment and residual environmental samples	Research lab	0	50 drums
4/4	Petroleum sludge with rust	Chemical co.	0	220 gal.
4/4	Ammonium hydroxide-contaminated water	" "	0	440 gal.
4/4	Acid rinse water	" "	0	2200 gal.
4/4	PCB transformer	Electrical equipment mfg.	0	150 gal.
4/4	PCB-contaminated solids	" "	0	400 drums
4/4	Zinc-chrome hydroxide sludge	Power tool mfg.	0	1500 gal.

SC1513.E
MAR.15 (1/82)

Date	Type	Source	Quantity	
			Present	Future
4/4	Ethylene glycol/water solution	Power tool mfg.	0	200 gal.
4/9	Trichloroethylene-contaminated water	Solvent recycling	80 drums	11,000 gal.
4/10	Scrubber sludge	Steel mill	200 cu.yd.	0
4/17	Polymeric methylene bis-diphenyl isocyanate resin solution	Chemical co.	20 gal.	0
4/17	Water-based latex adhesive	" "	440 gal.	0
4/17	Copper sulfate/sulfuric acid solution	Electronic co.	0	3000 gal.
4/17	Ammonium bifluoride/ hydrogen peroxide soln.	" "	0	220 gal.
4/17	Caustic solution with formaldehyde	" "	0	5200 gal.
4/17	Copper nitrate/nitric acid solution	" "	0	5200 gal.
4/17	Chromic acid solution	" "	0	8200 gal.
4/17	Hydrochloric acid	" "	0	14,000 gal.
4/19	Carbonaire batteries and soil	Dept. of Defense	28 drums	0
4/19	Spent carbonaire batteries	" "	39 drums	0
4/20	PCB capacitors	Foundry	0	10 drums
4/23	PCB transformers	Paper mill	12 cu.yd.	0
4/23	PCB-contaminated materials	" "	440 gal.	0
4/23	PCB liquids	" "	8 drums	0
4/23	Caustic liquid soap	Nonferrous metal mfg.	1 drum	0
4/23	Chromic acid solution	Electroplating	0	8000 gal.

Date	Type	Source	Quantity Present	Quantity Future
4/23	PCB-contaminated materials	Paper mill	0	2 drums
4/23	Lead chromate-based paint	State agency	4187 gal.	0
4/23	Titanium dioxide-based paint	" "	1855 gal.	0
WASHINGTON - 43				
4/3	Mercury-contaminated brine sludge	Pulp mill	0	15 drums
4/3	Methylene chloride	Ski mfg.	110 gal.	440 gal.
4/3	Di-n-octyl phthalate with polyol	" "	110 gal.	440 gal.
4/3	Di-n-octyl phthalate with isocyanate	" "	110 gal.	440 gal.
4/3	Trichloroethane	" "	55 gal.	220 gal.
4/3	Mixed ignitable solvents - ketones, alcohols, etc., with trichloroethane	" "	55 gal.	220 gal.
4/3	Various resin samples in lab packs	" "	0	4 drums
4/3	Various hardening agents in lab packs	" "	0	4 drums
4/6	Arsenic-contaminated water	Shipbuilding	100,000 gal.	0
4/6	Contaminated filter bags	Steel co.	75 cu.yd.	0
4/18	PCB-contaminated filters	Electric util.	0	5 drums
4/18	PCB-contaminated oil	" "	0	10 drums
4/18	PCB-contaminated materials	" "	0	5 drums
4/18	PCB-contaminated transformers	" "	0	30 units

Date	Type	Source	Quantity	
			Present	Future
4/18	PCB transformers	Electric util.	0	3 units
4/20	Acid solution	Waste treatment	0	10,000 gal.
4/20	PCB-contaminated oil	Lumber co.	0	400 gal.
4/20	Tricresyl phosphate reagent	Dept. of Defense	0	6 drums
4/20	PCB liquids	Electric util.	220 gal.	0
4/20	Coal tar creosote and pitch-contaminated soil	Waste site cleanup	770 gal.	0
4/20	Caustic film photo-polymer sludge	Electronic co.	825 gal.	3300 gal.
4/20	Non-PCB transformer oil contaminated with water	Dept. of Defense	125 gal.	0
4/23	Creosote tank bottoms	Wood preserving	0	50 drums
4/23	Tank bottoms/filter bags contaminated with arsenic, chromium and copper	" "	0	75 drums
4/23	Tank bottoms/sump sludges contaminated with penta-chlorophenol	" "	0	50 drums
4/23	Creosote coal tar/penta-contaminated soil, wood chips, rocks, etc.	" "	0	25 drums
4/23	Aluminum potliners	Al co.	0	6200 tons
4/23	Pentachlorophenol/ methanol waste	Chemical co.	0	15-40 drums
4/23	Pentachlorophenol-contaminated wood chips, rocks, soil, etc.	Wood treatment	0	50 drums
4/23	Creosote coal tar-contaminated rocks, soil, wood chips, sticks, etc.	" "	0	50 drums

Date	Type	Source	Quantity	
			Present	Future
4/23	Beryllium shavings	Dept. of Defense	0	2 drums
4/23	Organotin pesticide-contaminated rubber and steel	" "	0	100 cu.yd.
4/23	Outdated ammonium citrate chemical	" "	0	5 drums
4/23	Outdated diethylene-triamine chemical	" "	0	10 drums
4/23	Outdated Rodine 213 product containing hydrochloric acid	" "	0	10 drums
4/23	Outdated TURCO 6017 Thin product containing dichloroethane, formic/ acetic acids and toluene	" "	0	5 drums
4/23	Spent Freon	Energy storage & conversion systems	100 gal.	400 gal.
4/23	MEK with acetone & IPA	" "	100 gal.	400 gal.
4/23	Isopropyl alcohol with water	" "	100 gal.	400 gal.
4/23	Mixed acids - H_2SO_4, HF, HCl, HNO_3, & H_3PO_4	" "	100 gal.	400 gal.
4/25	Caustic cleaning soln.	Printing co.	0	30 drums
4/25	Contaminated water	Site cleanup	6 drums	0
4/25	Contaminated ground-water	" "	3300 gal.	0
OTHER STATES - 14				
4/3	Pesticide samples	Research lab (Calgary)	0	20 drums
4/9	Gasoline-contaminated water	Oil co. (Utah)	120 drums	480 drums
4/17	Pesticide-contaminated rinse water	Pesticide application (Idaho)	0	2300 gal.

Date	Type	Source	Quantity	
			Present	Future
4/17	PCB transformers	Sugar co. (ID)	0	1000 gal.
4/17	PCB-contaminated rags	" "	0	5 drums
4/23	PCB-contaminated debris	Electric util. (MT)	0	500 cu.yd.
4/23	Mixed ignitable solvents of heptane, ethyl alcohol, etc.	Printing co. (HI)	5 drums	20 drums
4/23	Paint thinner	Food processor (HI)	10 drums	40 drums
4/23	Hydraulic oil with hydrochloric acid	Research lab (HI)	1 drum	4 drums
4/23	Vacuum pump oil with arsenic	Electronic co. (ID)	0	10 drums
4/23	PCB-contaminated laboratory waste	Electric util. (MT)	0	385 gal.
4/25	Chrome-contaminated demolition debris	Dept. of Defense (Guam)	43,720 lb.	0
4/25	PCB-contaminated materials	Electric util. (AK)	2 cu.yd.	0
4/25	PCB transformers	" "	1 cu.yd.	0

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — April, 1984 (Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	Mo	FY	Mo	FY	Mo	Last Mo
Industrial/ Commercial	7	83	15	80	109	124
Airports			3	13		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — April, 1984 (Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Clackamas	Marks Brothers, Inc. Happy Valley	04/84	In Compliance
Clackamas	Park Place Wood Products, Inc. Oregon City	04/84	In Compliance
Clackamas	Gun Club Eagle Creek	04/84	In Compliance
Multnomah	L. Celoria Fill Dirt Sales Portland	04/84	In Compliance
Multnomah	Columbia Forge & Machine Works Portland	04/84	In Compliance
Multnomah	Gordon Russell Grade School Gresham	04/84	In Compliance
Multnomah	Instrument Sales and Service Portland	04/84	Referred to City
Multnomah	Professional Towel Portland	04/84	In Compliance
Multnomah	Unknown Whine NE Portland	04/84	Noise Discontinued
Washington	Earthquake Ethel's Beaverton	04/84	In Compliance
Benton	Evans Products, Battery Separator Plant Corvallis	04/84	In Compliance
Benton	Willamette Industries, Inc., Veneer Division Philomath	04/84	Source Closed
Marion	Unknown Whine Salem	04/84	Noise Discontinued
Lane	Unknown Roar Eugene	04/84	Noise Discontinued
Josephine	D. Wheeless Enterprises Grants Pass	04/84	Exempt
Grant	Tallgrass Ranch Airport	04/84	Boundary Approved
Benton	Muddy Creek Duck Club Airport	04/84	Boundary Approved
Marion	P.G.E., Willamette Division Heliport	04/84	Boundary Approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1984

CIVIL PENALTIES ASSESSED DURING MONTH OF APRIL, 1984:

Name and Location of Violation	Case No. & Type of Violation	Date Issued	Amount	Status
Wesley M. Lippert dba/Lippert Carpets Grants Pass, Oregon	AQOB-SWR-84-22 Open burned commercial waste.	4-4-84	$50	Paid 4-12-84
Daniel R. Hess Astoria, Oregon	AQOB-NWR-84-14 Open burned demolition waste.	4-4-84	$100	Paid 4-24-84

GB3393

APRIL 1984
DEQ/EQC Contested Case Log

ACTIONS	LAST MONTH	PRESENT
Preliminary Issues	14	14
Discovery	0	0
Settlement Action	5	5
Hearing to be scheduled	5	7
Hearing scheduled	3	3
HO's Decision Due	1	1
Briefing	1	0
Inactive	2	2
SUBTOTAL of cases before hearings officer.	31	32
HO's Decision Out/Option for EQC Appeal	3	1
Appealed to EQC	0	1
EQC Appeal Complete/Option for Court Review	0	0
Court Review Option Pending or Taken	0	0
Case Closed	0	2
TOTAL Cases	34	36

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
AG1	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
Hrngs	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

April 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78		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		Prtys	17-WQ-NWR-79-127 Oil Spill Civil Penalty of $5,000	Stipulated settlement to be submitted to EQC for approval at its May 18, 1984 meeting.
~~PULLEN, Arthur W. dba/Foley Lakes Mobile Home Park~~	~~07/15/81~~	~~07/15/81~~		~~Prtys~~	~~16-WQ-CR-81-60 Violation of EQC Order, Civil Penalty of $500~~	No appeal. Case closed.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	03/17/83	Dept	23-AQ-FB-81-15 FB Civil Penalty of $3,000	Department filed notice of appeal 4/13/84.
~~PULLEN, Arthur dba/Foley Lakes Mobile Home Park~~	~~03/16/82~~	~~03/29/82~~		~~Prtys~~	~~28-WQ-CR-82-16 Violation of EQC Order, Civil Penalty of $4,500~~	No appeal. Case closed.
OLINGER, Bill Inc.	09/10/82	09/13/82	10/20-21/83 11/2-4/83 11/14-15/83 5/24/84	Prtys	33-WQ-NWR-82-73 WQ Civil Penalty of $1,500	Testimony scheduled to conclude 5/24/84.
GIANELLA, Vermont	12/17/82	12/28/82	09/20/83	Prtys	41-AQ-FB-82-08 FB Civil Penalty of $1,000	Decision issued 4/24/84.
SCHLEGEL, George L.	12/30/82	01/03/83		Prtys	43-AQ-FB-82-05 FB Civil Penalty of $400	Stipulated settlement to be reviewed by EQC 5/18/84.
FAXON, Jay dba/Faxon Farms	01/03/83	01/07/83		Prtys	44-AQ-FB-82-07 FB Civil Penalty of $1,000	Stipulated settlement to be reviewed by EQC 5/18/84.
MARCA, Gerald	01/06/83	01/11/83		Resp	45-SS-SWR-82-101 SS Civil Penalty of $500, 46-SS-SWR-82-114 Remedial Action Order.	Scheduled hearing deferred to June '84 pending implementation of agreed compliance plan.
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Hrgs	50-AQ-FB-82-09 FB Civil Penalty of $1,000	Transcript being prepared.
McINNIS ENT.	06/17/83	06/21/83		Hrngs	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of $500.	To be scheduled.
TELEDYNE WAH CHANG ALBANY	09/07/83	09/08/83		Prtys	53-AQOB-WVR-83-73 OB Civil Penalty of $4000	To be scheduled.
CRAWFORD, Raymond, M.	09/15/83	09/16/83		Hrngs	54-AQOB-NWR-83-63 OB Civil Penalty of $2000	To be scheduled.
MID-OREGON CRUSHING	09/19/83	09/27/83		Hrngs	55-AQ-CR-83-74 AQ Civil Penalty of $4500	To be scheduled.
McINNIS ENTERPRISES, LTD., et al.	09/20/83 10/25/83	09/22/83 10/26/83	05/30/84	Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of $14,500, and 59-SS-NWR-83-33290P-5 SS license revocation.	Consolidated hearing scheduled.
WARRENTON, City of	8/18/83	10/05/83		Prtys	57-SW-NWR-PMT-120 SW Permit Appeal	Prtys discussing informal resolution.
CLEARWATER IND., Inc.	10/11/83	10/17/83		Hrngs	58-SS-NWR-83-82 SS Civil Penalty of $1000	To be scheduled.

April 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WILLIS, David T., Jr.	01/05/84	01/18/84		Hrngs	01-AQOB-NWR-83-102 OB Civil Penalty of $200	To be scheduled.
CLEARWATER IND., Inc.	01/13/84	01/18/84		Hrngs	02-SS-NWR-83-103 SS Civil Penalty of $500	To be scheduled.
HARPER, Robert W.	03/13/84	03/21/84		Prtys	03-AQ-FB-83-23 FB Civil Penalty of $1,000	Preliminary issues.
KUENZI, Lee A.	03/17/84			Prtys	04-AQ-FB-83-01 FB Civil Penalty of $500	Preliminary issues.
MALPASS, David C.	03/26/84			Prtys	05-AQ-FB-83-14 FB Civil Penalty of $500	Preliminary issues.
LOE, Roger E.	03/27/84			Prtys	06-AQ-FB-83-15 FB Civil Penalty of $750	Preliminary issues.
SIMMONS, Wayne	03/27/84			Prtys	07-AQ-FB-83-20 FB Civil Penalty of $300	Preliminary issues.
COON, Mike	03/29/84			Prtys	08-AQ-FB-83-19 FB Civil Penalty of $750	Preliminary issues.
BIELENBERG, David	03/28/84			Prtys	09-AQ-FB-83-04 FB Civil Penalty of $300	Preliminary issues.
BRONSON, Robert W.	03/28/84			Prtys	10-AQ-FB-83-16 FB Civil Penalty of $500	Preliminary issues.
NEWTON, Robert	03/30/84			Prtys	11-AQ-FB-83-13 FB Civil Penalty of $500	Preliminary issues.
KAYNER, Kurt	04/03/84			Prtys	12-AQ-FB-83-12 FB Civil Penalty of $500	Preliminary issues.
BUYSERIE, Gary	03/26/84			Prtys	13-AQ-FB-83-21 FB Civil Penalty of $300	Preliminary issues.
BUYSERIE, Gary	03/26/84			Prtys	14-AQ-FB-83-22 FB Civil Penalty of $750	Preliminary issues.
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84			Prtys	15-AQ-FB-83-22 FB Civil Penalty of $500	Review requested. Preliminary issues.
DOERFLER FARMS	04/30/84			Prtys	16-AQ-FB-83-11 FB Civil Penalty of $500	Review requested. Preliminary issues.

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, June 29, 1984, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation:

It is recommended the Commission take the following actions:

1. Approve tax credit applications for:

   a. Facilities subject to old tax credit law.

Appl. No.	Applicant	Facility
T-1679	Schweizer Dairy	Manure control system
T-1683	Permapost Products Co.	Concrete pad with curbs
T-1686	Kenneth & Eleanore S. Purdy	Seven wind machines
T-1694	The Amalgamated Sugar Company	Flue gas recirculation system

   b. Facilities subject to new tax credit law, Chapter 637, Oregon Laws 1983.

Appl. No.	Applicant	Facility
T-1684	Park Place Wood Products, Inc.	Baghouse to control wood dust

2. Revoke Pollution Control Facility Certificate 1041 issued to Louisiana-Pacific Corporation as the certified facility has been removed from service (see attached review report).

Fred Hansen

KNPayne
229-6484
6/13/84
Attachments

DEQ-46

PROPOSED JUNE 1984 TOTALS

Air Quality	$244,249
Water Quality	64,575
Solid/Hazardous Waste	-0-
Noise	-0-
	$308,824

1984 CALENDAR YEAR TOTALS

Air Quality	$1,619,537
Water Quality	1,310,052
Solid/Hazardous Waste	635,114
Noise	-0-
	$3,564,703

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Schweizer Dairy
16109 S.E. Hwy. 212
Clackamas, OR 97015

The applicant owns and operates a dairy farm near Clackamas.

Application was made for tax credit for a water pollution control facility.

2. Description of Claimed Facility

The facilities described in this application are improvements to an existing manure control system. The improvements consist of:

a. an 8' diameter x 8' deep concrete sump
b. a 1/2 hp sump pump with level control switch
c. approximately 142' of 6" gutter
d. 250' of 6" tile, and
e. approximately 100' of open diversion ditch.

Request for Preliminary Certification for Tax Credit was made October 26, 1983 and approved December 6, 1983. Construction was initiated on the claimed facility October 1983, completed December 15, 1983, and the facility was placed into operation December 15, 1983.

Facility Cost: $2557.00.

3. Evaluation of Application

Although the applicant had an existing manure holding tank, runoff from building roofs and a nearby pasture flowed near the barn causing manure to enter a county road ditch. The facility improvements divert roof and pasture runoff directly to roadside ditches, away from the barn area. Manure residue wash water from the milking parlor and wash water from the milk house also used to enter county road ditches. The water now flows to the new concrete sump where it is pumped to the existing holding tank for land application. The new system has proven to be effective in capturing all manure and wash water. There is no return on investment from this facility.

4. Summation

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

b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.

d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $2557.00 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1679.

Larry D. Patterson:l
WL3286
(503) 229-5374
April 26, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Permapost Products Company
P.O. Box 100
Hillsboro, OR 97123

The applicant owns and operates a wood pressure treating facility near Hillsboro.

Application was made for tax credit for a water pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a 14,000 ft^2 six-inch thick, reinforced concrete pad, with easement curbs four inches high.

Request for Preliminary Certification for Tax Credit was made September 27, 1983, and approved November 21, 1983. Construction was initiated on the claimed facility October 22, 1983, completed December 10, 1983, and the facility was placed into operation December 15, 1983.

Facility Cost: $62,018.32 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, drippings off the freshly treated lumber fell directly onto soil which provided little protection of the groundwater. The new concrete pad contains the drippings and contaminated storm runoff. This material (contaminated with pentachlorophenol, copper, chromium, and arsenic) is pumped to an existing treatment and recycling system. This system, which was required by the Department, is expected to adequately protect groundwater from contamination by future activities. There has been no return on investment from this water pollution control system. New retort roll-out rails installed on top of the concrete pad were not included in the tax credit request.

4. Summation

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

b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.

d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.

e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $62,018.32 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1683.

Larry D. Patterson:t
WT8
(503) 229-5374
May 25, 1984

Application No. T-1686

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Kenneth & Eleanore S. Purdy
7473 Millcreek Road
Aumsville, OR 97335

The applicant owns and operates a pear orchard at 928 Carpenter Hill Road, Phoenix, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is seven wind machines used to provide frost damage protection to pear trees.

Request for Preliminary Certification for Tax Credit was made on November 24, 1982 and approved on December 20, 1982.

Construction was initiated on the claimed facility on January 15, 1983, completed on March 11, 1983, and the facility was placed into operation on March 11, 1983.

The facility is subject to the provisions of the tax credit law in effect prior to amendment in 1983.

Facility Cost: $119,700.00 (Accountant's Certification was provided).

3. Evaluation of Application

Wind machines reduce the number of oil fired orchard heaters needed to provide frost protection for fruit trees. Orchard heaters cause an air polluton problem in the surrounding communities due to incomplete combustion. Wind machines eliminate the use of heaters on light frost nights and reduce by approximately 90% the number of heaters needed on heavy frost nights. A substantial purpose for installing wind machines is to reduce air contaminant emissions and thus make the orchard a better neighbor. The emissions from farm operations are not regulated by the Department.

The factor used to establish the portion of cost allocable to polluton control is the estimated annual percent return on the investment on

the wind machines. The applicant submitted cost data showing a fuel cost savings of $6,174 per wind machine for an average season. The return on investment was determined using the method shown in the Department's tax credit program guidance handbook. The savings in fuel operation expenses only were considered. The other operating expenses are small compared to fuel cost and are considered to cancel each other. The guidance handbook method results in a return on investment of 35% and a percent of the cost allocable to pollution control of less than 20%.

The application was received on March 15, 1984, additional information was received on May 14, 1984, and the application was considered complete on May 18, 1984.

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 468, and the rules adopted under that chapter.

e. The portion of the facility cost that is properly allocable to pollution control is less than 20%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $119,700 with less than 20% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1686.

RAY POTTS:a
(503) 6093
May 25, 1984
AA4434

Application No. T-1694

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

The Amalgamated Sugar Company
Nyssa, Oregon Factory
P.O. Box 1520
Ogden, UT 84402

The applicant owns and operates a sugar beet refinery at 101 East Main, Nyssa, Oregon.

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

2. Description of Claimed Facility

The facility described in this application consists of a flue gas recirculation system.

Request for Preliminary Certification for Tax Credit was made on May 8, 1981, and approved on July 16, 1981.

Construction was initiated on the claimed facility on July 23, 1981, completed on October 22, 1981, and the facility was placed into operation on October 14, 1981.

Facility Cost: $111,000.00 (Accountant's Certification was provided). (Complete documentation by copies of invoices was provided.)

3. Evaluation of Application

The claimed facility, consisting of a flue gas recirculation system, was the method selected to reduce emission loading from the sugar beet pulp dryer to the scrubbers. The selection of this system was made equally to insure continued compliance of emissions from the scrubbers, which were considered marginal and to effect an energy savings by preheating the combustion air and combustion of a portion of the pulp dust. The flue gas recirculation system accomplishes this by recycling an adjustable amount (10-25%) of flue gas to the coal fired furnace. The amount is adjusted to assure proper drying and to maintain oxygen levels high enough for proper combustion.

The facility has been inspected by Department personnel and has been found to be operating in compliance with permit conditions and

Department regulations. Stack test results indicate average grain loading and percentage reduction of scrubber emissions as follows:

West scrubber - 0.0575 gr/dscf (24.5% reduction)
Center scrubber - 0.0609 gr/dscf (54.8% reduction)
East scrubber - 0.0854 gr/dscf (21.1% reduction)

Annual operating expenses are estimated by the applicant to be $5,350.00. A breakdown of the operating expenses are as follows:

Property Tax -	$2,400.00
Maintenance -	250.00
Insurance -	2,700.00
Total	$5,350.00

The energy savings realized by the applicant are estimated to be $3,440.00 per year from recycling 25% of the flue gas. Since the benefits estimated by the company are $1,910.00 less than the annual operating expenses, there is no return on investment in the facility. Therefore, since the claimed 50% is within the guidelines on cost allocations, 40% or more but less than 60% of the facility cost is allocable to pollution control.

The application was received on April 10, 1984 and the application was considered complete on April 10, 1984.

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 468.155(1) and (2).

e. The portion of the facility cost that is properly allocable to pollution control is 40% or more but less than 60%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of $111,000.00 with 40% or more but less than 60% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1694.

W.F. FULLER:a
(503) 229-5749
May 25, 1984
AA4436

Application No. T-1684

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Park Place Wood Products, Inc.
13665 S. Holcomb Blvd.
Oregon City, OR 97045

The applicant owns and operates a cabinet and wood products manufacturing plant at Oregon City.

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 baghouse to control wood dust air contaminant emissions and an associated noise silencer.

Request for Preliminary Certification for Tax Credit was made on June 2, 1982, and approved on June 18, 1982.

Construction was initiated on the claimed facility on September 15, 1983, completed on February 23, 1984, and the facility was placed into operation on February 23, 1984.

This facility is subject to the provisions of the new tax credit law, Chapter 637, Oregon Law 1983.

Facility Cost: $13,549.01 (Complete documentation by copies of invoices was provided.)

3. Evaluation of Application

Park Place Wood Products, Inc. installed an improved wood dust collection system for the wood working operations. The air pollution control facility portion of the project was a baghouse. Also included in the facility was a commerical silencer to reduce the noise made at the outlet of the baghouse.

The baghouse was purchased used and rebuilt for this application. The outlet from the baghouse is directed back into the manufacturing building during the winter months to conserve building heat energy. The energy savings is estimated to be less than the $885.00/year operating expense. The silencer is necessary to limit the noise inside the building work area. An investigation by the Department documented that operation of the baghouse dust collection facility venting to the outside without the silencer results in a violation of the Department's noise standards.

No specific mention was made of the noise silencer in the application for preliminary tax credit certification for the facility. The Company claims that the silencer was a necessary part of the baghouse as a pollution control facility and its cost is therefore eligible for pollution control tax credit. Based on noise measurements, the Department agrees that the noise silencer is a necessary part of the baghouse pollution control facility.

The Company has claimed $13,549.01 for the baghouse installation and noise silencer as pollution control facilities. Included is the claimed tax credit on the noise silencer of $1,025.00. Salvage value of the previous dust control facility was estimated at $300. The net elegible cost for the total pollution control facility tax credit is $13,249.01 ($13,549.01 - $300.00).

The baghouse is controlling the air contaminant emissions in compliance with the applicable emission standards. The noise level at adjacent noise sensitive property has been checked and found to be within required industrial noise standards.

The principal purpose of the baghouse and silencer is to comply with DEQ regulations to control pollution. There is no net economic benefit to the Company from installing and operating the facility. The baghouse was completed and placed into operation on Janaury 23, 1983; however, the total project was not complete until February 23, 1984 when the noise silencer and return ducting was installed. The total cost of the facility of $13,249.01 is allocable for pollution control tax credit.

The application was received on February 24, 1984, additional information was received on June 1, 1984, and the application was considered complete on June 1, 1984.

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. The facility was completed and placed into operation after January 1, 1984, and was therefore reviewed under the new tax credit statute (1983 Oregon Laws Ch. 637) that requires statement of principal purpose. The facility is designed for and is being operated for the principal purpose of preventing, controlling, or reducing air pollution and noise pollution.

d. The facility is necessary to satisfy the intents and purposes of ORS 468.155(1) and (2).

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 $13,249.01 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1684.

D. NEFF:a
(503) 229-6480
June 1, 1984
AA4448

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

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1. Certificate Issued To:

Louisiana-Pacific Corporation
Columbia Corridor Division
12655 S. W. Center Boulevard
Suite 475
Beaverton, Oregon 97005

The certificate was issued for an air pollution control facility.

2. Summation:

By letter dated April 30, 1984 (copy attached), the Department was informed that the facility certified in the following Pollution Control Facility Certificate had been removed from service.

Certificate Number	Plant	Date Issued
1041	6045 Moffett Road Tillamook, Oregon	February 22, 1980

Pursuant to ORS 317.072(10), it is necessary that the Commission revoke this pollution control facility certificate.

3. Director's Recommendation:

It is recommended that the Commission revoke the following Pollution Control Facility Certificate as of the cited date since the certified facility has been removed from service.

Certificate Number	Revocation Date
1041	April 30, 1984

KNPayne
229-6484
6/7/84
Attachments

~~KK~~
~~JMO~~

29-0019

1041

Louisiana-Pacific Corporation

P.O. Drawer I
Coeur d'Alene, Idaho 83814
208/667-8441

April 30, 1984

State of Oregon
Department of Environmental Quality
Technical Programs
1234 S. W. Morrison
Portland, OR 97205

Dear Sir:

In accordance with the provisions of our Pollution Control Facility Certificate application number T-1070 dated February 22, 1980 at Tillamook, Oregon. This is to notify you that the hog fuel boiler and related material handling equipment has been transferred to Chilco, Idaho as of January 31, 1984. A file copy of your response is requested.

Sincerely,

Allen Miller
Property Tax Accountant

AM:bh

16

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. _____

Date of Issue 2/22/80

Application No. T-1070

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Louisiana Pacific Corp. Columbia Corridor Division 12655 SW Center Blvd, Suite 475 Beaverton, OR 97005	Location of Pollution Control Facility: 6045 Moffett Road Tillamook, Oregon
As: ☐ Lessee ☒ Owner	
Description of Pollution Control Facility: Hog fuel boiler and related material handling equipment.	
Type of Pollution Control Facility: ☐ Air ☐ Noise ☐ Water ☒ Solid Waste ☐ Hazardous Waste ☐ Used Oil	
Date Pollution Control Facility was completed: October 1978	Placed into operation: September 1978
Actual Cost of Pollution Control Facility: $ 1,823,069.95	
Percent of actual cost properly allocable to pollution control: 100%	

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

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

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

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

Signed Joe B. Richards

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on the 22nd day of February, 19 80

boiler

DEQ/TC-6 10/79

SP*54311-340

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. D, June 29, 1984, EQC Meeting

Request for Authorization to Hold Public Hearings on Proposed Revisions to the State Air Quality Implementation Plan (OAR 340-20-047) to Address Class I Visibility Monitoring and to Amend New Source Review Rules (OAR 340-20-220 Through 270) to Add Requirements to Assess Visibility Impacts of Major New or Modified Sources on Class I Areas.

Background and Problem Statement

On December 2, 1980, the Environmental Protection Agency (EPA) published its rule for visibility protection for Federal Class I areas (40CFR 51.300-307). The rule requires the states "to develop programs to assure reasonable progress toward meeting the national goal of preventing any future and remedying any existing impairment of visibility in mandatory Class I Federal areas within which impairment results from manmade air pollution." Oregon has 12 Class I areas (1 National Park and 11 Wilderness Areas). The EPA rule required states to adopt Implementation Plan revisions that included:

1. A Visibility Monitoring Program
2. New Source Review for Visibility Impacts
3. Identification of Integral Vistas
4. Best Available Retrofit Technology
5. Long-term Visibility Control Strategies

Following promulgation of the EPA regulations, numerous requests for reconsideration were received by EPA. Several Notices of Intent to sue were also filed with the U. S. Court of Appeals. EPA's subsequent consent to reconsider the regulations eventually lead to the Environmental Quality Commission's decision to postpone adoption of Department visibility rules until the status of the EPA regulations could be clarified (Agenda Item

No. N, April 16, 1982 EQC Meeting). A recent court settlement (Environmental Defense Fund vs. EPA), now requires EPA to propose by October 1984, the first two provisions noted above (visibility monitoring and new source review regulations) for those states that have not incorporated these Class I visibility protection provisions into their State Implementation Plans (SIPs) by mid-October 1984. States have been given to April 1985 to adopt such provisions to avoid EPA promulgation of their own rules. The court settlement also requires that the three remaining provisions of EPA's December 2, 1980, rule related to Best Available Retrofit Technology, integral vista protection and development of long-term control strategies, must be adopted by States before December, 1986. Development of the SIP will require close coordination with the U.S. Forest Service, the National Park Service, Oregon Department of Forestry and other groups. Much of the effort will be directed toward the development of long-term control strategies for those Class I areas and integral vistas determined to have impaired visibility.

During the past two years, the Department has worked with the National Park Service, U.S. Forest Service, EPA, Oregon Department of Forestry and other organizations to establish a visibility monitoring network in several of Oregon's Class I areas. Each agency recognizes the importance of Oregon's scenic resources and the need to evaluate visibility trends within Class I areas. Results from the monitoring program are being evaluated to determine the extent of visibility impairment (if any) that currently exist, as well as the nature and frequency of source impacts. In addition, the Department is currently working with the states of Washington and Idaho in a cooperative program to evaluate the nature and extent of regional haze in the Pacific Northwest which can impact Class I and other areas.

The U.S. Forest Service, National Park Service, Oregon Department of Forestry and U.S. Bureau of Land Management cooperated in the development of a draft visibility protection plan in 1982. The initial phase of the program is incorporated into the proposed New Source Review rule and SIP visibility monitoring program.

Problem Statement

Current provisions of the State Implementation Plan (SIP) do not adequately protect Oregon's Class I areas from visibility impairment associated with emissions from new major stationary sources or major modification of existing sources. In addition, there is no commitment within the SIP to operate a visibility monitoring network. If the Department does not adopt and submit rules to deal with these two issues prior to 15 October, 1984, EPA will propose a program for Oregon which may not be compatible with present Oregon Rules and Policies.

Authority for the Commission to Act

ORS Chapter 468, Section 020, gives the Commission authority to adopt necessary rules and standards; Section 305 authorizes the Commission to

prepare and to develop comprehensive plans. Attachment 1 contains the Statement of Need, Fiscal and Economic Impact and Land Use Consistency Statement.

Alternatives and Evaluation

Visibility monitoring and New Source Review Rules have been drafted which fulfill the basic visibility protection requirements of the Clean Air Act as currently administered by the U. S. Environmental Protection Agency.

Best Available Retrofit Technology (BART) provisions applicable to existing sources, a long-range control strategy and identification of integral vistas, have not been included in the proposed rule, as they are not required this time. These provisions of the visibility protection plan will be proposed for rule adoption in 1986 following (a) completion of analysis of the visibility monitoring network data and (b) development of Federal Land Manager coordination procedures and evaluation of BART requirements.

An alternative to the proposed rule is to delay rule adoption until a complete program, including control strategies, is developed. EPA would then be forced to adopt a monitoring and New Source Review program for Oregon that may not be compatible with Department Rules and Programs.

Summation

1. In December, 1980 the Environmental Protection Agency (EPA) published a rule requiring States to incorporate visibility protection for Class I areas in their SIPs. Because of court challenges and EPA's subsequent decision to reconsider the rule, the EQC decided to postpone adoption of a Department visibility rule at its April, 1982 EQC meeting until the EPA rules could be clarified.

2. Recent court settlements now require EPA to promulgate a SIP revision incorporating visibility protection unless the States adopt such rules. Of the five major elements of EPA's rules, only the Visibility Monitoring and New Source Review provisions need to be adopted at this time.

3. The Department has developed a visibility monitoring program that conforms to EPA's requirements. The program was developed with the assistance of the U.S. Forest Service, National Park Services, Oregon Department of Forestry and U.S. Bureau of Land Management.

4. Amendments to the current New Source Review rule to assess visibility impacts and protect Class I areas from further visibility impairment have been developed which meet EPA rule requirements.

5. The proposed rule is based on and incorporates informal public comment on the Department's draft visibility protection rule of April, 1982.

Director's Recommendation

Based on the summation, the Director recommends that the EQC authorize public hearings to consider public testimony on the proposed visibility protection plan State Implementation Plan (SIP) revision which includes a major new or modified stationary source impact protection provision under the New Source Review Rules of OAR 340-20-220 through -270 and revision of the State of Oregon Air Monitoring Network, OAR 340-20-047, Section 5.2.

Fred Hansen

Attachments 1. Draft Public Notice and Statements of Need, Fiscal and Economic Impact and Land Use Consistency Statement
2. Proposed OAR 340-20-047, Section 5.2
3. Proposed Revisions to OAR 340-20-220 to 270

J. E. Core:s
229-5380
June 14, 1984
AZ646

Attachment 1
Agenda Item No. D
June 29, 1984
EQC Meeting

RULEMAKING STATEMENTS
for
ADOPTION OF STATE IMPLEMENTATION PLAN REVISIONS
for
VISIBILITY PROTECTION FOR CLASS I AREAS

Pursuant to OAR 183.335, these statements provide information on the intended action to amend a rule.

STATEMENT OF NEED

Legal Authority

This project amends OAR 340-20-225 through 270 and OAR 340-20-047, Section 5.2 of the State Implementation Plan. It is proposed under the authority of ORS Chapter 468, Section 305 which authorizes the Commission to adopt a general comprehensive plan for air pollution control.

Need for the Rule

The Clean Air Act Amendments require that the State of Oregon adopt a visibility protection plan for Class I areas that will assure reasonable further progress toward the preservation and remedying of visibility impairment where the impairment results from manmade air pollution. Current provisions of the Oregon State Implementation Plan do not adequately protect Oregon's Class I areas. Although the Department has operated a visibility monitoring network for the past two years, a commitment to continued network operation needs to be included in the SIP. Additionally, New Source Review procedures need to be incorporated into the SIP.

Principal Documents Relied Upon

(1) Clean Air Act As Amended, Section 169(a)(1) (PL 95-95).
(2) Visibility Protection for Federal Class I Areas (40CFR51) December 2, 1980.
(3) Interim Guidance for Visibility Monitoring, U.S. EPA 450/2-80-082.
(4) Workbook for Estimating Visibility Impairment, U.S. EPA 450/4-0-031.

FISCAL AND ECONOMIC IMPACT STATEMENT

The proposed rule would impose additional fiscal impacts on major new industrial sources and major modifications to industrial sources whose emissions would impact Federal Class I areas. These economic impacts are related to three provisions of the New Source Review rules.

1. Provisions requiring an initial analysis of the visibility impact of the source. Maximum costs are approximately $20,000 per occurance for large sources.

2. If the Department and Federal Land Manager concur that the source would contribute to significant impairment, emission control systems would be required prior to permit issuance at annualized costs ranging from approximately $4,000 to $40,000 per ton of the particulate emission reduction.

3. Sources that significantly impair visibility in Class I areas may also be required to operate a preconstruction monitoring program at an approximate cost of $50,000 per year.

Within the past four years, 7 sources have been subject to the visibility impairment analysis provisions of the EPA rule. None of these sources have been required to incur costs beyond that of the impact analysis. Small businesses would not be adversely impacted by the proposed rule since it only applies to major industrial sources.

The negative economic impact of the rule are offset by the benefits of preserving the scenic resources of Oregon's Class I areas. Wilderness areas in Oregon are used at a rate of 600,000 visitor days per year. Approximately 500,000 people visit Crater Lake National Park annually with an average visit of 8 hours, adding another 160,000 visitor days. To enjoy the scenic value of these areas, visitors incur recreational equipment costs, travel costs, and area use fees that approach $25 per visitor day adding $16.5 million to the State's economy each year. Other studies by EPA to assess the economic benefit of preserving visibility in the National Parks indicate that the public is willing to spend, on the average, about $3/visitation day to preserve regional visibility. Based on this estimate and considering an annual total of 660,000 visitor days within Oregon's Class I areas, the value associated with preserving the State's Class I scenic values is about $2 million per year.

LAND USE CONSISTENCY STATEMENT

The proposed rule appears to affect land use and is consistent with Statewide Planning Goals.

With regard to Goal 6 (air, water and land resource quality), the rule is designed to enhance and preserve air quality in the affected areas and is therefore, consistent with the goal.

The proposed rule is consistent with Goal 5, which seeks to protect the natural and scenic resources of the State.

Goal 11 (public facilities and services) is deemed unaffected by the rule.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as are 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 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.

AS170

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED VISIBILITY PROTECTION PLAN FOR CLASS I AREAS
NOTICE OF PUBLIC HEARING

Date Prepared: April 20, 1984
Hearing Dates: August 8 & 9, 1984
Comments Due: August 10, 1984

WHO IS AFFECTED: Residents, industries, and Federal Land Managers within the State of Oregon.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340-20-225 through 270 and OAR 340-20-047, Section 5.2 of the Oregon State Implementation Plan by adopting visibility protection provisions to the current New Source Review rule and expanding the State's Air Monitoring Network to include provisions for visibility monitoring in Class I areas. A hearing on this matter will be held in Portland (August 8, 1984) and Bend (August 9, 1984).

WHAT ARE THE HIGHLIGHTS: Major elements of the proposed Visibility Protection Plan include:

- Revision of the New Source Review rule to require an analysis of Class I visibility impairment impact associated with emissions from new, major stationary sources or major modifications of existing stationary sources.
- Adoption of a commitment to operate a visibility monitoring network in Oregon's wilderness areas and Crater Lake National Park (Class I areas).

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 John E. Core at 229-5380.

A public hearing will be held before a Hearings Officer at:

August 8, 1984	August 9, 1984
Portland, Oregon	Bend, Oregon
(to be arranged)	(to be arranged)

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

Contains Recycled Materials

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, but must be received by no later than 5:00 p.m., August 10, 1984.

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 at its September, 1984 meeting 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.

AZ652

Attachment 2
Agenda Item No. D
June 29, 1984
EQC Meeting

OAR 340-20-047, Section 5.2

VISIBILITY PROTECTION PLAN FOR CLASS I AREAS

-DRAFT-

June, 1984

State of Oregon

Department of Environmental Quality

Table of Contents

5.2.1 Definitions

Definitions applicable to this section of the SIP are listed below:

"Class I Areas" are those mandatory Federal Class I Areas and Class I areas designated by the Department within which visibility has been identified as an important resource. Oregon's 12 Class I areas are listed under OAR 340-31-120.

"Significant impairment" occurs when visibility impairment interferes with the management, protection, pre-servation or enjoyment of the visual experience of visitors within a Class I area.

"Visibility impairment" means any humanly perceptable change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, wind blown dust, sand, snow and natural aerosols.

5.2.2 Introduction

Legislation to protect our nation's wilderness heritage began with the National Park Service Act of 1916 and the Wilderness Act of 1964. These Acts set aside areas to be preserved in their natural states, unimpaired by human activities. The protection of the pristine nature of these areas was again addressed in the Clean Air Act Amendments of 1977. The Amendments recognized the importance of "preserving, protecting, and enhancing" the

air quality within the nation's Class I areas. In Oregon, twelve Class I areas were designated by Congress. The importance and value of these Class I areas to Oregon lie not only in the intrinsic value of their beauty but also in their importance to tourism in Oregon. These areas are also a valuable recreational resource for Oregon residents.

The Clean Air Act Amendments recognized the importance of air quality related values such as visibility and set forth as a national goal "the prevention of any future and the remedying of any existing visibility impairment in Mandatory Federal Class I areas" if the impairment is caused by manmade pollutants. The amendments instructed EPA to promulgate regulations which assure reasonable further progress towards attaining the national visibility goal.

On December 2, 1980, the Environmental Protection Agency (EPA) published a rule (40 CFR 51 Parts 301-307) requiring the states to incorporate visibility protection for Class I areas into their State Implementation Plans (SIPs) by September 2, 1981.

The principal effect of the visibility regulations is to require states to revise their State Implementation Plans (SIPs) to establish long-range goals, to establish a planning process, and to implement procedures requiring visibility protection for federal mandatory Class I areas. States must revise their SIPs to:

1. Develop, adopt and implement a visibility monitoring program within Oregon's Class I areas;

2. Adopt New Source Review Rules to prevent visibility impairment in Class I areas associated with the construction of new or modified major stationary sources;

3. Adopt control strategies to insure reasonable further progress toward remedying existing, and preventing future, visibility impairment in Class I areas;

4. Identify integral vistas to be protected under the plans; and

5. Establish Federal Land Manager-State coordination with respect to Best Available Retrofit Technology (BART) and New Source Review analysis.

This revision of the SIP describes the program that Oregon will follow to comply with the requirements of the Clean Air Act and protect the state's Class I areas from visibility impairment.

5.2.3 Visibility Monitoring

The Oregon Department of Environmental Quality will cooperatively establish and operate a monitoring system to identify the degree, if any, of

visibility impairment in Class I areas and the sources of the pollutants causing the impairment. The monitoring program will be conducted in cooperation with the National Park Service and the U.S. Forest Service.

A visibility monitoring strategy is essential to the evaluation of visibility impairment trends, as a means of differentiating manmade and natural visibility reduction episodes, to assess the effectiveness of visibility protection programs, and to identify the major contributing sources. To meet these objectives, the monitoring program must document the visual clarity within critical Class I areas on a long-term basis. In addition, the monitoring plan must meet the needs of, and be a cooperative effort with, the Federal Land Manager.

Oregon's visibility monitoring plan has been developed by the Department of Environmental Quality, with the assistance of the National Park Service, and the U.S. Forest Service, and other agencies. The Department's visibility monitoring plan incorporates measurement techniques to document the visual clarity within Class I areas, document short-term fine particle concentration variability, record atmospheric relative humidity and pollutant transport. Fine particle samplers are included to chemically characterize the composition of haze-producing particles. The monitoring network will be operated annually from July through September, the period of heaviest wilderness area and national park visitation. Measurements to be included in the program are:

- o Visual observations of impairment phenomena, meteorological conditions, and visual range.

- o A standardized photographic and teleradiometer monitoring program to record actual visual quality and target contrast.

- o An integrating nephelometer network to measure the atmospheric scattering coefficient.

- o A meteorological network consisting of relative humidity, wind speed and wind direction.

- o A fine particle sampling network to identify source impacts on visibility and fine particle mass using receptor models.

- o Other monitoring and analytical methods that may be appropriate to achieve the objective of the monitoring plan.

5.2.4 New Source Review

The New Source Review rules 340-20-220 through 270 ensure that the visual clarity of Class I areas are protected from emissions from any new or modified major stationary sources.

5.2.5 Best Available Retrofit Technology (Reserved)

5.2.6 Integral Vistas (Reserved)

5.2.7 Control Strategies (Reserved)

[New Source Review]

Reader Guidance

Changes are proposed to the existing New Source Review Rules, OAR 340-20-220 through -270 to ensure that the visual clarity of Class I areas are protected from emissions from any new or modified major stationary sources. Specifically, additional definitions have been included in OAR 340-20-225; several deletions and additions have been made to 340-20-245 to incorporate comments from the Federal Land Managers; and 340-20-247 has been added to describe the procedures for reviewing impacts of sources on visibility in Class I areas. Additions to the existing rules have been underlined and deletions from the existing rule are enclosed in brackets [ ]. The changes to each rule are described below.

New Source Review

OAR 340-20-220 through -270

340-20-220 Applicability

(1) No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 280 of these Rules.

(2) Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR 340-20-001), Notice of Construction and Approval of Plans (OAR 340-20-020 to 032), Air Contaminant Discharge Permits (OAR 340-20-140 to 185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 545).

340-20-225 Definitions

(1) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source.

(a) In general, actual emissions as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during the baseline period and which is representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

(b) The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.

(c) For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.

(2) "Baseline Concentration" means that ambient concentration level for a particular pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978.

The following emission increases or decreases will be included in the baseline concentration:

(a) Actual emission increases or decreases occurring before January 1, 1978, and

(b) Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.

(3) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(4) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

(5) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area.

[(5)] (6) "Commence" means that the owner or operator has obtained all necessary preconstruction approvals required by the Clean Air Act and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time, or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

[(6)] (7) "Construction" means any physical change (including fabrication, erection, installation, demolition, or modification of an emissions unit) or change in the method of operation of a source which would result in a change in actual emissions.

[(7)] (8) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(8) (9) "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

(10) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(9) (11) "Fugitive emissions" means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(10) (12) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.

(13) "Integral vista" means a view perceived from within a Class I area of a specific landmark or panorama located outside the boundary of the Class I area designated by the Department as important to the visual experience of visitors within the area. The Department's designation will consider the recommendations of the Federal Land Manager and shall be based on an evaluation of the scenic value of the vista considering viewpoint visitation, public recognition of the vista from public exposure in the media (photos, travel brochures, etc.), cultural, scientific or historical significance, the prominence of the vista in the enabling legislation originally establishing the Class I area or management emphasis of the vista (observation points, vehicle pullout, etc.).

(11) (14) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any

State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.

[(12)] (15) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition (20) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

[(13)] (16) "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition (20).

[(14)] (17) "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission and approved by the Environmental Protection Agency.

[(15)] (18) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.

[(16)] (19) "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

[(17)] (20) "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall

be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

[(18)] (21) "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility.

[(19)] (22) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility,

(b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

[(20)] (23) "Significant emission rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act.

Table 1: Significant Emission Rates for Pollutants Regulated under the Clean Air Act

Pollutant	Significant Emission Rate
Carbon Monoxide	100 tons/year
Nitrogen Oxides	40 tons/year
Particulate Matter*	25 tons/year
Sulfur Dioxide	40 tons/year
Volatile Organic Compounds*	40 tons/year
Lead	0.6 ton/year
Mercury	0.1 ton/year
Beryllium	0.0004 ton/year
Asbestos	0.007 ton/year
Vinyl Chloride	1 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total reduced sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate.

Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m^3 (24 hour average) shall be deemed to be emitting at a significant emission rate.

Table 2: Significant Emission rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area.

	Emission Rate					
	Annual		Day		Hour	
Air Contaminant	Kilograms	(tons)	Kilograms	(lbs)	Kilograms	(lbs)
Particulate Matter (TSP)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatile Organic Compound (VOC)	18,100	(20.0)	91	(200)	--	--

[(21)] (24) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

Table 3

	Pollutant Averaging Time				
Pollutant	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 ug/m^3	5 ug/m^3		25 ug/m^3	
TSP	0.2 ug/m^3	1.0 ug/m^3			
NO_2	1.0 ug/m^3				
CO			0.5 mg/m^3		2 mg/m^3

For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

(25) "Significant impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitors visual experience within the Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

[(22)] (26) "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

(27) "Visibility impairment" means any humanly perceptible change in visual range, contrast, coloration from that which would have existed under natural conditions.

(28) "Visibility in a Class I area" includes any integral vistas associated with that area.

(1) Information Required

The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these Rules. Such information shall include, but not be limited to:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;

(c) A detailed schedule for construction of the source or modification;

(d) A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best

available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;

(e) To the extent required by these rules, an analysis of the air quality impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(f) To the extent required by these rules, an analysis of the air quality impacts, and the nature and extent of all commercial, residential, industrial, and other growth which has occurred since January 1, 1978, in the area the source or modification would affect.

(2) Other Obligations

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to these Rules or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving an Air Contaminant Discharge Permit, shall be subject to appropriate enforcement action.

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, State, or Federal law.

(3) Public Participation

(a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information.

(b) Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.

(A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(B) Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.

(D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.

(E) Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.

(F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the

application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

(G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

340-20-235 Review of New Sources and Modifications for Compliance With Regulations

The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification

to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

340-20-240 Requirements for Sources in Nonattainment Areas

New major sources and major modifications which are located in designated nonattainment areas shall meet the requirements listed below.

(1) Lowest Achievable Emission Rate

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each nonattainment pollutant. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Source Compliance

The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or

operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

(3) Growth Increment or Offsets

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with any established emissions growth increment for the particular area in which the source is located or must provide emission reductions ("offsets") as specified by these rules. A combination of growth increment allocation and emission reductions may be used to demonstrate compliance with this section. Those emission increases for which offsets can be found through the best efforts of the applicant shall not be eligible for a growth increment allocation.

(4) Net Air Quality Benefit

For cases in which emission reductions or offsets are required, the applicant must demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR 340-20-260 (Requirements for Net Air Quality Benefit) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards.

(5) Alternative Analysis

An alternative analysis must be conducted for new major sources or major modifications of sources emitting volatile organic compounds or carbon monoxide locating in nonattainment areas.

This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(6) Special Exemption for the Salem Ozone Nonattainment Area

Proposed major sources and major modifications of sources of volatile organic compounds which are located in the Salem Ozone nonattainment area shall comply with the requirements of Sections 1 and 2 of OAR 340-20-240 but are exempt from all other sections of this rule.

340-20-241 Growth Increments

The ozone control strategies for the Medford-Ashland and Portland ozone nonattainment areas establish growth margins for new major sources or major modifications which will emit volatile organic compounds. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. No single source shall receive an allocation of

more than 50% of any remaining growth margin. The allocation of emission increases from the growth margins shall be calculated based on the ozone season (April 1 to October 31 of each year). The amount of each growth margin that is available is defined in the State Implementation Plan for each area and is on file with the Department.

340-20-245 Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)

New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

(1) Best Available Control Technology

The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition (20)). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Air Quality Analysis

(a) The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any

pollutant at a significant emission rate (OAR 340-20-225 definition (20)) in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

(A) Any State or National ambient air quality standard, or

(B) Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110), or

(C) An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition 21). New sources or modifications of sources which would emit volatile organic compounds which may impact the Salem ozone nonattainment area are exempt from this requirement.

(D) Those that would cause a significant impairment of visibility within any Class I area.

(b) Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a

nonattainment area are not required to assess their impact on the nonattainment area.

(c) If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in OAR 340-20-260 is provided, the Department may consider the requirements of section (2) of this rule to have been met.

(3) Exemption for Sources Not Significantly Impacting Designated Nonattainment <u>or Class I</u> Areas.

A proposed major source is exempt from OAR 340-20-220 to 340-20-275 if:

(A) The proposed source does not have a significant air quality <u>or visibility</u> impacts on a designated nonattainment <u>or Class I</u> area, and

[A] <u>(B) The proposed source is located more than 30 Km from a Class I area, and</u>

[B] <u>(C)</u> The potential emissions of the source are less than 100 tons/year for sources in the following categories or less

than 250 tons/year for sources not in the following source categories:

I Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input

II Coal cleaning plants (with thermal dryers)

III Kraft pulp mills

IV Portland cement plants

V Primary Zinc Smelters

VI Iron and Steel Mill Plants

VII Primary aluminum ore reduction plants

VIII Primary copper smelters

IX Municipal Incinerators capable of charging more than 250 tons of refuse per day

X Hydrofluoric acid plants

XI Sulfuric acid plants

XII Nitric acid plants

XIII	Petroleum Refineries
XIV	Lime plants
XV	Phosphate rock processing plants
XVI	Coke oven batteries
XVII	Sulfur recovery plants
XVIII	Carbon black plants (furnace process)
XIX	Primary lead smelters
XX	Fuel conversion plants
XXI	Sintering plants
XXII	Secondary metal production plants
XXIII	Chemical process plants
XXIV	Fossil fuel fired boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input

XXV Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels

XXVI Taconite ore processing plants

XXVII Glass fiber processing plants

XXVIII Charcoal production plants

(b) Major modifications are not exempted under this section unless the source including the modifications meets the requirements of paragraphs (a)(A), [and] (B) and (C)) above. Owners or operators of proposed sources which are exempted by this provision should refer to OAR 340-20-020 to 340-20-032 and OAR 340-20-140 to 340-20-185 for possible applicable requirements.

(4) Air Quality Models

All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model

substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Department and the Environmental Protection Agency. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May, 1978) should be used to determine the comparability of air quality models.

5. Air Quality Monitoring

(a) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality and visibility impact in or immediately adjacent to the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality [levels] and visibility conditions within the impacted area, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another

representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment or cause significant visibility impairment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality/visibility monitoring plan.

(b) Air quality monitoring, excepting visibility, which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.

(c) The Department may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts.

(i) Carbon monoxide - 575 ug/m^3, 8 hour average

(ii) Nitrogen dioxide - 14 ug/m^3, annual average

(iii) Total suspended particulate - 10 ug/m^3, 24 hour average

(iv) Sulfur dioxide - 13 ug/m^3, 24 hour average

(v) Ozone - Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(vi) Lead - 0.1 ug/m^3, 24 hour average

(vii) Mercury - 0.25 ug/m^3, 24 hour average

(viii) Beryllium - 0.0005 ug/m^3, 24 hour average

(ix) Fluorides - 0.25 ug/m^3, 24 hour average

(x) Vinyl chloride - 15 ug/m^3, 24 hour average

(xi) Total reduced sulfur - 10 ug/m^3, 1 hour average

(xii) Hydrogen sulfide - 0.04 ug/m^3, 1 hour average

(xiii) Reduced sulfur compounds - 10 ug/m^3, 1 hour average

(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant (other than nonmethane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(6) Additional Impact Analysis

(a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as

a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.

(b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.

(7) Sources Impacting Class I Areas

(a) Where a proposed major source or major modification impacts or may impact air quality or visibility within a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 60 days prior to Department Public Hearings, and subsequently, of any preliminary and final actions taken with regard to such application.

(b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice.

(c) The Department will, during its review of source impacts on Class I area visibility pursuant to OAR 340-20-247, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by (a) above.

(d) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

OAR 340-20-247 Visibility Analysis for Sources Potentially Impacting Class I Areas.

New major sources or major modifications which would potentially impact any Class I area shall meet the following requirements:

(1) Air Quality Analysis

The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate, in conjunction with the emissions from any other new major source or major modification permitted since January 1, 1984, shall not cause or contribute to significant visibility impairment of any Class I area.

(2) Air Quality Models

All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 km to a Class I area, if requested.

(3) Determination of Significant Impairment

The results of the modeling must be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.

4. Monitoring

The owner or operator of a proposed major source or modification may be required to conduct an ambient air quality monitoring program, after construction has been completed, as a permit condition. The monitoring program shall be established to determine the effect which pollutant emissions may have on visibility in any Class I area.

340-20-250 Exemptions

(1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by

the Department from requirements OAR 340-20-240 Sections 3 and 4 provided that:

(a) No growth increment is available for allocation to such source or modification, and

(b) The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

Note: Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.

(2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.

(3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed

in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

(4) Also refer to OAR 340-20-245(3) for exemptions pertaining to sources smaller than the Federal Size-cutoff Criteria.

340-20-255 Baseline for Determining Credit for Offsets

The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

340-20-260 Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit must include the following.

(1) A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models". Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.

(2) For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition 23) on the nonattainment area, the emission offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources

or major modifications which emit volatile organic compounds and are located [in or] within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

(3) The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.

(4) The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended as provided for in OAR 340-20-265 (Emission Reduction Credit Banking). In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

340-20-265 Emission Reduction Credit Banking

The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or by an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

(1) To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320.

(2) Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.

(3) Emission reductions which are required pursuant to an adopted rule shall not be banked.

(4) Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets as provided in OAR 340-20-260(4) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The Department may allocate these emission reductions as a growth increment. The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in OAR 340-14-005 through 050.

(5) The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.

(6) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows: a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(20)); b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

(7) Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:

(a) A detailed description of the processes controlled,

(b) Emission calculations showing the types and amounts of actual emissions reduced,

(c) The date or dates of such reductions,

(d) Identification of the probable uses to which the banked reductions are to be applied,

(e) Procedure by which such emission reductions can be rendered permanent and enforceable.

(8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or

deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.

(9) The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transfered, the Department must be notified in writing. Any use of emission reduction credits must be compatible with local comprehensive plans, Statewide planning goals, and State laws and rules.

340-20-270 Fugitive and Secondary Emissions

Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. E, June 29, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Rule Amendments Establishing Noise Emission Standards for Motor Vehicles Subject to the Portland Area Motor Vehicle Inspection Program; OAR Chapter 340, Division 24.

Background

On April 16, 1984, a petition for rulemaking was received from the Coalition for Livable Streets, asking that Portland area motor vehicles be inspected for excessive noise as part of the current air emission inspection program. The petition requests that the standards established in Table 2 of OAR 340-35-030, Noise Control Regulations for In-Use Motor Vehicles, be a mandatory part of vehicle inspections and requested that automobiles, light trucks, motorcycles, heavy trucks and buses be included.

The Commission, at its May 18, 1984 meeting, accepted the petition and directed the Department to initiate rulemaking proceedings. The Department noted that a number of issues needed to be addressed prior to proposing inspection rules that could require noise testing large numbers of vehicles. The Department proposed to address these issues and if appropriate, request authorization to hold public hearings on proposed rules.

Motor vehicle noise in the Portland area is a significant problem. Within the vehicle inspection area boundary, an area that is less than one-half of one percent of the total area of the state, reside 40 percent of the State's population and 37 percent of the State's motor vehicles. Thus, with high population densities and large numbers of vehicles, the potential for vehicle noise impacts to people is high. As for autos and light trucks only, studies show that more than ten percent of these vehicles in the Portland area exceed current standards.

The public reaction has been demonstrated in several ways. Attitude surveys identify motor vehicles as the source of the most serious noise problem. A survey conducted in the Portland Standard Metropolitan Statistical Area found that noise from motor vehicles was perceived to be a community problem ranking fourth after property taxes, crime and quality of education.

The Commission may adopt rules to include noise emission testing and enforcement of standards within the Portland area motor vehicle inspection program, pursuant to ORS 481.190, 468.370 and 467.030.

Alternatives and Evaluation

The petitioner requests that the standards and procedures established in the general noise control rules, Table 2 of OAR 340-35-030 (Attachment E), be incorporated, by adoption, within the Vehicle Inspection Program (VIP) rules. The petitioner's request includes standards for all categories of motor vehicles operated on the public roads. For ease of presentation, the following discussion is separated into sections detailing the Department's analysis by vehicle class.

I. Automobiles and Light Trucks

A. Petitioner's Request

For autos and light trucks, the noise control rules recommended by the petitioner describes a noise test procedure that measures exhaust system noise emissions while the vehicle is stationary and the engine is accelerated under an unloaded condition to a speed determined as 75 percent of the engine speed at which maximum horsepower is reached. The length of time to conduct this test, within the vehicle inspection stations, is primarily affected by the need to determine the 75 percent engine speed. At this time, this information is tabulated in a book of tables and staff estimates an average of 45 seconds to determine the engine test speed from this book. Conducting the noise inspection is estimated to add on an additional 20 seconds to the inspection time. This portion of the test requires the locating of a microphone near the exhaust outlet, accelerating the engine to the proper speed, and the recording of noise emission data. Therefore, this procedure would add an average of 65 seconds to each vehicle inspected for noise emissions. Current average air emission test time per vehicle is about 3 minutes. As a result, incorporation of this noise test procedure would increase test time per vehicle by about one-third.

B. Aural Test Option

One option to reduce the average inspection time for noise tests is to aurally (subjectively) screen the vehicles prior to

testing. Under this procedure, the inspector would be trained to listen to the vehicle exhaust system to determine whether a metered test was necessary. Department studies have shown that aural screening would yield satisfactory results and the procedure would reduce the average testing time from 65 seconds to less than 10 seconds when approximately 10 to 15 percent of the vehicles are tested with the meter. It should be noted that the State of Delaware uses an aural screening procedure in its noise inspection program. The major difficulty with this option is that it is subjective, and is disruptive to a standard testing process. The Department is concerned that, particularly during times when waiting lines are long, some vehicles which may fail the noise test would not be tested in an effort to process vehicles as quickly as possible.

C. 2500 RPM Test Option

Another test procedure was investigated by staff. This procedure measures the vehicle exhaust noise emission during a portion of the air emission test cycle. One portion of the air test requires the engine to be accelerated to approximately 2500 RPM and held constant for 10 to 15 seconds to measure exhaust gas emissions. When the microphone has been located near the exhaust outlet, noise emissions may also be measured during this portion of the air test cycle. To evaluate this procedure the Department conducted aural and visual inspections, and noise emission measurements on over one thousand automobiles and light trucks. This evaluation found that approximately 12 percent of the vehicles were aurally judged noisy and that over 9 percent of the vehicles, inspected visually, had modified or defective exhaust systems. Examination of noise emission level data led staff to conclude that this test procedure could be used to accurately identify those vehicles that would produce excessive noise emissions under normal operating conditions due to defective or modified exhaust systems.

Based on these data, that included aural, visual, and noise emission information on each vehicle, staff determined that a reasonable noise emission limit of 93 dBA for front engine light duty vehicles (autos and light trucks), and 95 dBA for rear engine light duty vehicles, would be an appropriate standard when measured during the 2500 RPM portion of the air emission test cycle. These proposed limits would initially identify approximately 5 percent of the autos and light trucks as exceeding standards. It is staff's opinion that the proposed limits would adequately address those light duty vehicles that are responsible for the most significant noise impacts in the community. The advantages of this test procedure are those of time (cost) impacts and equal treatment of the public. Under

this procedure, it is believed that the noise testing would add approximately 10 seconds to each vehicle inspection. With the metered noise test incorporated into the air emission test, it is possible to conduct metered noise tests on all vehicles. Thus, an aural screening test is not needed and all vehicles are provided equal treatment under the metered noise test. This standard would initially identify approximately 5 percent of those inspected as exceeding standards. Since the Department has estimated that more than 10 percent of the automobile population exceeds existing standards, and this proposal would initially identify approximately 5 percent of those inspected as exceeding standards, this test procedure would affect the loudest of the non-compliant vehicles. In the future, if this test procedure were adopted, it may become necessary to adjust standards and procedures to insure that all non-compliant vehicles are identified.

D. Equipment Requirements for Noise Testing

The equipment needs to conduct any of the above discussed noise tests should not place an excessive burden on the Department. It is estimated that approximately 23 sound level meters initially would be required to conduct noise tests at all existing inspection stations. Most, if not all, of these equipment needs could be met by using existing equipment within the Department's noise control program. Other equipment is being evaluated that has various operational advantages. Therefore, if resources are available, new equipment might be purchased to implement a noise inspection program.

E. Noise Tests for Fleet Inspected Vehicles

Under existing vehicle inspection rules, any owner of 100 or more private vehicles or 50 or more publicly owned vehicles may conduct vehicle emission inspections and issue certificates of compliance under license from the Department as a "fleet" inspection program. The advantage of this program is the lower cost of vehicle certification to the fleet owner and the lower demand upon the Department's inspection facilities. The Department conducts audits and oversees the various fleet inspection programs to insure the appropriate emission standards are achieved and maintained. If noise tests were mandated, the Department would expect to develop procedures whereby noise tests would be incorporated into the current fleet inspection programs.

II. Motorcycles

The petitioner's request includes noise testing of all motorcycles within the existing VIP boundaries. The existing standards (OAR 340-

35-030) and test procedures for motorcycles also require measuring noise emissions at different engine speeds for different models of motorcycles. This procedure requires the noise emissions be measured while the engine is stabilized at 50 percent of the manufacturer's recommended maximum engine speed ("red line"). The appropriate motorcycle test engine speeds (RPM) are also listed in a book of tables. Thus, in order to determine the proper test RPM, an average time of 45 seconds is estimated. Conducting the noise measurement is estimated to take 20 seconds. Thus, an average of 65 seconds for each motorcycle noise test is estimated. Since motorcycles are not currently tested for air emissions, an additional 2 minutes is necessary to address the staging and certificate issuing procedures, thus bringing the total motorcycle test time to about 3 minutes per vehicle.

There are no current standards or requirements for motorcycles to be inspected for air emission within the Department's vehicle inspection program. It is estimated that approximately 30,000 motorcycles are registered within the boundaries of the inspection program. Motorcycles are generally not driven as many miles as an automobile. It has been estimated that motorcycles, due to their smaller numbers and fewer miles driven per vehicle, contribute less than one percent of the total vehicle miles driven in the area. For this reason, they have not been identified as a high priority source to include in the air emission inspection program.

If motorcycles were included in a noise inspection program, staff estimates a workload increase of approximately 7 percent (3 additional inspectors). This added cost would be offset by inspection fees. However, budget amendments would be necessary to add staff and increase the program funding limitation.

Based on this evaluation, staff believes that additional investigation is needed prior to proposing inspection program standards and procedures for motorcycles.

III. Tri-Met Buses

Tri-Met operates a fleet of diesel powered transit buses in the Metropolitan area not subject to air emission inspection requirements. This is consistent with the present policy which excludes all heavy duty diesel vehicles from the Vehicle Inspection Program. This policy is based on the small contribution to the airshed of carbon monoxide and hydrocarbon gases from this vehicle category. Oxides of nitrogen emissions, now being controlled through new vehicle design, and particulate emission control may necessitate further review of air emission inspection of this vehicle class if the trend toward more usage of medium size diesel vehicles continues.

At this time, Tri-Met's fleet is composed of approximately 640 buses. These buses operate in, and near, residential areas and result in noise impacts. A number of Tri-Met buses may be exceeding existing standards due to deteriorated and defective exhaust system components. The noise standards and procedures for testing buses in the existing rules cannot be accomplished at the existing Vehicle Inspection Program stations. They could, however, be compatible with fleet inspections conducted by Tri-Met at their facilities. Staff has initiated discussions with Tri-Met to conduct an air and noise emission survey of their fleet. This survey is now scheduled to begin in July and will conclude in early August, 1984. It is hoped that this survey will identify the proper methods to conduct noise emission tests and determine the magnitude of noise emissions from this fleet.

Until this survey has been completed and Tri-Met has an opportunity to fully evaluate the feasibility of the petitioner's request, the Department does not have sufficient information on which to base a recommendation regarding noise testing of Tri-Met buses.

IV. Heavy Duty Trucks and Buses

Gasoline powered heavy duty trucks and buses (mostly school buses) are currently inspected for air emissions. At this time, approximately 10,000 gasoline powered trucks and buses are inspected. Staff estimates that an additional 10,000 diesel powered heavy duty trucks are registered within inspection program boundaries that are, as diesel powered buses, not subject to air inspection requirements. Using the current noise standards and testing procedures, as requested by the petitioner (75 percent of maximum horsepower RPM), would take an additional 65 seconds per vehicle on gasoline powered trucks and buses. A total test time of about three minutes would be needed to noise test diesel powered vehicles.

Since some gasoline powered trucks and buses are within fleet inspection programs, the Department would need to address how to handle noise testing of these vehicles. It should be noted, however, that at this time most gasoline powered trucks receive air emission inspections at the Department's facilities.

Gasoline powered school buses are presently within the air inspection program. Many school buses are within fleet inspection programs although some smaller districts receive air emission inspections through the Department's facilities. Although most school buses are gasoline powered, some districts are beginning to add diesel powered buses. School buses often operate in noise sensitive neighborhoods and thus, have the ability to cause significant noise impacts if muffler systems are not well maintained.

The Department believes that additional study and development of procedures is necessary before it would have sufficient information on

which to base a recommendation for noise testing of heavy duty trucks and buses. A new test procedure, compatible with the inspection stations, is needed. It is also necessary to evaluate the need to include diesel powered heavy duty trucks in a noise inspection program. If these vehicles were included, it would be necessary to add inspection staff and request additional budget limitation. It is also necessary to develop a procedure for noise testing for fleet inspected vehicles.

Conclusion

The Department believes that the request of the petitioner has merit. As this report points out, however, noise testing of certain subgroups of the motor vehicle fleet could be accomplished substantially easier than other subgroups. In addition, an alternative testing procedure has been developed (the 2500 RPM engine speed test) which, if standards and procedures were established, the Department would prefer to the method requested by the petitioner if noise testing were mandated by the Commission.

The Department would seek testimony from the public, and interested and affected parties on these issues. The best way to accomplish this goal, we believe, is to take to public hearing the petitioner's proposal, regarding noise testing of all motor vehicle groups, without recommendation from the Department. We also propose to take to hearing the 2500 RPM engine speed noise test alternative for autos and light trucks.

Summation

1. A rulemaking petition requesting mandatory inspection of motor vehicle noise emissions was accepted by the Commission on May 18, 1984 and the Department has initiated rulemaking proceedings.

2. It is estimated that about 10 percent of the automobiles and light trucks registered in the Portland area exceed current noise standards due to modified and defective exhaust systems. Similar statistics are not available for other classes of motor vehicles, i.e., motorcycles, buses and heavy trucks.

3. Excessive noise from motor vehicles has been identified as a serious community problem in the Portland area.

4. A Department proposed new test procedure for automobiles and light trucks would add approximately 10 to 15 seconds to the current inspection time. This procedure would identify the noisiest one-half of the vehicles which currently exceed noise standards. The Department estimates that approximately 5 percent of the current automobiles and light duty trucks within the VIP boundary would fail to pass this test.

5. Incorporation of the current test procedures for, as requested by the petitioner, automobiles and light trucks into the vehicle inspection program could add an average 65 seconds per inspection (about one-third additional test time per vehicle).

6. The addition of motorcycles to the inspection program could affect approximately 30,000 vehicles. This request of the petitioner would require an estimated 3 additional inspectors, which could be provided only through legislative action on the Department's budget.

7. A study to be concluded in August, 1984 should provide information upon which the Department could evaluate the need and feasibility for noise testing Tri-Met buses.

8. Noise inspections of heavy duty trucks and other buses at the inspection stations under the proposal of the petitioner is not compatible. Staff believes additional study is required to determine the need to develop new procedures and standards for this category. Budget amendments may be necessary to conduct noise inspections of this category.

9. It is the Department's intent to request comments from affected and interested parties on the following:

   a. Noise emission inspection of automobiles and light duty trucks.
   b. Noise emission inspection of motorcycles.
   c. Noise emission inspection of Tri-Met (diesel powered) buses.
   d. Noise emission inspection of gasoline powered buses, which are generally school buses.
   e. Noise emission inspection of heavy duty trucks.

Director's Recommendation

Based on the Summation, it is recommended that the Commission authorize public hearings to take testimony on the proposed amendments to establish noise emission standards for light duty motor vehicles subject to the Portland area motor vehicle inspection program, OAR Chapter 340, Division 24 (Attachment D) and the proposal of the petitioner to subject light duty vehicles, trucks, buses and motorcycles to the standards of OAR Chapter 340, Division 35, Section 30, Table 2 (Attachment E).

Fred Hansen

Attachments
   A. Petition for Rulemaking
   B. Draft Statement of Need for Rulemaking
   C. Draft Hearings Notice
   D. Draft Rule Amendments, OAR 340-24
   E. Table 2 of OAR 340-25-030

John Hector:s
229-5989
June 18, 1984

AS117

PETITION TO REVISE RULES

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE

STATE OF OREGON

Attachment A
Agenda Item No. E
June 29, 1984
EQC Meeting

Pursuant to OAR 340-11-047, we petition the Environmental Quality Commission of the State of Oregon to revise the rules pertaining to motor vehicle emissions Division 24 of Chapter 340, to add mandatory noise emission standards as a part of the Portland area vehicle inspection program.

The following statement responds to the requirements of the Commission's rules "petition to Promulgate, Amend or Repeal Rule (OAR 340-11-047):

a) Requested Action

Add the noise emission standards specified in Table 2 of OAR 340-35-030, "Noise Control Regulations for In-Use Motor Vehicles" to the appropriate sections of Division 24. Noise emission standards for light duty vehicles and motorcycles are of primary importance and should be included within a noise inspection program. Standards for other vehicle categories (trucks, buses) should also be included. The appropriate noise test procedures specified in the Motor Vehicle Sound Measurement Procedure Manual (NPCS-21) should be referenced or incorporated into Division 24.

b) Reasons for Revision

-Motor vehicle noise ranks as the greatest noise problem surveyed in neighborhoods concerned with livability. Noise from vehicles which exceed the Oregon motor vehicle noise emissions standards cause serious "single event" impacts which are unexpected, uncontrollable, and because they are a mobile noise source, have the potential of impacting the entire metropolitan community.

-Based on preliminary sampling, approximately 10% of the light duty vehicles within the Portland VIP area are exceeding these standards. The percentage of non-compliant trucks and buses is expected to be high when inspection is conducted.

-Motor vehicle noise has been identified by the Department of Environmental Quality as their noise program's highest priority for noise abatement measures. The Department estimates that implementation of VIP noise enforcement would result in a significant reduction in non-compliant vehicle noise impacts.

-At present there are procedures and facilities are in place to address this noise problem with little added cost to the public.

-Statutory authority to include noise as part of the Vehicle Inspection Program was enacted in 1971, but at present only voluntary noise inspection is being done. There would be very little extra cost to implement a mandatory noise inspection program since equipment and trained personnel are already in place.

-Police enforcement which is primarily focusing upon operational offenses must receive the support of a mandatory noise inspection program which would focus upon equipment offenses.

c) Propositions of Law

ORS Chapter 467 provides broad authority to control excessive environmental noise.

ORS 468.370 provides authority to include noise emission standards adopted pursuant to ORS 467.030 within the DEQ VIP program.

ORS 481.190 provides authority to withhold new or renewal vehicle registrations within the Portland area inspection boundary for vehicles exceeding noise control standards.

d) Effects of Revised Rules

-Mandatory vehicle noise inspection would begin to address the most serious noise problem in the Portland VIP area by reducing the noise impacts of approximately 10% (non-compliant) vehicles upon the quality of life and privacy of citizens.

-Citizen reaction and response to control of motor vehicle noise is considerable and positive wherever it is employed.

-The mandatory noise inspection program would help the Portland Police

Traffic Division increase their effectiveness in dealing with non-compliant vehicles.

-Public awareness that the Oregon State Motor Vehicle Noise Emissions Standards are being enforced would lead to drivers policing themselves with preventive maintenance and replacement of faulty mufflers.

We, the undersigned petition the Oregon Department of Environmental Quality to revise the rules addressing vehicle emissions to include mandatory noise inspection of motor vehicles, including motorcycles, trucks and buses.

ORS CHAPTER 467 provides broad authority to control excessive environmental noise. ORS 468.370 provides authority to include noise emission standards adopted pursuant to ORS 467.030 within the DEQ VIP program. ORS 481.190 provides authority to withhold new or renewal vehicle registrations within the Portland area inspection boundary for vehicles exceeding noise control standards.

Lynne Allison
[illegible] Coalition

Jon [illegible]
Oregon Environmental Council

Jane Cease, Chair
House Transportation Committee

Margaret D. Strachan
Portland City Council

Molly O'Reilly, Chair
Noise Review Board City of Portland

Michael G. Sievers, Chair
Irvington Community Association

Mike Lindberg
Portland City Commissioner

[illegible]
City of Portland

[illegible], President
Northwest District Association

Attachment B
Agenda Item No. E
June 29, 1984
EQC Meeting

DRAFT

Statement of Need for Rulemaking

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This proposal may amend OAR 340-24 under authority of ORS 481.190, 468.370 and 467.030.

2. Need for the Rule

Approximately 10 percent of the light duty motor vehicles registered in the Portland area exceed noise emission limits due to modified and defective exhaust systems. This proposal would add noise limits to the existing air emission inspection program presently operated in the Portland area.

3. Principal Documents Relied Upon in this Rulemaking

a. EQC staff report "Petition to Incorporate Mandatory Noise Inspections into the Portland Area Vehicle Inspection Program," dated May 18, 1984.

b. DEQ memorandum "Preliminary Noise Test Review," by Jerry Coffer, dated May 17, 1984.

4. Land Use Consistency

The proposed rule appears to affect land use and to be consistent with the Statewide Planning Goals. With regard to Goal 6, the proposed rule is consistent because its purpose is to reduce environmental noise impacts at noise sensitive uses. This proposal is also consistent with Goal 12 because its purpose is to provide a transportation system that minimizes environmental impacts. The proposed rule does not appear to conflict with the other Goals. Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for testimony in the 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 appropriate conflicts brought to our attention by local, state, or federal authorities.

5. Fiscal and Economic Impact

No significant adverse fiscal or economic impact to business is expected. The small business impact of this proposal is not expected to cause adverse economic impacts.

John Hector
229-5989
June 7, 1984

AS117.A

Attachment C
Agenda Item No.
June 29, 1984
EQC Meeting

DRAFT

Proposed Rules for Motor Vehicle Noise Inspections
NOTICE OF PUBLIC HEARING

Date Prepared: #
Hearing Date: #
Comments Due: #

WHO IS AFFECTED: Owners of automobiles and light trucks registered in the Portland metropolitan area currently affected by DEQ's air emission inspection program.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend OAR 340-24 Motor Vehicle Emission Control Inspection Test Criteria, Methods, and Standards. The amendments would establish methods and standards for exhaust noise emissions for automobiles and light trucks.

The Department has also been petitioned to conduct noise emission inspections of all vehicle categories in accordance with the standards and procedures established in OAR 340-35-030.

WHAT ARE THE HIGHLIGHTS: Motor vehicles with modified and defective exhaust systems may exceed State noise limits. The proposed rule amendments would require automobiles and light trucks to pass a noise emission test in addition to the existing air emission requirements. DEQ estimates that approximately 5 percent of the Portland area vehicles would exceed the proposed standards and would need to take corrective measures to the exhaust system. No increase to the current inspection fee is anticipated as a result of approval of this proposal.

The proposal submitted by the petitioner could add noise emission requirements to the categories of automobiles, light trucks, buses, heavy trucks and motorcycles. Comments are solicted on this proposal.

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) For further information contact

at #.

A public hearing will be held before a hearings officer at:

#(TIME)
#(DATE)
#(PLACE)

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, but must be received by no later than #.

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 Commission's deliberation should come in # as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need is attached to this notice.

AS117.N

Attachment D
Agenda Item No. E
June 29, 1984
EQC Meeting

Motor Vehicle Emission Control Inspection Test Criteria, Methods, and Standards
Proposed Amendments
June 1984

New Material is Underlined and
Deleted Material is [Bracketed]

Scope

340-24-300 Pursuant to ORS 468.360 to 468.405, 481.190 to 481.200, [and] 483.800 to 483.825, and 467.030, the following rules establish the criteria, methods, and standards for inspecting motor vehicles, excluding motorcycles, to determine eligibility for obtaining a Certificate of Compliance or inspection.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77 ef. 7-1-77

Definitions

340-24-305 As used in these rules unless otherwise required by context:

(1) "Carbon dioxide" means a compound consisting of the chemical formula (CO_2).

(2) "Carbon monoxide" means a compound consisting of the chemical formula (CO).

(3) "Certificate of Compliance" means a certification issued by a vehicle emission inspector that the vehicle identified on the certificate is equipped with the required functioning motor vehicle pollution control systems and otherwise complies with the emission control criteria, standards, and rules of the Commission.

(4) "Certificate of inspection" means a certification issued by a vehicle emission inspector and affixed to a vehicle by the inspector to identify the vehicle as being equipped with the required functioning motor vehicle pollution control systems and as otherwise complying with the emission control criteria, standards, and rules of the Commission.

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

(6) "Crankcase emissions" means substances emitted directly to the atmosphere from any opening leading to the crankcase of a motor vehicle engine.

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

(8) "Diesel motor vehicle" means a motor vehicle powered by a compression-ignition internal combustion engine.

(9) "Director" means the director of the Department.

(10) "Electric vehicle" means a motor vehicle which uses a propulsive unit powered exclusively by electricity.

(11) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust ports of a motor vehicle engine.

(12) "Factory-installed motor vehicle pollution control system" means a motor vehicle pollution control system installed by the vehicle or engine manufacturer to comply with United States motor vehicle emission control laws and regulations.

(13) "Gas analytical system" means a device which senses the amount of contaminants in the exhaust emissions of a motor vehicle, and which has been issued a license by the Department pursuant to rule 340-24-350 of these regulations and ORS 468.390.

(14) "Gaseous fuel" means, but is not limited to, liquified petroleum gases and natural gases in liquefied or gaseous forms.

(15) "Gasoline motor vehicle" means a motor vehicle powered by a spark-ignition internal combustion engine.

(16) "Heavy duty motor vehicle" means a motor vehicle having a combined manufacturer vehicle and maximum load rating to be carried thereon of more than 3855 kilograms (8500 pounds).

(17) "Hydrocarbon gases" means a class of chemical compounds consisting of hydrogen and carbon.

(18) "Idle speed" means the unloaded engine speed when accelerator pedal is fully released.

(19) "In-use motor vehicle" means any motor vehicle which is not a new motor vehicle.

(20) "Light duty motor vehicle" means a motor vehicle having a combined manufacturer vehicle and maximum load rating to be carried thereon of not more than 3855 kilograms (8500 pounds).

(21) "Model year" means the annual production period of new motor vehicles or new motor vehicle engines designated by the calendar year in which such period ends. If the manufacturer does not designate a production period, the year with respect to such vehicles or engines shall mean the 12 month period beginning January of the year in which production thereof begins.

(22) "Motorcycle" means any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground and having a mass of 680 kilograms (1500 pounds) or less with manufacturer recommended fluids and nominal fuel capacity included.

(23) "Motor vehicle" means any self-propelled vehicle used for transporting persons or commodities on public roads.

(24) "Motor vehicle fleet operation" means ownership by any person of 100 or more Oregon registered, in-use, motor vehicles, excluding those vehicles held primarily for the purposes of resale.

(25) "Motor vehicle pollution control system" means equipment designed for installation on a motor vehicle for the purpose of reducing the pollutants emitted from the vehicle, or a system or engine adjustment or modification which causes a reduction of pollutants emitted from the vehicle, or a system or device which inhibits the introduction of fuels which can adversely effect the overall motor vehicle pollution control system.

(26) "New motor vehicle" means a motor vehicle whose equitable or legal title has never been transferred to a person who in good faith purchases the motor vehicle for purposes other than resale.

(27) "Noise level" means the sound pressure level measured by use of metering equipment with an "A" frequency weighting network and reported as dBA.

[(27)] (28) "Owner" means the person having all the incidents of ownership in a vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of a vehicle under a security agreement, or a lease for a term of 10 or more successive days.

[(28)] (29) "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.

[(29)] (30) "PPM" means parts per million by volume.

(31) "Propulsion exhaust noise" means that noise created in the propulsion system of a motor vehicle that is emitted into the atmosphere from any opening downstream from the exhaust ports. This definition does not include exhaust noise from vehicle auxiliary equipment such as refrigeration units powered by a seconday motor.

[(30)] (32) "Public roads" means any street, alley, road, highway, freeway, thoroughfare, or section thereof in this state used by the public or dedicated or appropriated to public use.

[(31)] (33) "RPM" means engine crankshaft revolutions per minute.

[(32)] (34) "Two-stroke cycle engine" means an engine in which combustion occurs, within any given cylinder, once each crankshaft revolution.

[(33)] (35) "Vehicle emission inspector" means any person possessing a current and valid license by the Department pursuant to rule 340-25-340 of these regulations and ORS 468.390.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 89, f. 4-22-75, ef. 5-25-75; DEQ 139, f. 6-30-77, ef. 7-1-77; DEQ 9-1978, f. & ef. 7-7-78; DEQ 22-1979, f. & ef. 7-5-79.

Publicly Owned Vehicles Testing Requirements

340-24-306 (No Proposed Amendments)

Light Duty Motor Vehicle Emission Control Test Method

340-24-310 (1) The vehicle emission inspector is to insure that the gas analytical system is properly calibrated prior to initiating a vehicle test.

(2) The Department approved vehicle information data form is to be completed at the time of the motor vehicle being inspected.

(3) Vehicles having coolant, oil, or fuel leaks or any other such defect that is unsafe to allow the emission test to be conducted shall be rejected from the testing area. The emission test shall not be conducted until the defects are eliminated.

(4) The vehicle is to be in neutral gear with the hand or parking brake engaged.

(5) All vehicle accessories are to be turned off.

(6) An inspection is to be made to insure that the motor vehicle is equipped with the required functioning motor vehicle pollution control system in accordance with the criteria of Section 340-24-320(3). Vehicles not meeting this criteria shall be rejected from the testing area without an emission test. A report shall be supplied to the driver indicating the reason(s) for rejection.

(7) With the engine operating at idle speed, the sampling probe of the gas analytical system is to be inserted into the engine exhaust outlet.

(8) The steady state levels of the gases measured at idle speed by the gas analytical system shall be recorded. Except for diesel vehicles, the idle speed at which the gas measurements were made shall also be recorded.

(9) Except for diesel vehicles, the engine is to be accelerated with no external loading applied, to a speed of between 2,200 RPM and 2,700 RPM. The engine speed is to be maintained at a steady speed within this speed range for a 10 to 15 second period and then returned to an idle speed condition. In the case of a diesel vehicle, the engine is to be accelerated to an above idle speed. The engine speed is to be maintained at a steady above idle speed for a 10 to 15 second period and then returned to an idle speed condition. The values measured by the gas analytical system at the raised rpm speed shall be recorded.

(10) The steady state levels of the gases measured at idle speed by the gas analytical system shall be recorded. Except for diesel vehicles, the idle speed at which the gas measurements were made shall also be recorded.

(11) If the vehicle is equipped with a multiple exhaust system, then steps (7) through (10) are to be repeated on the other exhaust outlet(s). The readings from the exhaust outlets are to be averaged into one reading for each gas measured for comparison to the standards of rule 340-24-330.

(12) If the vehicle does not comply with the standards specified in rule 340-24-[335] <u>330,</u> and it is a 1981 or newer Ford Motor Company product, the vehicle shall have the ignition turned off, restarted, and steps (8) through (11) repeated.

(13) If the vehicle is capable of being operated with both gasoline and gaseous fuels, then steps (7) through (10) are to be reeated so that emissin test results are obtained for both fuels.

(14) If it is [ascertained] judged that the vehicle[s] may be emitting propulsion exhaust noise in excess of the noise standards of rule 340-24-337, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in Section (9) of this rule. [in accordance with the test procedures adopted by the Commission or to standard methods approved in writing by the Department.] A reading from each exhaust outlet shall be recorded at the raised engine speed.

(15) If it is determined that the vehicle complies with the criteria of rule 340-24-320 and the standards of rule 340-24-330 and 340-24-337, then, following receipt of the required fees, the vehicle emission inspector shall issue the required certificates of compliance and inspection.

(16) The inspector shall affix any certificate of inspection issued to the lower left-hand side (normally the driver side) of the front windshield, being careful not to obscure the vehicle identification number nor to obstruct driver vision.

(17) No certificate of compliance or inspection shall be issued unless the vehicle complies with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 481.190 to 481.200, [and] 483.800 to 483.825 and 467.030.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 89, f. 4-22-75, ef. 5-25-75, DEQ 139, f. 6-30-77, ef. 7-1-77

Heavy Duty Gasoline Motor Vehicle Emission Control Test Method

340-24-315 (No Proposed Amendments)

Light Duty Motor Vehicle Emission Control Test Criteria

340-24-320 (No Proposed Amendments)

Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria

340-24-325 (No Proposed Amendments)

OAR 340-24-330 LIGHT DUTY MOTOR VEHICLE EMISSION CONTROL CUTPOINTS OR STANDARDS

(No Proposed Amendments)

340-24-335 HEAVY-DUTY GASOLINE MOTOR VEHICLE EMISSION CONTROL EMISSION STANDARDS

(No Proposed Amendments)

340-24-337 Motor Vehicle Propulsion Exhaust Noise Standards.

(1) Light duty motor vehicle propulsion exhaust noise levels not to be exceeded as measured at no less than 20 inches from any opening to the atmosphere downstream from the exhaust ports of the motor vehicle engine:

Vehicle Type	Maximum Allowable Noise Level
Front Engine	93 dBA
Rear and Mid Engine	95 dBA

Criteria for Qualifications of Persons Eligible to Inspect Motor Vehicles and Motor Pollution Control Systems and Execute Certificates

340-24-340 (No Proposed Amendments)

GAS ANALYTICAL SYSTEM LICENSING CRITERIA

340-24-350 (No Proposed Amendments)

Attachment E
Agenda Item E
June 29, 1984
EQC Meeting

TABLE 2

(340-35-030)

In-Use Road Vehicle Standards

Stationary Test

Vehicle Type	Model Year	Maximum Noise Level, dBA	Minimum Distance from Vehicle to Measurement Point
All vehicles described in ORS 481.205(2)(a)	Before 1976	94	25 feet (7.6 meters)
	1976 and After	91	25 feet (7.6 meters)
All other trucks in excess of 8,000 pounds (3629 kg) GVWR	Before 1976	94	25 feet (7.6 meters)
	1976-1981	91	25 feet (7.6 meters)
	After 1981	88	25 feet (7.6 meters)
Motorcycles	1975 and Before	102	20 inches (1/2 meter)
	After 1975	99	20 inches (1/2 meter)
Front-engine automobiles, light trucks and all other front-engine road vehicles	All	95	20 inches (1/2 meter)
Rear-engine automobiles and light trucks and mid-engine automobiles and light trucks	All	97	20 inches (1/2 meter)
Buses as defined under ORS 481.030	Before 1976	94	25 feet (7.6 meters)
	1976 and After	91	25 feet (7.6 meters)

NP1392.C

VICTOR ATIYEH
GOVERNOR

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. F, June 29, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on the Modification of Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100 to 110

Background

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.

Concurrently, the U.S. Environmental Protection Agency, under Subtitle "C" of the Resource Conservation and Recovery Act (1976), has developed a national program for the management of hazardous waste. The act places hazardous waste management in the federal province but includes provisions for EPA to authorize a state program to operate in lieu of a federally operated program.

On April 20, 1984, the Department adopted, as OAR Chapter 340, Divisions 100 to 110, a revised set of hazardous waste management rules. This revision was based upon rules promulgated by EPA and was a prerequisite to our applying for Final Authorization to manage hazardous waste in Oregon.

The application for Final Authorization was made on June 1, 1984. In it, the Department attempted to demonstrate that the state program was fully equivalent to and consistent with the federal program.

However, at the time Divisions 100 to 110 were in the final stages of adoption, the EPA promulgated rules requiring the use of a uniform national manifest. The Department had earlier indicated its support of a national manifest, but did not have sufficient time to review the specific rules prior to the April 20th EQC rules adoption meeting.

Minor "housekeeping" changes are also proposed in several other rules. These include a clarification of the requirements for "interim status" facilities (those hazardous waste management facilities which have not yet been issued a permit), the requirement of secondary containment for underground piping where attached to tanks, requirements to prevent overflowing of uncovered tanks and surface impoundments, the depth of allowable leachate in leachate collection and removal systems for waste piles, and the requirement of a statement of compatibility with land use in hazardous waste applications.

The final significant item is a proposal to allow certain pesticide residues to be managed in accordance with Division 109 (Management of Pesticide Wastes) rather than as hazardous waste under Divisions 100 to 106. To do this, the Commission is asked to make the finding that the proposal is not likely to either (ORS 459.445(3)):

a. Cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or

b. Pose a substantial present or potential threat to human health or the environment.

It is anticipated that the Department will be proposing future rules modifications as EPA modifies the federal rules.

Alternatives and Evaluation

Adoption of the proposed rules modifications will enable the Department's hazardous waste management program to remain equivalent to the federal program.

Not adopting the rules will jeopardize this equivalency and may preclude our obtaining Final Authorization.

Summation

1. On April 20, 1984, the Department adopted hazardous waste management rules to make its program equivalent to the federal program.

2. Recently, EPA promulgated rules requiring use of a uniform hazardous waste manifest.

3. For the state program to remain equivalent to the federal program, we must also adopt rules requiring use of the uniform hazardous waste manifest.

4. Adopting the proposed "housekeeping" changes will clarify the rules and also assure equivalency to the federal program.

5. To permit modification of rule 340-102-010(4)(b), the Commission must find that the class of generators identified in rule 340-102-010(4)(c) generate hazardous waste of low concentration and, when managed in compliance with Division 109 in any quantity, are not likely to either:

   a. Cause or significantly contribute to an increase in serious irreversible or incapacitating reversible illness; or

   b. Pose a substantial present or potential threat to human health or the environment.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed modifications of OAR Chapter 340, Divisions 100 to 110.

Fred Hansen

Attachments:
I. Statement of Need for Rules
II. Statement of Land Use Consistency
III. Draft Public Notice of Rules Adoption
IV. Proposed Modifications

Fred S. Bromfeld:c
229-6210
June 6, 1984
ZC1523

ATTACHMENT I
Agenda Item No.
6/29/84 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF MODIFYING OAR CHAPTER 340, DIVISIONS 100 to 110	)))	STATEMENT OF NEED FOR MODIFICATIONS

STATUTORY AUTHORITY:

OAR 459.440 requires the Commission to:

(1) Adopt rules to establish minimum requirements for the treatment storage, and disposal of hazardous wastes, minimum requirements for operation, maintenance, monitoring, reporting and supervision of treatment, storage and disposal sites, and requirements and procedures for selection of such sites.

(2) Classify as hazardous wastes those residues resulting from any process of industry, manufacturing, trade, business or government or from the development or recovery of any natural resources, which may, because of their quantity, concentration, or physical chemical or infectious characteristics:

(a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(3) Adopt rules pertaining to hearings, filing of reports, submission of plans and the issuance of licenses.

(4) Adopt rules pertaining to generators, and to the transportation of hazardous waste by air and water.

OAR 459.455 authorizes the Commission and the Department to perform any act necessary to gain Final Authorization of a hazardous waste regulatory program under the provisions of the federal Resource Conservation and Recovery Act.

NEED FOR THE RULES:

The management of hazardous waste is currently under both state and federal control but, by being authorized, a state may manage its own hazardous waste in lieu of a federally operated program. The proposed modifications will better enable the Department to demonstrate that its program is equivalent to the federal program as required for Final Authorization.

PRINCIPAL DOCUMENTS RELIED UPON:

Existing federal hazardous waste management rules, 40 CFR Parts 260 to 265 and 270, and existing State rules, OAR Chapter 340, Divisions 100 and 110.

FISCAL AND ECONOMIC IMPACT:

Adoption of the uniform hazardous waste manifest will tend to lower overall business costs because everyone will be required to use the same form regardless of waste origin or destination. This is more economical, both in manpower and direct outlay, than the present situation where every state may require a different manifest.

The other rule modifications are generally clarifying in nature and will have no measurable fiscal or economic impact.

The small business impact is similar to that noted above.

FSB:c
ZC1523.A

Attachment II
Agenda Item No.
6/29/84 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF MODIFYING	)	LAND USE CONSISTENCY
OAR CHAPTER 340,	)	
DIVISIONS 100 to 110	)	

The proposal described appears to be consistent with all statewide planning goals. Specifically, the rules comply with Goal 6 because they modify existing rules in a manner that ensures the safe management of hazardous waste transportation, storage, treatment and disposal, and thereby provide protection for air, water and land resource quality.

The rules comply with Goal 11 by clarifying rules that promote hazardous waste reduction at the point of generation, beneficial use, recycling, treatment, and by controlling disposal site operations. They also intend to assure that current and long-range waste disposal needs will be accommodated.

Public comment on this proposal is invited and may be submitted in the manner described in the accompanying Public Notice of Rules Adoption.

It is requested that local, state and federal agencies review the proposal and comment on possible conflicts with their programs affecting land use and with statewide planning goals within their jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts thereby brought to its attention.

After public hearing, the Commission may adopt permanent rules identical to the proposal, adopt modified rules on the same subject matter, or decline to act. The Commission's deliberation should come on August 10, 1984, as part of the agenda of a regularly scheduled Commission meeting.

FSB:c
ZC1523.B

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Public Hearing on Amendments to the Hazardous Waste Rules

Date Prepared: June 8, 1984
Hearing Date: July 16, 1984
Comments Due: July 16, 1984

WHO IS AFFECTED: All persons who manage hazardous waste, including generators, transporters by air or water, and owners and operators of treatment, storage and disposal facilities.

WHAT IS PROPOSED: The Department of Environmental Quality (DEQ) proposes to amend hazardous waste rules that were adopted on April 20, 1984, to incorporate recently adopted federal rules on a national uniform manifest. The Environmental Protection Agency's rule on the manifest was not available for Oregon's April 20 adoption schedule. Additional rule amendments on interim status of hazardous waste facilities are also proposed as well as a few minor technical changes to the rules.

Equivalency to the federal requirements is necessary for Oregon to obtain Final Authorization to be solely in charge of the state program. An application for Final Authorization was submitted on June 1 to EPA, who has six months to review the application.

WHAT ARE THE HIGHLIGHTS:

- A national uniform manifest would be used by generators, transporters and facility operators to track the waste from "cradle to grave." In Oregon and other states, the proposed manifest would be used instead of different formats for each state. A uniform version would be more efficient and effective, especially for companies involved in interstate hazardous waste management.
- The requirements for interim status facilities would be clarified. Interim status facilities are companies that have not yet been issued a permit for treating, storing or disposing of hazardous wastes. Facilities would be required to have a closure and post-closure plan even if not permitted.
- Housekeeping changes cover secondary containment for underground piping where attached to tanks, requirements to prevent overflowing of uncovered tanks and surface impoundments, depth of allowable leachate in leachate collection and removal systems for waste piles, and requirements for statement of compatibility with land-use in hazardous waste applications.

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

HOW TO COMMENT:

A public hearing is scheduled for oral comments on:

Monday, July 16, 1984
9:00 a.m.
DEQ Portland Headquarters
Room 1400
522 SW Fifth Avenue.

Written comments can be submitted at the public hearing or sent to DEQ, P.O. Box 1760, Portland, Oregon, 97207, by July 16, 1984.

For more information call Fred Bromfeld at 229-5913 or toll-free in Oregon 1-800-452-4011.

WHAT IS THE NEXT STEP:

After the public hearing, DEQ will evaluate the comments, prepare a responsiveness summary and make a recommendation to the Environmental Quality Commission on August 10, 1984.

FD921

Attachment IV
Agenda Item No.
6/29/84 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF MODIFYING OAR CHAPTER 340, DIVISIONS 100 to 110	)))	PROPOSED MODIFICATIONS

DIVISION 100

1. 340-100-010 When used in Divisions 100 to 110 of this Chapter, the following terms have the meanings given below:

. . .

"Manifest" means the [form used for identifying the quantity, composition, and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.] EPA Form 8700-22 and, if necessary, EPA Form 8700-22A, originated and signed by the generator in accordance with the instructions included in Appendix I to Division 102.

"Manifest document number" means the [serially increasing number assigned to the manifest by the generator for recording and reporting purposes.] twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the Manifest by the generator for recording and reporting purposes.

. . .

1. 340-101-006 (1) . . .

(2) . . .

(a) . . .

(b) Accumulate the waste in accordance with rules 340-102-034(1)(a) to (c), except that the 90-day storage limitation does not apply; [and]

(c) If he ships waste off-site for beneficial use or reuse, obtain written authorization from the Department as required by rule 340-102-052[.]; and

(d) Report off-site shipments to the Department as required by rule 340-102-041.

2. 340-101-032 Hazardous waste from specific sources.

EPA Hazardous Waste Number	Hazardous Waste	Hazard Code	Small Quantity Exemption (lb/mo.)
. . .			
K052	Tank bottoms (leaded) from the petroleum refining industry.	T	200
. . .			

1. 340-102-010 (1) . . .

(2) A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following rules with respect to that waste: rule 340-102-011 for determining whether or not he has a hazardous waste, -012 for obtaining an identification number, -034 for accumulation of hazardous waste, -040(3) and (4) for record-keeping, -043 for additional reporting and, if applicable, -051 for farmers.

(3) . . .

(4) (a) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of rule 340-102-051 is not required to comply with other standards in this Division or Divisions 104 or 105 with respect to such pesticides.

(b) A person identified in subsection (c) of this section who produces a pesticide residue, excluding unused commercial pesticide, that is hazardous solely by application of rule 340-101-034, is exempt from compliance with this Division or Divisions 104 and 105 provided such person complies with the requirements of Division 109.

(c) Exemptions under subsection (b) of this rule: Any person who produces a pesticide residue from agricultural pest control (crops, livestock, Christmas tree plantation, commercial nurseries, grasslands); industrial pest control (warehouses, grain elevators, tank farms, rail yards); structural pest control (human dwellings); ornamental and turf pest control (ornamental trees, shrubs, flowers, turf); forest pest control (forestry lands and crops), recreational pest control (golf courses); governmental (right-of-way, vector, predator, and aquatic pest control); seed treatment; and pesticide demonstration and research.

(5) . . .

2. 340-102-011 A person who generates a [solid] waste[, as defined in rule 340-101-002,] or residue must determine if that waste is a hazardous waste using the following method:

(1) . . .

(2) . . .

(3) . . .

(a) . . .

(Comment: In most instances, t[T]he Department will not consider approving a test method until it has been approved by EPA.)

(b) . . .

3. 340-102-020 (1) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage or disposal must prepare a [manifest before transporting the waste off-site.] Manifest on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in Appendix I to this Division.

(2) . . .

(3) . . .

(4) . . .

(5) A generator may substitute shipping papers for the manifest for waste shipped off-site for beneficial use or reuse or legitimate recycling or reclamation as permitted by rule 340-101-006(1).

4. [Required information.] Acquisition of Manifests.

340-102-021 [(1) The manifest must contain all of the following information:

(a) A manifest document number;

(b) The generator's name, mailing address, telephone number, and identification number;

(c) The name and identification number of each transporter;

(d) The name, address and identification number of the designated facility and an alternate facility, if any;

(e) The description of the waste(s) (e.g., proper shipping name, etc.) required by regulations of the U.S. Department of Transportation in 49 CFR 172.101, .202, and .203.

(f) The total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle.

(2) The following certification must appear on the manifest: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the Oregon Department of Environmental Quality."

(Comment: For commercially printed certifications, the word "EPA" may be substituted for "Oregon Department of Environmental Quality.")]

(1) If the state to which the shipment is manifested (consignment state) supplies the Manifest and requires its use, then the generator must use that Manifest.

(2) If the consignment state does not supply the Manifest, the generator may obtain the Manifest from any source.

5. 340-102-050 (1) . . .

(2) . . .

(a) . . .

(c) Meet the requirements under rule [340-102-021 for the manifest,] 340-102-020(1) for the Manifest, except that:

(A) In place of the name, address, and EPA identification number of the designated facility, the name and address of the foreign consignee must be used;

(B) The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

(3) A generator must file an Exception Report if:

(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; or

(b) Within 90 days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(4) When importing hazardous waste, a person must meet all requirements of rule [340-102-021 for the manifest] 340-102-020(1) for the Manifest except that:

(a) In place of the generator's name, address, and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(b) In addition to the generator's signature on the certification statement, the U.S. importer or his agent must also sign and date the certification and obtain the signature of the initial transporter.

(5) A person who imports hazardous waste must obtain the Manifest form from the consignment state if that state supplies the Manifest and requires its use. If the consignment state does not supply the Manifest form, then

its use. If the consignment state does not supply the Manifest form, then the Manifest form may be obtained from any source.

6. 340-102-034 (1) . . .

(a) . . .

(b) The waste is placed in tanks and the generator complies with Subdivision J of Division 104. [rules 340-104-197 to -199 and the following:

(A) Treatment or storage of hazardous waste in tanks must comply with rule 340-104-017(2);

(B) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode or otherwise fail before the end of its intended life;

(C) Uncovered tanks must be operated to ensure at least 2 feet of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 2 feet of the tank;

(D) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., a waste feed cutoff system or bypass system to a standby tank); and

(E) The owner or operator inspects, where present:

(i) Discharge control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems), at least once each operating day to ensure that it is in good working order;

(ii) Data gathered from monitoring equipment (e.g., pressure and temperature gauges), at least once each operating day, to ensure that the tank is being operated according to its design;

(iii) The level of waste in the tank, at least once each operating day, to ensure compliance with paragraph (C) of this subsection;

(iv) The construction materials of the tank, at least weekly, to detect corrosion or leaking of fixtures or seams; and

(v) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).]

(c) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container[s];

(d) . . .

7. 340-102-052 (1) A generator proposing to ship waste off-site for beneficial use or reuse as permitted by rule 340-101-006(1) shall obtain written authorization from the Department prior to initiating such shipments.

(2) To request authorization, a generator shall submit to the Department, at least 30 days prior to the initial shipment, the following information:

(a) Name and address of facility at which waste is to be used;

(b) Type and quantity of waste;

(c) Why the waste is identified as hazardous;

(d) Management of waste [at the facility] prior to use;

(e) Use of waste;

(f) Rate or time of that use;

(g) A statement from the beneficial user <u>or reuser, and any intermediate handlers</u>, agreeing to permit authorized representatives of the Department access to the site of waste management and use for the purpose

of inspecting the site, the records of waste management and use, and environmental monitoring; and

(h) Other information as may be requested by the Department.

(3) Generators shipping waste to beneficial users before April 6, 1984, shall submit the required information by September 1, 1984.

(4) A generator shall submit a new request for authorization any time the information submitted under section (2) of this rule no longer accurately reflects the conditions under which authorization was granted.

(5) The Department may terminate the authorization for the following causes:

(a) Noncompliance by the generator with the requirements of rule 340-101-006(2);

(b) The generator's failure in the request for authorization to fully disclose all relevant facts, or the misrepresentation of any relevant facts at any time; or

(c) A determination that the authorized activity endangers human health or the environment and can only be regulated to acceptable levels by the issuance of a permit.

8. Add the following Appendix to Division 102:

Appendix I: Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and their Instructions)

EPA FORM 8700-22

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter;

a firm point pen may also be used -- press down hard.

State regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to use this form (8700-22) and, if necessary, the continuation sheet (Form 8700-22A) for both inter- and intrastate transportation.

State regulations also require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to complete the following information:

GENERATORS

Item 1. Generator's U.S. EPA ID Number -- Manifest Document Number

Enter the generator's Oregon or EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) by the generator.

(Comment: The identification number granted by the Department will be identical to that granted by EPA.)

Item 2. Page 1 of ___

Enter the total number of pages used to complete this Manifest, i.e., the first page (EPA Form 8700-22) plus the number of Continuation Sheets (EPA Form 8700-22A), if any.

Item 3. Generator's Name and Mailing Address

Enter the name and mailing address of the generator. The address

should be the location that will manage the returned Manifest forms.

Item 4. Generator's Phone Number

Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name

Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA ID Number

Enter the Oregon or EPA twelve digit identification number of the first transporter identified in Item 5.

Item D. Transporter's Phone Number

Enter a telephone number where an authorized agent of the first transporter may be reached in the event of an emergency.

Item 7. Transporter 2 Company Name

If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) (EPA Form 8700-22A) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA ID Number

If applicable, enter the Oregon or EPA twelve digit identification number of the second transporter identified in Item 7.

(Comment: If more than two transporters are used, enter each additional transporter's company name and Oregon or EPA twelve digit identification number in Items 24-27 on the Continuation Sheet (EPA Form 8700-22A). Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.)

Item F. Transporter's Phone Number

Enter a telephone number where an authorized agent of the second transporter may be reached in the event of an emergency.

Item 9. Designated Facility Name and Site Address

Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be site address, which may differ from the company mailing address.

Item 10. U.S. EPA ID Number

Enter the Oregon or EPA twelve digit identification number of the designated facility identified in Item 9.

Item H. Facility's Phone Number

Enter a telephone number where an authorized agent of the facility may be reached in the event of an emergency.

Item 11. U.S. DOT Description (Including Proper Shipping Name, Hazard Class and ID Number (UN/NA))

Enter the U.S. DOT Proper Shipping Name, Hazard Class and ID Number (UN/NA) for each waste as identified in 49 CFR 171 through 177.

(Comment: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the Continuation Sheet (EPA Form 8700-22A).)

Item 12. Containers (no. and type)

Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I. Types of Containers

DM = Metal drums, barrels, kegs

DW = Wooden drums, barrels, kegs

DF = Fiberboard or plastic drums, barrels, kegs

TP = Tanks portable

TT = Cargo tanks (tank trucks)

TC = Tank cars

DT = Dump truck

CY = Cylinders

CM = Metal boxes, cartons, cases (including roll-offs)

CW = Wooden boxes, cartons, cases

CF = Fiber or plastic boxes, cartons, cases

BA = Burlap, cloth, paper or plastic bags

Item 13. Total Quantity

Enter the total quantity of waste described on each line.

Item 14. Unit (wt/vol)

Enter the appropriate abbreviation from Table II (below) for the unit of measure.

Table II. Units of Measure

G = Gallons (liquids only)

P = Pounds

T = Tons (2000 lb.)

Y = Cubic yards

L = Liters (liquids only)

K = Kilograms

M = Metric tons (1000 kg.)

N = Cubic meters

Item I. Waste Number

Enter the EPA Hazardous Waste Number.

Item 15. Special Handling Instructions and Additional Information

Generators may use this space to indicate special transportation, treatment, storage or disposal information or Bill of Lading information. For international shipments, generators must enter in this space the point of departure (city and state) for those shipments destined for treatment, storage or disposal outside the jurisdiction of the United States.

(Comment: The authorized disposal request number may be put in this space.)

Item 16. Generator's Certification

The generator must read, sign (by hand) and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below.

(Comment: All of the above information except the handwritten signature required in Item 16 may be preprinted.)

Item 17. Transporter 1 Acknowledgement of Receipt of Materials

Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgement of Receipt of Materials

Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

(Comment: International Shipments -- Transporter Responsibilities:

Exports: Transporters must sign and enter the date the waste left the United States in Item 15.

Imports: Shipments of hazardous waste regulated by OAR Chapter 340, Divisions 100 to 108, and transported into Oregon from outside the United States must upon entry be accompanied by the Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into Oregon from outside the United States are responsible for completing the Manifest (OAR 340-103-010(3)(a))).

OWNERS AND OPERATORS OF TREATMENT, STORAGE OR DISPOSAL FACILITIES

Item 19. Discrepancy Indication Space

The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and the waste actually received at the facility.

Owners and operators of facilities who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to the Department a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (OAR 340-104-072).

Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by this Manifest Except as Noted in Item 19

Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

CONTINUATION SHEET, EPA FORM 8700-22A

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch (elite) typewriter; a firm point pen may also be used -- press down hard.

This form must be used as a continuation sheet to EPA Form 8700-22 if:

o More than two transporters are to be used to transport the waste;

o More space is required for the U.S. DOT description and related information in Item 11 of EPA Form 8700-22.

State regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage and disposal facilities to use the uniform hazardous waste manifest (EPA Form 8700-22) and, if necessary, this continuation sheet (EPA Form 8700-22A) for both inter- and intrastate transportation.

GENERATORS

Item 21. Generator's U.S. EPA ID Number -- Manifest Document Number

Enter the generator's Oregon or EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in Item 1 on the first page of the Manifest.

Item 22. Page ___

Enter the page number of this Continuation Sheet.

Item 23. Generator's Name

Enter the generator's name as it appears in Item 3 on the first page of the Manifest.

Item 24. Transporter ___ Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will be transporting the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number

Enter the Oregon or EPA twelve digit identification number of the transporter described in Item 24.

Item 0. Transporter's Phone Number

Enter a telephone number where an authorized agent of the transporter identified in Item 24 may be reached in the event of an emergency.

Item 26. Transporter ___ Company Name

If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will be transporting the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number

Enter the Oregon or EPA twelve digit identification number of the transporter described in Item 26.

Item Q. Transporter's Phone Number

Enter a telephone number where an authorized agent of the transporter identified in Item 26 may be reached in the event of an emergency.

Item 28. U.S. DOT Description Including Proper Shipping Name, Hazard Class and ID Number (UN/NA)

Refer to Item 11.

Item 29. Containers (no. and type)

Refer to Item 12.

Item 30. Total Quantity

Refer to Item 13.

Item 31. Unit (wt/vol)

Refer to Item 14.

Item R. Waste Number

Enter the EPA Hazardous Waste Number.

Item 32. Special Handling Instructions and Additional Information

Generators may use this space to indicate special transportation, treatment, storage or disposal information or Bill of Lading information.

(Comment: The authorized disposal request number may be put in this space.)

TRANSPORTERS

Item 33. Transporter ___ Acknowledgement of Receipt of Materials

Enter the same number of the Transporter as identified in Item 24. Enter also the name of the person accepting the waste on behalf of the Transporter identified in Item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter ___ Acknowledgement of Receipt of Materials

Enter the same number as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of

receipt.

OWNERS AND OPERATORS OF TREATMENT, STORAGE OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space

Refer to Item 19.

lease print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2000-0404. Expires 7-31-86

UNIFORM HAZARDOUS WASTE MANIFEST

1. Generator's US EPA ID No. | Manifest Document No. | 2. Page 1 of | Information in the shaded areas is not required by Federal law.

GENERATOR

3. Generator's Name and Mailing Address

4. Generator's Phone ( )

A. State Manifest Document Number

B. State Generator's ID

5. Transporter 1 Company Name | 6. US EPA ID Number

C. State Transporter's ID

D. Transporter's Phone

7. Transporter 2 Company Name | 8. US EPA ID Number

E. State Transporter's ID

F. Transporter's Phone

9. Designated Facility Name and Site Address | 10. US EPA ID Number

G. State Facility's ID

H. Facility's Phone

11. US DOT Description *(Including Proper Shipping Name, Hazard Class, and ID Number)*	12. Containers No.	Type	13. Total Quantity	14. Unit Wt/Vol	I. Waste No.
a.					
b.					
c.					
d.					

J. Additional Descriptions for Materials Listed Above

K. Handling Codes for Wastes Listed Above

15. Special Handling Instructions and Additional Information

16. **GENERATOR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations.

Printed/Typed Name | Signature | Date (Month Day Year)

TRANSPORTER

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name | Signature | Date (Month Day Year)

18. Transporter 2 Acknowledgement or Receipt of Materials

Printed/Typed Name | Signature | Date (Month Day Year)

FACILITY

19. Discrepancy Indication Space

20. Facility Owner or Operator: Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19.

Printed/Typed Name | Signature | Date (Month Day Year)

EPA Form 8700-22 (3-84)

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2000-0404. Expires 7-31-86

UNIFORM HAZARDOUS WASTE MANIFEST
(Continuation Sheet)

21. Generator's US EPA ID No. | Manifest Document No. | 22. Page | Information in the shaded areas is not required by Federal law.

23. Generator's Name | L. State Manifest Document Number | M. State Generator's ID

24. Transporter ____ Company Name | 25. US EPA ID Number | N. State Transporter's ID | O. Transporter's Phone

26. Transporter ____ Company Name | 27. US EPA ID Number | P. State Transporter's ID | Q. Transporter's Phone

28. US DOT Description *(Including Proper Shipping Name, Hazard Class, and ID Number)*	29. Containers No.	Type	30. Total Quantity	31. Unit Wt/Vol	R. Waste No.
a.					
b.					
c.					
d.					
e.					
f.					
g.					
h.					
i.					

S. Additional Descriptions for Materials Listed Above | T. Handling Codes for Wastes Listed Above

32. Special Handling Instructions and Additional Information

GENERATOR

TRANSPORTER

33. Transporter ____ Acknowledgement of Receipt of Materials | Printed/Typed Name | Signature | Date (Month Day Year)

34. Transporter ____ Acknowledgement of Receipt of Materials | Printed/Typed Name | Signature | Date (Month Day Year)

FACILITY

35. Discrepancy Indication Space

EPA Form 8700-22A (3-84)

1. 340-104-112 (1) The owner or operator of a hazardous waste management facility must have a written closure plan. The plan must be submitted with the permit application, in accordance with rule 340-105-014(2)(m), and approved by the Department as part of the permit issuance proceeding under Division 106. In accordance with rule 340-105-032, the approved closure plan will become a condition of any hazardous waste permit. The Department's decision must assure that that approved closure plan is consistent with rules 340-104-111, -113, -114, -115, and the applicable requirements of rules 340-104-178, -197, -228, -258, -280, -310 and -351. A copy of the [approved] closure plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with rule 340-104-115. The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include, at least:

(a) . . .

(2) . . .

(3) The owner or operator must notify the Department at least 180 days prior to the date he expects to begin closure.

(Comment: The date when he "expects to begin closure" should be within 30 days after the date on which he expects to receive the final volume of wastes. If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or by order of the Department, to cease receiving wastes or to close, then the requirement of this [paragraph] section does not apply. However, the owner or operator

must close the facility in accordance with the deadlines established in rule 340-104-113).

2. 340-104-113 (1) Within 90 days after receiving the final volume of hazardous wastes, the owner or operator must treat, remove from the site, or dispose of on-site, all hazardous wastes in accordance with the [approved] closure plan. The Department may approve a longer period if the owner or operator demonstrates that:

(a)(A) The activities required to comply with this section will, of necessity, take longer than 90 days to complete; or

(B)(i) The facility has the capacity to receive additional wastes;

(ii) There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and

(iii) Closure of the facility would be incompatible with continued operation of the site; and

(b) He has taken and will continue to take all steps to prevent threats to human health and the environment.

(2) The owner or operator must complete closure activities in accordance with the [approved] closure plan and within 180 days after receiving the final volume of wastes. The Department may approve a longer closure period if the owner or operator demonstrates that:

(a) . . .

3. 340-104-115 When closure is completed, the owner or operator must submit to the Department certification both by the owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the [approved] closure plan.

4. 340-104-117 (1) . . .

. . .

(4) All post-closure care activities must be in accordance with the provisions of the [approved] post-closure plan as specified in rule 340-104-118.

5. 340-104-118 (1) The owner or operator of a disposal facility must have a written post-closure plan. In addition, certain piles and certain surface impoundments from which the owner or operator intends to remove the wastes at closure are required by rules 340-104-228 and -258 to have post-closure plans. The plan must be submitted with a permit application, in accordance with rule 340-105-014(2)(m), and approved by the Department as part of the permit issuance proceeding under Division 106. In accordance with rule 340-105-032, the approved post-closure plan will become a condition of any permit issued. A copy of the [approved] post-closure plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(a) . . .

6. 340-104-147 (1) . . .

. . .

(4) Adjustments by the Department. If the Department determines that the levels of financial responsibility required by section (1) or (2) of this rule are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of

facilities, the Department may adjust the level of financial responsibility required under section (1) or (2) of this rule as may be necessary to protect human health and the environment. This adjusted level will be based on the Department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the Department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, [he] it may require that an owner or operator of the facility comply with section (2) of this rule. An owner or operator must furnish to the Department, within a reasonable time, any information which the Department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification under rules 340-105-041(1)(e)(C) and 340-106-005.

7. 340-104-191 (1) . . .

(2) Tanks and underground appurtenances installed after January 1, 1985, must have secondary containment that:

(a) . . .

8. 340-104-192 (1) . . .

(2) . . .

(a) . . .

(b) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or by precipitation. A minimum of 2 feet will be required unless otherwise approved by the Department.

9. 340-104-194 (1) . . .

(a) . . .

. . .

(e) The area immediately surrounding the tank **including discharge confinement structures (e.g., dikes)**, at least weekly, to detect **erosion or** obvious signs of leakage (e.g., wet spots or dead vegetation).

(2) . . .

10. 340-104-221 (1) . . .

(2) . . .

(3) A surface impoundment must be designed, constructed, maintained and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error. A minimum of 2 feet freeboard will be required unless otherwise approved by the Department.

11. 340-104-251 (1) A waste pile (except for an existing portion of a waste pile) must have:

(a) . . .

(b) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained and operated to ensure that leachate depth does not exceed one foot and to collect and remove leachate from the pile. The Department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed one foot. The leachate collection and removal system must be:

(A) . . .

1. 340-105-010 (1) . . .

. . .

(5) Existing management facilities. (a) . . .

. . .

(e) If an owner or operator of an existing management facility has filed a Part A permit application but has not yet filed a Part B permit application, the owner or operator shall file an amended Part A application:

(A) No later than 15 days after the effective date of the adoption of rules listing or designating wastes as hazardous if the facility is treating, storing or disposing of any of those newly listed or designated wastes; or

(B) Prior to any of the following actions at the facility:

(i) Treatment, storage or disposal of a new hazardous waste not previously identified in Part A of the permit application;

(ii) Increases in the design capacity of processes used at a facility. The owner or operator must submit a justification explaining the need for the increase based on the lack of available treatment, storage or disposal capacity at other hazardous waste management facilities, and receive Department approval before making such increase.

(iii) Changes in the processes for the treatment, storage or disposal of hazardous waste. The owner or operator must submit a justification explaining that the change is needed because:

(I) It is necessary to prevent a threat to human health or the

environment because of an emergency situation, or

(II) It is necessary to comply with the requirements of Divisions 100 to 108.

The owner or operator must receive Department approval before making such change.

(iv) Changes in the ownership or operational control of a facility. The new owner or operator must submit a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of Subdivision H of Division 104 (financial requirements), until the new owner or operator has demonstrated to the Department that he is complying with that Subdivision. All other duties required by these rules are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the Department by the new owner or operator of compliance with Subdivision H of Division 104, the Department shall notify the old owner or operator in writing that he no longer needs to comply with Subdivision H as of the date of demonstration.

2. 340-105-013 Part A of the hazardous waste application shall include the following information:

(1) . . .

. . .

(11) . . .

(a) . . .

. . .

(j) Other relevant approvals, including a statement of compatibility with the approved local comprehensive plan and zoning requirements or

the Land Conservation and Development Commission's Statewide Planning Goals.

3. 340-105-014 (1) . . .

. . .

(3) . . .

(a) . . .

. . .

(d) . . .

(A) . . .

(B) Identifies the concentration of each Appendix VIII of Division 101 constituent [throughoutemhe] throughout the plume or identifies the maximum concentrations of each Appendix VIII constituent in the plume.

1. 340-109-001 (1) The purpose of this Division is to specify procedures for managing residues and empty containers produced by the use of pesticides.

(2) The requirements of this Division apply to any person [(including farmers)] who produces pesticide residue or empty pesticide containers [except as indicated in sections (3) and (4) of this rule.] if such residue or empty containers are not subject to regulation under Divisions 100 to 106.

[(3) Persons producing pesticide wastes identified as hazardous waste in Division 101 are subject to regulation under Divisions 100 to 108 (except farmers who are exempted under rule 340-102-051).]

[(4)] (3) Pesticide residues or empty pesticide containers produced from household use are not regulated.

2. 340-109-010 (1) . . .

(2) . . .

(3) . . .

(4) A person who spills pesticide residue shall:

(a) Report spills in excess of 200 lb. to the Oregon Emergency Management Division (telephone 800-452-0311); and

(b) Clean up such spill in accordance with rule 340-108-010.

3. 340-109-020 [(1) Empty containers are hazardous waste if they were used in the transportation, storage, or use of a pesticide.]

[(2)] (1) Empty rigid pesticide containers, including but not limited

to cans, pails, buckets or drums constructed of metal, plastic, glass, or fiber [may be managed as ordinary solid waste if they are] must be decontaminated, verified and altered as follows:

(a) . . .

(A) . . .

(B) . . .

(C) Chemical washing methods such as those used to recondition metal drums; or

[(D) Removing the inner liner that prevented contact of the hazardous substance or hazardous waste with the container and managing the liner as hazardous waste; or]

[(E)] (D) Other methods that have been shown in the scientific literature, or by generator tests, to achieve equivalent removal.

(b) . . .

(c) . . .

[(3)] (2) Empty non-rigid pesticide containers, including paper, paper-laminated and paper-laminated foil bags, [may be managed as ordinary solid waste if they are] must be disposed as follows:

(a) . . .

(b) . . .

(c) . . .

[(4)] (3) Farmers may bury empty non-rigid or decontaminated rigid pesticide containers on their own property provided:

(a) . . .

(b) . . .

[(5)] (4) No person shall use or provide for use empty or decontaminated pesticide containers to store food, fiber or water intended for human or animal consumption.

VICTOR ATIYEH
GOVERNOR

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, June 29, 1984, EQC Meeting

Request for Authorization to Hold a Public Hearing on Proposed Changes to the Indirect Source Rules in the Medford Area (Amendments to OAR 340-20-100 to 20-135).

BACKGROUND AND PROBLEM STATEMENT

On April 6, 1984, the Environmental Quality Commission adopted Temporary Rules for Indirect Sources in the Medford area. The temporary changes to the Indirect Source Rules were sought in light of the defeat of an inspection and maintenance (I/M) ballot measure on March 27, 1984. Without an I/M program, the Medford area no longer has a viable carbon monoxide (CO) attainment plan. The temporary changes to the Indirect Source Rules gave the Department authority to immediately require the City of Medford to develop a more aggressive Parking and Traffic Circulation Plan which would be an element of a revised CO attainment plan. The temporary rule changes also gave the Department the authority to review moderately-sized Indirect Source projects so that any such projects could be regulated to ensure noninterference with prospects of attaining and maintaining the CO health standard and developing an alternative CO attainment plan.

The Department is seeking to make the temporary changes to the Indirect Source Rules permanent through the normal rulemaking process primarily because the schedule (Attachment 1) for adopting a revised CO attainment plan goes well beyond the expiration date (October 3, 1984) of the Temporary Rules. In order to fit into that schedule, the temporary changes to the Indirect Source Rules need to be made permanent. The proposed permanent changes are also needed for the following reasons:

1. The Department's authority to require a more aggressive Parking and Traffic Circulation Plan would be maintained in the event that there is any slippage in the present submittal schedule.

2. Without an I/M program, a replacement CO strategy is likely to be marginal at best, since I/M would have increased in effectiveness over time and would have provided some margin for CO attainment. Therefore, the Department needs to maintain review of moderately-sized Indirect Source projects to make sure that an individual project or combination of projects does not negate the effectiveness of a revised attainment plan.

The proposed permanent changes to the Indirect Source Rules would not be incorporated into the State Implementation Plan at the present time. The need for taking such action will be assessed when a revised CO attainment analysis is available in early August, 1984. Depending upon the results of the revised analysis, the Department could propose to make the Indirect Source Rules, as they apply to Medford, a federally approved control strategy element of the State Implementation Plan.

The Environmental Protection Agency (EPA) is moving rapidly to impose limitations on highway project funds in Jackson County and to reduce the Department's air program funds provided by EPA due to the failure of the state to have an approved carbon monoxide strategy. Final EPA action on the highway funding sanctions could come as early as August or September, 1984.

The proposed permanent changes to Indirect Source Rules (Attachment 3) would augment the effort to develop an alternative CO strategy which is needed to show how Medford can attain the CO health standard by the federal deadline of 1987. An approvable CO plan is also needed in order to head-off permanent federally imposed economic sanctions.

The Commission is authorized by ORS 468.020 and 468.310 to 468.330 to adopt rules for indirect sources.

A Statement of Need for Rulemaking is attached (Attachment 4). A proposed Public Notice is also attached (Attachment 5).

ALTERNATIVES AND EVALUATION

The temporary changes to the Indirect Source Rules that are now in effect in the Medford area are proposed to be permanently adopted in the three following areas:

1. Before the temporary changes to the Indirect Source Rules, the parking lot project cutoff point was 1,000 spaces. Under the proposed change to OAR 340-20-115(2)(a)(A), the cutoff point would be permanently set at 50 spaces within the city limits of Medford and at 250 spaces within 5 miles of the city limits. Under the proposed change to OAR 340-20-115(2)(b)(A), the parking project review cutoff point would be

set at 500 spaces within Jackson County. Indirect Source parking projects within the city with 50 or more planned spaces would be required to secure an Indirect Source construction permit from the Department;

2. Prior to the Indirect Source Rules changes under Temporary Rules, the highway project review cutoff point was 50,000 vehicles per day. The cutoff point under the proposed changes to OAR 340-20-115(2)(b)(B) would be permanently set at 20,000 vehicles per day;

3. The Parking and Traffic Circulation Plan regulations (OAR 340-20-120) would be permanently established exactly as adopted by Temporary Rules on April 6, 1984. The effect of the changes to the Parking and Traffic Circulation Plan regulations is to require Medford to rapidly develop a more aggressive downtown parking and circulation plan.

By permanently setting the parking threshold at 50 spaces, the Department would be able to continue to review "intensive trip generators," such as relatively large fast-food restaurants that have drive up windows. In the CO problem area of Medford, a fast-food restaurant could have an impact of almost 1 mg/m^3 of 8-hour CO under adverse meteorological conditions. The 1 mg/m^3 concentration level is significant because it is measurable by existing CO monitoring equipment, and it is 10 percent of the 8-hour health standard. In the past, EPA has considered 5 percent of an ambient air standard to be significant. Under the old parking cutoff of 1,000 spaces, the Department had reviewed only one Indirect Source project (Rogue Valley Mall) in the Medford area since 1978.

By permanently making the highway project cutoff 20,000 vehicles per day, the Department would be able to review moderate volume street projects, which typically might be designed to accommodate traffic volumes ranging from 20,000 to 45,000 vehicles per day. Major streets in the current CO problem area have traffic volumes that range from 9,100 to 20,000 vehicles per day. By keeping the review cutoff at 20,000 vehicles per day, the Department would be able to review highway projects that could potentially interfere with the attainment and maintenance of the CO health standard. Under the old cutoff point, no highway projects have been reviewed by the Department. If the old cutoff point were restored, the Department would probably not review any future highway projects, because such projects would be unlikely to have forecast traffic volumes equalling or exceeding the 50,000 vehicles per day threshold.

By making permanent the temporary changes to the Indirect Source Rules in the section dealing with the establishment of Parking and Traffic Circulation Plans (OAR 340-20-120), the Department's authority to require a more aggressive parking and circulation plan in the Medford core area would be maintained beyond the maximum 180-day period (April 6, 1984 to October 3, 1984) allowed by Temporary Rules. This is needed in the event that the

current plan submittal schedule slips past the 180-day Temporary Rules period. The Department would then have legal recourse to keep up pressure on the City to submit a plan.

Failure to proceed toward adoption of the proposed permanent rule changes to OAR 340-20-100 to 20-135 may result in serious prejudice to the public interest by allowing moderately-sized indirect sources (50 to 999 parking spaces) to construct in the Medford area after the 180-day Temporary Rules period expires without evaluating and mitigating CO impacts. Also, failure to act could make more difficult the Department's ability to deal with unforeseen delays to traffic planning actions that the City of Medford is presently taking to help develop an alternative CO control strategy. This could specifically result in:

a. Further delay or permanent prevention of attainment of the CO health standard in Medford;

b. Permanent imposition of a federal construction moratorium on major new or modified CO sources in the Medford area;

c. Permanent imposition of federal sanctions on transportation projects, air planning, and sewage treatment funding.

A revised Medford CO plan is being developed with the cooperation of the City of Medford, Jackson County, and the Department of Transportation.

SUMMATION

1. On April 6, 1984, the Environmental Quality Commission adopted Temporary Rules for Indirect Sources in the Medford area in light of the defeat of an inspection and maintenance (I/M) ballot measure on March 27, 1984, which left the Medford area without a viable carbon monoxide (CO) attainment plan.

2. The Temporary Rules for Indirect Sources allowed the Department to require the City of Medford to develop a more aggressive Parking and Traffic Circulation Plan that would become part of a revised CO attainment plan. Also, the Department was given authority to review moderately-sized Indirect Source projects so that any such projects could be be regulated to ensure noninterference with the attainment and maintenance of the CO health standard and the development of an alternative CO attainment plan.

3. The Department seeks to make permanent the temporary changes to the Indirect Source Rules, primarily because the schedule for adopting a revised CO attainment plan goes well beyond the expiration date (October 3, 1984) of the Temporary Rules. In order to fit into that schedule, the temporary changes to the Indirect Source Rules need to be made permanent.

4. The proposed permanent changes are also needed for the following reasons:

   a. The Department's authority to require a more aggressive Parking and Traffic Circulation Plan from the City of Medford would be maintained in the event of any slippage in the present submittal schedule.

   b. Without I/M, which would have provided some margin of safety for CO attainment, a replacement CO strategy is likely to be marginal, at best. The Department, therefore, needs to maintain permanent review authority for moderately-sized Indirect Source projects to make sure that an individual project or combination of projects does not adversely affect a revised attainment plan.

5. The proposed permanent changes to the Indirect Source Rules would not be incorporated into the State Implementation Plan at the present time. Once the results of a revised Medford CO attainment analysis are known (early August 1984), the Department could propose to make the Indirect Source Rules, as applicable to Medford, a federally approved control strategy element of the State Implementation Plan when this plan is adopted (December 1984).

6. An alternative CO strategy is needed in order to head-off federally imposed economic sanctions which would include cuts in funding for DEQ air program activities and limits on highway funding in Jackson County.

7. The temporary changes to the Indirect Source Rules for the Medford area are proposed to be permanently modified in the three following areas:

   a. the temporary parking project review cutoff of 50 spaces within the city limits of Medford would be kept instead of reversion to the old cutoff of 1,000 spaces. Also, the parking project review cutoff would be kept at 250 spaces within 5 miles of the city limits and at 500 spaces within Jackson County;

   b. the temporary highway project review cutoff of 20,000 vehicles per day within Jackson County would be kept instead of reversion to the old cutoff of 50,000 vehicles per day;

   c. the Parking and Traffic Circulation Plan regulations affecting the City of Medford would be permanently established as adopted by Temporary Rules on April 6, 1984.

8. Keeping the parking threshold at 50 spaces would enable the Department to review intensive trip generators that have significant CO impacts. Such projects might interfere with attainment and maintenance of the CO health standard.

9. Keeping the highway project cutoff at 20,000 vehicles per day would enable the Department to review major arterial projects which might interfere with attainment or maintenance of the CO health standard.

10. The proposed permanent changes to the Indirect Source Rules dealing with the establishment of Parking and Traffic Circulation Plans (OAR 340-20-120) would maintain the Department's authority to require a more effective Parking and Traffic Circulation Plan in the Medford core area as mentioned in the above item 4.

11. Failure to make the temporary Indirect Source Rules changes permanent through the proposed rule changes to OAR 340-20-100 to 20-135 may result in serious prejudice to the public interest by allowing moderately-sized indirect sources (50 to 999 parking spaces) to construct in the central Medford area without evaluating and mitigating CO impacts. Maintaining review of such sources would help to ensure that no project or combination of projects adversely affects a revised CO attainment plan.

12. Failure to make permanent the temporary changes to the Indirect Source Rules dealing with the establishment of Parking and Traffic Circulation Plans could limit the Department's ability to deal with unforeseen delays in traffic planning actions the City of Medford is taking to help develop an alternative CO control strategy.

13. A revised Medford CO plan is being developed with the cooperation of the City of Medford, Jackson County, and the Department of Transportation.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the Commission authorize a public hearing to consider public testimony on adopting permanent revisions to OAR 340-20-100 to 20-135 for indirect sources in the Medford area which are currently in effect as Temporary Rules changes which will expire on October 3, 1984.

Fred Hansen

Attachments 1. April 24, 1984 Memo of Proposed Schedule for the Revision of the Medford CO Plan.

2. April 18, 1984 Letter to M. Eldon Green, FHWA Regional Administrator, from Ernesta B. Barnes, EPA Region X Administrator.

3. Proposed Rule Revision to OAR 340-20-100 to 20-135.

4. Statement of Need for Rulemaking.

5. Proposed Public Notice.

Howard Harris:s
AS127
229-6086
June 14, 1984

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: John Kowalczyk DATE: April 24, 1984

FROM: Howard Harris/Merlyn Hough

SUBJECT: Proposed Schedule for the Revision of the Medford CO Plan

Date	Action On Overall CO Plan	Action On Indirect Source Rules
27 MAR 84	I/M vote fails, resulting in shortfall in CO plan.	
03 APR 84	Director meets with City and County officials.	
06 APR 84		EQC adopts temporary (180 days) indirect source rules.
17 APR 84	Grimes/Hough meet with Medford Chamber of Commerce, etc.	
19 APR 84	Harris/Hough meet with ODOT in Salem.	
27 APR 84	Director signs letter to City to submit PTCP in 120 days.	
04 MAY 84	ODOT/DEQ meet in Medford with City/County/RVCOG.	
08 JUN 84		DEQ completes EQC staff report on indirect source rules.
29 JUN 84		EQC authorizes public hearing on indirect source rules.
05 JUL 84		Public notice to Secretary of State office.
01 AUG 84	ODOT completes traffic analysis.	
14 AUG 84		Public hearing in Medford on changes to indirect source rules.
25 AUG 84	City submits PTCP (120 days after 27 APR 84).	
31 AUG 84	DEQ completes staff report on proposed revision of Medford CO Plan.	
20 SEP 84	Public notice to Secretary of State office.	
21 SEP 84	EQC authorizes public hearing on revised Medford CO Plan.	EQC adopts indirect source rules for Medford.
03 OCT 84		Temporary rules expire (180 days after 06 APR 84).
06 NOV 84	Public hearing in Medford on revised CO Plan.*	
26 NOV 84	DEQ completes staff report on revised CO Plan.*	
14 DEC 84	EQC adopts revised Medford CO Plan.*	

* Or public hearing and adoption before EQC in Medford on November 2, 1984.

HH/MH:a
AA4365
cc: Gary Grimes

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

Attachment 2
Agenda Item G
June 29, 1984, EQC Meeting

REPLY TO ATTN OF: M/S 532

APR 18 1984

M. Eldon Green
Regional Administrator
Federal Highway Administration
222 S.W. Morrison Street
Portland, Oregon 97204

Dear Mr. Green:

Residents in Jackson County, Oregon voted against the establishment of an Inspection and Maintenance (I/M) program for the County in a special election on March 27, 1984. As a consequence, the State of Oregon does not have an approvable State Implementation Plan (SIP) for achieving the health related carbon monoxide (CO) standard in the Medford nonattainment area. EPA has proposed to disapprove the SIP and to institute the Clean Air Act prohibition against new or modified stationary sources. I anticipate final SIP disapproval in May.

I am also initiating actions necessary to invoke the funding limitations in the Act, including the Section 176(a) limit on highway funding. In accordance with the joint EPA/DOT procedures that are contained in the April 10, 1980 Federal Register (45FR 24692), EPA is providing a 30-day consultation period prior to publishing a notice in the Federal Register proposing to impose the funding limitations. By this letter, we are initiating this consultation period with affected Federal, State and local agencies. I look forward to your assistance and cooperation in this important process.

If a satisfactory agreement to correct the situation cannot be reached within this consultation period, EPA will publish a notice in the Federal Register proposing to limit certain Federal assistance under Section 176(a). This could include limitations on certain Federal Highway Funds to the area. A public comment period of at least 30-days will follow that proposal, during which time we will solicit public comment on whether funding limitations under Section 176(a) are appropriate for Jackson County or the entire Air Quality Control Region. After review of these comments, EPA will issue a notice in the Federal Register announcing the final decision regarding the funding limitations. If funding limitations are appropriate, they will become effective on the date the final action is published.

Although I am not pleased to be taking this action, I am now obligated under the requirements of the Clean Air Act to initiate the sanction process. In order to facilitate the negotiations, our Oregon State

Operations Office will be contacting your Division Office to set up a meeting to discuss EPA's policy and get your view on how sanctions should apply to the Jackson County area. A summary of the Jackson County sanction process is enclosed. If you have any further questions please contact Loren McPhillips of my staff at (206) 442-7369.

Sincerely,

Ernesta B. Barnes
Regional Administrator

Enclosures

cc: John Vlastelicia, OOO
Dale Wilken, OFHWA
Kerry Lay, Jackson County
Fred Hansen, ODEQ
Fred Miller, ODOT

Summary of Medford AQCR Sanction Process

I. Section 176(a)

Highway Funds

° Funds Impacted - Title 23 DOT Funds.

° Geographical Impact - At a minimum Jackson County, at a maximum the AQCR.

° Steps in the process
1. Negotiation period - 30 days
2. NPRM on Sanctions 176(a)
3. Comment Period
4. NFRM - Sanctions apply upon publication

° Criteria for evaluating projects will be developed between Region 10 FHWA and EPA within the 30-day comment period.

EPA 105 Air Grants

° Funds Impacted - EPA air grants to DEQ and Jackson County including the I/M start-up funds.
° It will be necessary to provide an opportunity for a public hearing.

II. SIP Disapproval and 110(a)(2)(I)

° Construction Moratorium on stationary sources

° Geographical Impact - the approved nonattainment area or sources impacting the nonattainment area.

Steps in the process
1. NPRM - March 14, 1984
2. Comment Period Ends - April 30, 1984
3. NFRM - Construction moratorium applies upon publication.

III. Section 316(b)

° Funds Impacted - EPA sewage treatment construction grants

° EPA will evaluate the need and impact of this action during the 30-day negotiation period.

° General applicability uncertain at this time.

Attachment

PROPOSED AMENDMENTS TO OAR 340-20-115 AND OAR 340-20-120

Indirect Sources Required to Have Indirect Source Construction Permits

340-20-115(1) The owner, operator, or developer of an Indirect Source identified in subsection 340-20-115(2) of this section shall not commence construction of such a source after December 31, 1974, without an approved Indirect Source Construction Permit issued by the Department or Regional Authority having jurisdiction.

(2) All Indirect Sources meeting the criteria of this subsection relative to type, location, size, and operation are required to apply for an Indirect Source Construction Permit:

(a) The following sources in or within five (5) miles of the municipal boundaries of Medford and a municipality with a population of 50,000 or more including, but not limited to, Portland, Salem, and Eugene:

(A) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 250 or more Parking Spaces, except within the municipal boundary of Portland where the minimum number of Parking Spaces associated with an Indirect Source requiring Department approval shall be 150[.] , and except within the municipal boundary of Medford where the minimum number of Parking Spaces associated with an Indirect Source requiring Department approval shall be 50.

(B) Any Highway Section being proposed for construction with an anticipated annual average daily traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be increased by 10,000 or more vehicles per day within ten years after completion.

(b) Except as otherwise provided in this section, the following sources within Clackamas, Lane, Marion, Jackson, Multnomah, or Washington Counties:

(A) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 500 or more Parking Spaces.

(B) Any Highway Section being proposed for construction with an anticipated annual Average Daily Traffic volume of 20,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be 20,000 or more motor vehicles per day, or will be increased by 10,000 or more motor vehicles per day within ten years after completion.

(c) Except as otherwise provided in this section, the following sources in all areas of the State:

(A) Any Parking Facility or other Indirect Source with Associated Parking being constructed or modified to create new or additional parking (or Associated Parking) capacity of 1,000 or more parking spaces.

(B) Any Highway Section being proposed for construction with an anticipated annual Average Daily Traffic Volume of 50,000 or more motor vehicles per day within ten years after completion, or being modified so that the annual Average Daily Traffic on that Highway Section will be 50,000 or more motor vehicles per day, or will be increased by 25,000 or more vehicles per day, within ten years after completion.

(d) Any Airport being proposed for construction with projected annual aircraft operations of 50,000 or more within ten years after completion, or being modified in any way so as to increase the projected number of annual Aircraft Operations by 25,000 or more within 10 years after completion.

(3) Where an Indirect Source is constructed or modified in increments which individually are not subject to review under this section, and which are not part of a program of construction or modification in planned incremental phases approved by the Director, all such increments commenced after January 1, 1975, shall be added together for determining the applicability of this rule.

(4) An Indirect Source Construction Permit may authorize more than one phase of construction where commencement of construction or modification of successive phases will begin over acceptable periods of time referred to in the permit; and thereafter construction or modification of each phase may be begun without the necessity of obtaining another permit.

Establishment of an Approved Parking and Traffic Circulation Plan(s) by a City, County, or Regional Government or Regional Planning Agency

340-20-120(1) Upon determination by the Department or Regional Authority that control of Parking Spaces and traffic circulation is necessary to ensure attainment and maintenance of state and national ambient air quality standards (S/NAAQS), the Department or Regional Authority shall notify the Commission of the geographic areas determined or projected to be in noncompliance. The basis for the Department's determination shall be the findings and conclusions of an Air Quality Maintenance (AQMA) Analysis or similar air quality study. Upon submission of its findings to the Commission, the Department shall give notice to cities, counties, regional governmental units, or Regional Planning Agencies located in geographic areas determined or projected to be in noncompliance with S/NAAQS, that a public hearing shall be held on the Department's findings related to the need to control Parking Spaces and Traffic Circulation. After reviewing the public hearing testimony and the Department's findings, the Commission shall determine if it is in concurrence with the Department's findings. Upon the Commission's concurrence of the Department's findings, the Department or Regional Authority shall so notify the city, county, regional government unit, or Regional Planning Agency of the geographic areas determined or projected to be in noncompliance.

Within one-hundred twenty (120) days of receipt of such notification, the appropriate city, county, regional, or other local governmental unit or planning agency shall proceed, in accordance with a specific plan and time schedule agreed to by the appropriate governmental unit or planning

agency and the Department to develop and implement a Parking and Traffic Circulation Plan. The Parking and Traffic Circulation Plan, where required, shall be developed in coordination with the local and regional comprehensive planning process pursuant to the requirements of ORS 197.005 et. seq. The required plan shall be submitted to the Department or Regional Authority for approval within the agreed time schedule but shall not be more than three (3) years after the appropriate city, county or regional government or Regional Planning Agency is notified of the necessity for a Parking and Traffic Circulation Plan for an area within its jurisdiction.

(2) Within sixty (60) days of the notification that development and submittal of Parking and Traffic Circulation Plans are required under section 340-20-120(1) of this rule, each designated city, county or regional government or Regional Planning Agency shall notify the Department or Regional Authority in writing the agency or department and individual responsible for coordination and development of Parking and Traffic Circulation Plans.

(3) The Department or Regional Authority having jurisdiction will include in its notification:

(a) The geographic area requiring the development of Parking and Traffic Circulation Plans;

(b) The time period over which the Plan shall attain and maintain S/NAAQS; and

(c) The air contaminants for which the plan is to be developed.

(4) The Parking and Traffic Circulation Plan shall include, but not be limited to:

(a) Legally identifiable plan boundaries;

(b) Total Parking Space capacity allocated to the plan area, where applicable;

(c) Measures as necessary to provide for the attainment and maintenance of S/NAAQS for the air contaminants for which the Parking and Traffic Circulation Plan area was identified;

(d) Duly enforceable rules, regulations, and ordinances that implement measures that provide for attainment and maintenance of S/NAAQS for a period to be specified by the Department or Regional Authority;

(e) A description of the air quality levels expected as a result of the implementation of the Parking and Traffic Circulation Plan;

(f) Other applicable information which would allow evaluation of the plan such as, but not limited to, scheduling of construction, emission factors, and criteria, guidelines, and zoning ordinances applicable to the plan area;

(g) A description of the administrative procedures to be used in implementing each control measure included in the Parking and Traffic Circulation Plan;

(h) A description of the enforcement methods used to ensure compliance with measures adopted as part of the Parking and Traffic Circulation Plan;

(j) Identification and responsibilities of each city, county, and regional government or Regional Planning Agency designated under subsection 340-20-120(1) or 340-20-120(10) of this Rule to implement the Parking and Traffic Circulation Plan.

(5) The Department or Regional Authority having jurisdiction shall hold a public hearing on each Parking and Traffic Circulation Plan submitted and on each proposed revocation or substantial modification thereof, allowing at least thirty (30) days for written comments from public and other interested agencies.

(6) Upon approval of a submitted Parking and Traffic Circulation Plan, the plan shall be identified as the approved Parking and Traffic Circulation

Plan, the appropriate governmental unit or planning agency shall be notified and the plan used for the purposes and implementation of this rule.

(7) The appropriate city, county, or regional government or Regional Planning Agency shall annually review an approved Parking and Traffic Circulation Plan to determine if the plan continues to be adequate for the maintenance of air quality in the plan area and shall report its conclusions to the Department or Regional Authority having jurisdiction.

(8) The Department or Regional Authority having jurisdiction shall initiate a review of an approved Parking and Traffic Circulation Plan if it is determined that the Parking and Traffic Circulation Plan is not adequately maintaining the air quality in the plan area.

(9) A city, county, or regional government or Regional Planning Agency may submit a Parking and Traffic Circulation Plan to the Department or Regional Authority having jurisdiction for approval without being required to do so as stated in 340-20-120(1).

(10) Notwithstanding the provisions of OAR 340-20-120(1), the Department may notify the City of Medford of the need to control Parking Spaces and Traffic Circulation in the carbon monoxide nonattainment area defined in the Clean Air Act Oregon State Implementation Plan.

Within thirty (30) days of receipt of such notification, the City of Medford shall proceed in accordance with a specific plan and time schedule agreed to by the City and the Department to develop and implement a Parking and Traffic Circulation Plan. The Parking and Traffic Circulation Plan, where required, shall be developed in coordination with the local and regional comprehensive planning process pursuant to the requirements of ORS 197.005 et. seq. The required plan shall be submitted to the Department for approval within the agreed time schedule but shall not be more than one-hundred twenty (120) days after the City is notified of the necessity for a Parking and Traffic Circulation Plan for an area within its jurisdiction.

(11) Within thirty (30) days of the notification that development and submittal of a Parking and Traffic Circulation Plan is required under section 340-20-120(10) of this rule, the City of Medford shall notify the Department in writing the agency or department and individual responsible for coordination and development of the Parking and Traffic Circulation Plan. The provisions of OAR 340-20-120(3) - (9) shall be applicable.

RULEMAKING STATEMENTS

for

Proposed Amendments to Rules for Indirect Sources in the Medford Area

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 340-20-100 to 20-135. It is proposed under authority of ORS 468.020 and ORS 468.310 to ORS 468.330 which authorizes the Environmental Quality Commission to adopt rules for indirect sources.

Need for the Rule

New carbon monoxide (CO) control measures are necessary in the Medford area, due to the recent defeat of a Jackson County ballot measure for a motor vehicle inspection/maintenance program, in order to attain the CO health standard. The proposed rules would help prevent worsening of the CO problems while the Department of Environmental Quality, with the assistance of the City of Medford, Jackson County, and the Department of Transportation, develop alternative CO attainment plans. The proposed rules would require the City of Medford to submit a revised parking and traffic circulation plan within 120 days and require indirect source permits for all new parking lots of 50 or more spaces. Failure to proceed with the proposed changes to OAR 340-20-100 to 20-135 may result in serious prejudice to the public interest by allowing moderate size indirect sources (50 to 1,000 parking spaces) to construct in the Medford area without evaluating and mitigating CO impacts and by delaying traffic planning actions that the City of Medford could take to help develop an attainment strategy. This could delay or prevent attainment of the CO health standard in Medford and result in the permanent imposition of federal sanctions on construction of major industrial CO sources and on funding for transportation projects and air planning activities.

Principal Documents Relied Upon

- Federal Clean Air Act as Amended (PL95-95) August 1977.
- Medford Control Strategy for Carbon Monoxide: State Implementation Plan Revision, October 15, 1982.
- EPA Proposed Action on Medford CO Plan, Federal Register, March 14, 1984.

FISCAL AND ECONOMIC IMPACT STATEMENT:

These rules would increase costs and inconvenience for new small or large businesses with 50 or more parking spaces in the City of Medford. The increased costs would be associated with preparation of an indirect source permit application, evaluation of the CO impacts associated with the proposed business, and mitigation of the CO impacts. Some businesses, if CO impacts cannot be mitigated, may be denied permits to locate in or near the CO problem area. The new businesses that would likely be affected by the new rules would be:

- o Retail businesses with 7500 or more square feet of space.
- o Medical offices with 7500 or more square feet of space.
- o General offices with 12,500 or more square feet of space.
- o Motels with 50 or more rooms.
- o Hotels with 100 or more rooms.
- o Churches with 200 or more seats.
- o Other businesses with 50 or more parking spaces.

All new supermarkets, most new restaurants, some new banks, some new convenience food markets, etc. in Medford would likely be affected by the proposed rules.

The proposed rules would also affect, and increase costs and inconvenience, to new businesses within five miles of the Medford city limits with 250 or more spaces, and to new businesses within Jackson County with 500 or more spaces.

The positive economic benefits of these rules would be the possible prevention of permanent federal sanctions on construction of new or modified major industrial CO sources, transportation funding, air planning funding, and sewage treatment funding. Up to $20 million of highway projects in Jackson County during 1984-1990 have been identified as potentially affected by federal sanctions.

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 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 rule. The rule 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 fashions as are 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 apparent conflict brought to our attention by local, state, or federal authorities.

AA4306

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED REVISION OF INDIRECT SOURCE RULES IN THE MEDFORD AREA
NOTICE OF PUBLIC HEARING

Date Prepared: June 8, 1984
Hearing Date: August 8, 1984
Comments Due: August 10, 1984

WHO IS AFFECTED:

The owner, operator, or developer of a new or modified facility with parking for 50 or more vehicles in the City of Medford would have to apply for a construction permit from the Department of Environmental Quality at least 90 days prior to the start of construction. The sponsors/owners of highway projects with forecasted traffic volumes of 20,000 vehicles per day in Jackson County within ten years of construction would similarly be required to obtain a construction permit from the Department.

WHAT IS PROPOSED:

The Department of Environmental Quality is proposing to amend OAR 340-20-100 to 20-135, Rules for Indirect Sources, to reduce on a permanent basis, the review cutoffs for parking projects and highway projects. Also, the Parking and Traffic Circulation Plan regulations would be permanently changed in order to maintain firm requirements for a more aggressive downtown Medford parking and circulation plan. The above proposed changes went into effect on a temporary 180-day basis, beginning on April 6, 1984 and will expire on October 3, 1984.

WHAT ARE THE HIGHLIGHTS:

- The parking project review cutoff point would be permanently set at 50 spaces within the city limits of Medford, 250 spaces within 5 miles of the city limits, and 500 spaces within Jackson County.
- The highway project review cutoff point would be permanently set at 20,000 vehicles per day, which is a forecast level that could be reached within 10 years of construction.
- The changes to the Parking and Traffic Circulation Plan regulations have the effect of requiring the development of a more aggressive core area parking and circulation plan over a short time period (120 days).

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~~ 1-800-452-4011 and ask for the Department of Environmental Quality.

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 Howard Harris at 229-6086.

A public hearing will be held before a hearings officer at:

7:00 p.m.
August 8, 1984 (Wednesday)
Medford City Hall
Municipal Court Room
411 W. 8th Street
Medford, Oregon

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, but must be received by no later than August 10, 1984.

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 Commission's deliberation should come in September, 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.

AS151

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, June 29, 1984, EQC Meeting

Proposed Adoption of Pollution Control Tax Credit Rules, Chapter 340, Division 16.

Purpose of Amendment

Some Pollution Control Tax Credit Rules cited in the staff report are incorrect. In addition, there are some typographical and rule citing errors in the Oregon Administrative Rules for Pollution Control Tax Credits, Chapter 340, Division 16.

Background and Problem Statement:

Director's Recommendation

It is recommended that the subject staff report and proposed rule be amended as follows:

Item No. 2:

Line 2, page 1, Staff Report: (OAR 340-16-010).

Item No. 4:

Line 1, page 2, Staff Report: (OAR 340-16-020).
Line 6, page 2, Staff Report: (OAR 340-16-020(1)(g)).
Line 8, page 2, Staff Report: (OAR 340-16-020(1)(f)).

Item No. 6:

Line 2, page 2, Staff Report: (OAR 340-16-025(2)(g)).

Item No. 7:

Line 5, page 2, Staff Report: (OAR 340-16-045(3)(a)).

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, June 29, 1984, EQC Meeting

Proposed Adoption of Pollution Control Tax Credit Rules, Chapter 340, Division 16.

Purpose of Amendment

Some Pollution Control Tax Credit Rules cited in the staff report are incorrect. In addition, there are some typographical and rule citing errors in the Oregon Administrative Rules for Pollution Control Tax Credits, Chapter 340, Division 16.

Background and Problem Statement:

Director's Recommendation

It is recommended that the subject staff report and proposed rule be amended as follows:

Item No. 2:

Line 2, page 1, Staff Report: (OAR 340-16-010).

Item No. 4:

Line 1, page 2, Staff Report: (OAR 340-16-020).
Line 6, page 2, Staff Report: (OAR 340-16-020(1)(g)).
Line 8, page 2, Staff Report: (OAR 340-16-020(1)(f)).

Item No. 6:

Line 2, page 2, Staff Report: (OAR 340-16-025(2)(g)).

Item No. 7:

Line 5, page 2, Staff Report: (OAR 340-16-045(3)(a)).

Rule Development Process:

Item No. 3:

Line 3, page 4, Staff Report: (OAR 340-16-020(1)(d)).
Lines 4 & 5, page 4, Staff Report: (OAR 340-16-020(f)).
Lines 8 & 9, page 4, Staff Report: (OAR 340-16-020(1)(c)).
Line 13, page 4, Staff Report: (OAR 340-16-010(f)).

Item No. 1:

Line 3, page 5, Staff Report: (OAR 340-16-020(1)(c)).

It is recommended that Oregon Administrative Rules for Pollution Control Tax Credits, Chapter 340, Division 16 be amended as follows:

Page 16-10, line 3, Item (c) Rejection, delete the word "the".
Page 16-11, line 5, Item (3) Appeal, replace the word "or" with "of".
Page 16-16, line 2, Item (c), delete slash mark (/) between the words "resource recovery".
Page 16-28, line 3, Item No. 4, move entire line to end of Item (a) so as to follow "... information within ...".

Fred Hansen

MFConley:d
MD977
229-6408
June 22, 1984

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, June 29, 1984, EQC Meeting

Proposed Adoption of Pollution Control Tax Credits Rules, Chapter 340, Division 16.

Background and Problem Statement

Currently, the Pollution Control Tax Credit Program only has rules to address tax credits for alternative field burning methods (OAR 340-26-030) and tax credit fees (OAR 340-11-200). The Tax Credit Program has been operated mainly through direct implementation of the statute (ORS 468.155 to 468.190), with the assistance opinions of the attorney general, as necessary, and case-by-case statutory interpretation by the EQC. The Department is proposing additional rules to assist implementation of the current statute and to provide better guidance to the Department and the applicant. Furthermore, amendments to the pollution control tax credit legislation in 1983, specifically authorized the EQC to adopt rules establishing methods to be used to determine the portion of facility cost properly allocable to pollution control.

In April 1984, the Commission authorized the Department to hold a hearing on the Pollution Control Tax Credit Rules.

The significant issues staff took to hearing are as follows:

1. Purpose - Generally, the rules are intended to apply only to facilities on which construction has been completed after December 31, 1983. Only Section 340-16-030, which deals with determination of percent of certified facility cost allocable to pollution control, is applicable to facilities on which construction has been completed before or after January 1, 1984. By consolidating the methods used for determining percent allocable for facilities completed before or after January 1, 1984, the certification process will be simplified for Department staff and applicants.

2. Special Circumstances Definition - The statute and rule (ORS 468.175(1) and OAR 340-16-010(9)) specifically allow the Commission to waive the filing of preliminary certification applications for facilities constructed on or after October 3, 1979 if it finds the filing inappropriate because of special circumstances. Those special circumstances which are eligible have previously been determined on a case-by-case basis by the Commission.

In order to provide the applicant with further guidance as to what shall be considered special circumstances, a definition has been developed which incorporates some examples of circumstances already determined by the Commission to qualify or not qualify.

3. Procedures for Receiving Preliminary Tax Credit Certification (OAR 340-16-015) - Procedures for preliminary tax credit certification are presented in the statute (ORS 468.175) and have been the subject of several opinions of the attorney general. These opinions have been consolidated with the statutory language in the rule. The attorneys' general opinions are reflected in OAR 340-16-015(1)(b) and OAR 340-16-015(2)(a).

4. Procedures for Receiving Final Tax Credit Certification (OAR 340-16-025) - Procedures for final tax credit certification are included in two sections of the statute (ORS 468.165 and ORS 468.170). These procedures have been reorganized and consolidated in the rule. An opinion of the attorney general related to withdrawing an application is also incorporated in the rule (OAR 340-16-020(1)(d)). In addition, a deadline is imposed for requesting an extension of the filing deadline and the length of the extension is limited (OAR 340-16-020(1)(c)). This addition is consistent with the intent of the statute (ORS 468.165(6)), which is necessary to prevent requests for extensions from being received long after the application deadline, and will provide guidance to the applicant as to the maximum length of the extension and when to apply for an extension.

5. Achieving Compliance with Department Requirements (OAR 340-16-025(1)) - In addition to requiring the facility to be designed to comply with DEQ statutes, rules, and standards, this rule requires the facility to actually achieve compliance. This is consistent with the statutory intent of certifying facilities which comply with DEQ statutes, rules, and standards and closes any loopholes which would allow certification without achieving compliance.

6. Tax Credits for Approved Alternative Field Burning Methods and Facilities. (OAR 340-16-025(2)(f)) - The portion of the field burning rules related to tax credits (OAR 340-26-030) has been deleted from the field burning rules and moved to the tax credit rules where it is more appropriately located. The wording of the rule has also been amended to tighten up wording and results in no major changes related to which alternative field burning methods and facilities qualify for tax credits.

7. Fees for Final Tax Credit Certification (OAR 340-16-045) - OAR 340-11-200 is replaced by this section. Changes made to the rule are generally to improve readability. One new section has been included related to returning processing fees for incomplete applications (OAR 340-16-045(2)(a)). Present practice is to hold processing fees indefinitely after additional information is requested. The new procedure would require returning the processing fee within 180 days of the Department request for additional information. This would assist the Department in retaining more accurate, updated records and assure the applicant a timely reimbursement of the filing fee.

8. Determination of Allocable Costs (OAR 340-16-030) - This section sets forth policy and procedures on how to determine the percentage of certified facility cost that is properly allocable to pollution control. The Commission must certify this percentage on the tax credit certificate issued to the applicant and it plays a significant role in determining the actual amount of tax credit received.

   The statute, ORS 468.190, allows the Commission to consider five factors in establishing the percentage allocable. The proposed rule requires the factor that results in the lowest percentage allocable to be used in establishing the portion of costs to be certified.

   Of the five factors that can be considered by the Commission, the annual percent return on investment is most often used. The proposed rule sets out detailed procedures on how to calculate percent return and relate it to percent allocable. The method used, a modified internal rate of return calculation, is the same as contained in the current Tax Credit Guidance Handbook; however, it has been modified more closely relate the allowable percent return on investment to current economic conditions.

Rule Development Process

Upon receiving hearing authorization, the Department mailed the proposed rule to the Associated Oregon Industries and the Oregon Environmental Council. The hearing notice alone was mailed to all applicants receiving at least two tax credits within the last two years and a list of 130 parties who have previously expressed interest in the tax credit program. The hearing notice was also mailed to the standard list of Oregon cities, counties, and citizens who desire to be kept informed of DEQ rulemaking activities. Twenty of the parties requested and were mailed copies of the proposed rules. Since adoption of the rules will result in amendments to the DEQ Field Burning Rules, the State Implementation Plan must be amended to reflect this change. Since State Implementation Plan amendment must go through the State Intergovernmental Review Process, a public notice was printed in The Oregonian, and in the Secretary of State's Bulletin.

The proposed rules were circulated to appropriate state agencies through the State Clearinghouse. No adverse comments were received.

The hearing was held in Portland on June 1, 1984, and the Hearings Officer's Report is Attachment IV.

Testimony was heard on the following issues and, where noted, proposed rule changes were made:

1. Associated Oregon Industries (AOI) suggested that the definitions of principal and sole purpose found in OAR 340-16-010, conflict with the statutory definitions found in OAR 340-16-025(1)(a) and (b). Staff believes the definitions found in OAR 340-16-010 are helpful in clarifying the statutory definitions of principal and sole purpose.

AOI suggests that a facility installed for the principal purpose of complying with a requirement imposed by the Department would not necessarily also have to have pollution control as its principal function. Staff believes that the only practical way to determine the principal purpose of a facility is to analyze its actual function as constructed. Thus, a facility whose principal function is pollution control, and which is required to be installed by the Department, would be eligible for tax credit certification. However, if an applicant claims that a change in process, for example, was made to comply with a pollution control requirement of the Department, but the principal function of the process change is to increase production, it would not be eligible for tax credit certification. Under AOI's interpretation of the statutory definition of principal purpose, if an applicant claims that a facility or process change is installed to meet a requirement of the Department it automatically qualifies for tax credit regardless of the function of the facility. Staff does not agree with this interpretation of the statute and thus does not propose to change the definitions provided in 340-16-010.

2. AOI recommended excluding state and federal taxes from the calculation of the annual operating expense and gross annual income (OAR 340-16-030). As this was the intent of the proposed rule, staff has amended the rule to clarify this point.

3. AOI recommended changing the word "submitted" to "filed" to clarify the use of the words "submitted", "file", and "filed", as used with reference to final tax credit certification (OAR 340-16-020(1)(a)) and changing the 90-day extension allowed in the rule to a one-year extension (OAR 340-16-020(c)). Staff found that changing the word "submitted" to "filed" would be consistent with the statutory intent. To add further clarity, staff amended the rule to state that the "application is not considered filed until all requested information is furnished by the applicant" (OAR 340-16-020(1)(a)). Since it sometimes is difficult for the applicant to provide all the information requested by the Department to result in a completed application within 2 years of construction, the allowable extension for filing has been changed to one year, as recommended by AOI, to avoid imposing an undue hardship on the applicant (OAR 340-16-020(c)).

4. AOI suggested that the applicant be provided notice of DEQ action prior to the Commission meeting where the preliminary and final certification application will be considered. This would allow the applicant the option of withdrawing and amending the application before the Commission meeting, if the staff recommendation is not favorable. Staff agreed with the recommedation and amended the rule to provide notice to the applicant prior to the Commission action on preliminary and final certification applications (OAR 340-16-015(1)(g) and 340-16-020(2)(a)).

5. AOI recommended that in determining the costs properly allocable to pollution control, Table 2 should be amended so that rather than using annual figures, that the Department average the average annual percent return before taxes on stockholders' equity for the five years prior to the year construction is completed. Staff agreed with this change because it reduces the variabilitiy of the annual rate of return on investment.

6. References to Oregon Department of Revenue statutes were amended to reflect current numbering, as recommeded by the Oregon Department of Revenue.

In addition to changes made in response to public testimony, the following changes were made to the proposed rules:

1. The definition for "filing" was removed from OAR 340-16-010 and included in the Preliminary Certification Section (OAR 340-16-015), and to avoid confusion with the term "filing" as used for Final Certification (OAR 340-16-020). For Preliminary Certification "filing" is defined as being complete "30 days after the Department has received the application" (OAR 340-16-015(1)(e)). This is intended to provide the Department an opportunity to review and make recommended changes to the facility before construction is commenced.

2. The draft rule is amended to require the Department to provide notice to the applicant of when the applications for Preliminary Certification (OAR 340-16-015(1)(f), and Final Certification (OAR 340-16-020(1)(a)) are considered complete and ready for processing. By issuing such notice to Preliminary Certification applicants, a date certain is determined to use in figuring the start of the 60-day period, during which the application is approved by the Department or denied by the Commission. By issuing the notice to Final Certification applicants, a date certain is determined to use in figuring the start of the 120-day period, during which the Commission shall act upon the application.

Alternatives and Summation

The Department could continue to operate under existing rules, dealing with specific questions on a case-by-case basis using advice from the attorney general. This would result in additional cost to the Department for each opinion of the attorney general sought and provide less advance guidance to the Department and the applicant as to how the statute will be implemented. If the Commission does not adopt rules for determining the percent allocable, as authorized by the statute, the Commission could incorporate procedures to be followed into the Tax Credit Guidance Manual. The manual, however, has only been informally reviewed and approved by the Commission.

During development of these proposed rules, assistance was sought from the air and water quality, solid waste, and noise control divisions of the Department; Associated Oregon Industries; the Oregon Environmental Council; and the Oregon Attorney General's Office. Comments were received from all Department divisions

and Associated Oregon Industries. These comments were incorporated into the proposed rules as appropriate.

Summation

1. The DEQ currently operates the Pollution Control Tax Credit Program with rules only for the Alternative Field Burning Methods Tax Credits and Tax Credit Fees.

2. New legislation was adopted in 1983 specifically giving the EQC authority to adopt rules establishing methods to be used to determine the portion of facility costs properly allocable to pollution control.

3. Adoption of the rules would meet the recognized need to provide guidance related to application and qualification for tax credit certification by the DEQ and to make minor amendments to the existing rules.

4. The proposed rules implement the statutory authority given the EQC to adopt rules to provide guidance for calculation of the percent allocable to pollution control facilities.

5. Existing rules related to tax credits presently located in other divisions of Chapter 340 (OAR 340-11-200 and 340-26-030) will be amended and incorporated into new Division 16 and deleted from Division 11 and 26.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed Pollution Control Tax Credit Rules, Chapter 340, Division 16, as amended and revise the State Implementation Plan.

Fred Hansen

Attachments:
I Statement of Need for Rules
II Statement of Land Use Consistency
III Public Notice of Rules Adoption
IV Hearing Officer's Report
V Proposed OAR Chapter 340, Division 16

M. Conley:d
MD939
229-6408
June 18, 1984

ATTACHMENT I
Agenda Item H
June 29, 1984
EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING OAR CHAPTER 340, DIVISION 16	)))	STATEMENT OF NEED FOR RULES

Statutory Authority:

ORS 468.150 to 468.190 gives authority for rule adoption. Specifically, ORS 468.190(3) gives the Commission authority to adopt rules establishing methods to be used to determine the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution, or solid or hazardous waste, or to recycling or properly disposing of used oil.

Need for the Rules:

The Pollution Control Tax Credit Program is currently operated by implementing the pollution control tax credit statute and the rules on tax credit fees and tax credits for alternative field burning methods. The proposed rules are needed to carry out the statutory authority given the EQC to adopt rules and to provide better guidance to the DEQ staff, the EQC and tax credit applicants.

Principal Documents Relied Upon:

Existing state statute, ORS 468.150 to 468.190 and existing state rules OAR Chapter 340-26-030 and OAR 340-11-200.

Fiscal and Economic Impact:

Due to the narrowed definition of facilities eligible for tax credit, the elimination of tax credits for most replacement facilities and the new method for calculating the allocation of costs to pollution control, the economic effect will be that fewer facilities may be eligible for tax credit and the tax credits may be reduced. However, new tax credits are provided for facilities which treat, substantially reduce, or eliminate hazardous waste.

The overall impact of the rule would not be significant or adverse to small business.

MC:d
MD460.1

ATTACHMENT II
Agenda Item H
June 29, 1984
EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING	)	
OAR CHAPTER 340,	)	LAND USE CONSISTENCY
DIVISION 16	)	

The proposal described appears to be consistent with all statewide planning goals. Specifically, the rules comply with Goal 6 because they would provide tax credits for pollution control facilities, thereby contributing to the protection of air, water and land resource quality.

Public comment on this proposal is invited and may be submitted in the manner described in the accompanying Public Notice of Rules Adoption.

It is requested that local, state and federal agencies review the proposal and comment on possible conflicts with their programs affecting land use and with statewide planning goals within their jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts thereby brought to its attention.

After public hearing, the Commission may adopt permanent rules identical to the proposal, adopt modified rules on the same subject matter, or decline to act. The Commission's deliberation should come on June 28, 1984 as part of the agenda of a regularly scheduled Commission meeting.

MC:d
MD460.2

ATTACHMENT III
Agenda Item H
June 29, 1984
EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Pollution Control Tax Credit Rules
Notice of Public Hearing

Date Prepared: March 15, 1984
Hearing Date: June 1, 1984
Comments Due: June 1, 1984

WHO IS AFFECTED: Adoption of the rules will affect people applying for pollution control tax credits.

WHAT IS PROPOSED: The DEQ proposes to adopt OAR Chapter 340, Division 16 to assist the Department and Commission in implementation of the Pollution Control Tax Credit Statute (ORS 468.150 to .190) and to provide additional guidance to applicants. The only existing rules relating to pollution control tax credits address tax credits for alternative field burning methods (OAR 340-26-030) and tax credit fees (OAR 340-11-200). Portions of the Open Field Burning Rules are proposed to be amended (OAR 340-26-001) and removed (OAR 340-26-030) from the Oregon State Implementation Plan.

WHAT ARE THE HIGHLIGHTS: Adoption of the rules would consolidate procedures for application for tax credits, as are set out in various portions of the statute.

Adoption of the rules would provide notice of the agency's interpretation of the tax credit statute to the tax credit applicant.

Adoption of the rules would establish procedures for determination of the cost properly allocable to the prevention, control or reduction of air, water or noise pollution, solid or hazardous waste, or to recycling or properly disposing of used oil.

HOW TO COMMENT: Copies of the proposed rules can be obtained from:

Maggie Conley
Intergovernmental Coordinator
P.O. Box 1760
Portland, OR 97207
Telephone: 229-6408
toll-free 1-800-452-4011

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

Written comments should be sent to the same address by June 1, 1984. Oral and written comments may be given before hearings officer during the public hearing scheduled as follows:

10:00 a.m.
June 1, 1984
Room 1400
522 SW Fifth Avenue
Portland, Oregon

WHAT IS THE NEXT STEP: After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberations should come on June 28, 1984 as part of the agenda of a regularly scheduled Commission meeting.

ATTACHMENTS: Statement of Need for Rules (including Fiscal Impact)
Statement of Land Use Consistency

MD460.3

VICTOR ATIYEH
GOVERNOR

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: June 5, 1984

FROM: Maggie Conley, Hearing Officer

SUBJECT: Report from Hearing held June 1, 1984

Proposed Pollution Control Tax Credit Rules

Summary of Procedure

Three people attended the hearing, which was held at 10:00 a.m. in Portland, 522 SW Fifth, Room 1400. Maggie Conley, Intergovernmental Coordinator for DEQ, presided. Also attending from DEQ were Mike Downs and Tina Payne from the Management Services Division.

One person provided oral and written testimony at the hearing. One other written comment was received before the June 1, 1984 deadline.

Summary of Testimony

Oral

Tom Donaca of Associated Oregon Industries testified in favor of the rule, recommending that several amendments be made before final adoption of the rule. He recommended amending the definitions of principal and sole purpose (OAR 340-16-010) to assure consistency with the statutory definitions. He, also, recommended that state and federal taxes not be included in the calculation of annual operating expense and gross annual income (OAR 340-16-030). For final tax credit certification, he suggested that clarification should be made of the words "submitted," "file" and "filed" by changing "submitted" to "filed" (OAR 340-16-020). In addition, the 90 day extension allowed in OAR 340-16-020(c) should be extended to one year. Furthermore he suggested that the applicant be provided notice of DEQ action prior to the Commission meeting where the application will be considered. He recommended that in determining the costs properly allocable to pollution control, Table 2 should be amended to use a five-year average of the annual percent return before taxes on stockholders'

equity for the five years prior to the year construction is completed as found in the Quarterly Financial Report of Manufacturing, Mining and Trade Coporations, published by the U.S. Department of Commerce, Bureau of Census, rather than one year increments.

Written Testimony

Tom Donaca submitted a written copy of his oral testimony, summarized above.

The Department of Revenue submitted written testimony which notified the DEQ that several Department of Revenue statutes referred to in the rules have had statute number changes which should be reflected in the rules.

MC:d
MD944

VICTOR ATIYEH
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM, OREGON 97310

May 15, 1984

Maggie Conley
Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

SUBJECT: Proposed Rules for Pollution Control Tax Credit Program
PNRS #OR840406-015-6

Thank you for the opportunity to review the subject state plan. The East Central Oregon Association of Counties also reviewed the plan with no comment.

The state plan was circulated for review among appropriate state agencies. Comments made by the Oregon Department of Revenue are enclosed for your information.

I am please to add my endorsement.

Sincerely,

Victor Atiyeh
Governor

VA:sm

cc:Laurie Kral, Air Program, USEPA

VICTOR ATIYEH
GOVERNOR

Oregon Department of Revenue

REVENUE BUILDING
955 CENTER STREET, N.E.
SALEM, OREGON 97310

May 1, 1984

TO: State Clearinghouse
Intergovernmental Relations Division
155 Cottage St., NE
Salem, OR 97310

FROM: Gary Heilig, Policy and Analysis Unit
Audit Division via
Virlena Crosley, Supervisor
Audit Division

RE: Project OR840406-015-6 (Proposed Rules for the Pollution Control Facilities Tax Credit)

I have reviewed the Department of Environmental Quality's proposed rules on pollution control facilities. The rules are acceptable with the following corrections:

1. References to ORS 317.072 in the following proposed rules should be changed to ORS 317.116 (ORS 317.072 was renumbered).

   a. 340-16-020
   b. 340-16-035
   c. 340-16-040
   d. 340-16-050

2. The reference to Section 1371 of the Internal Revenue Code in 340-16-050(2) should be a reference to Section 1361 of the Internal Revenue Code.

bn:6B7

TESTIMONY OF

ASSOCIATED OREGON INDUSTRIES

Public Hearing, Friday, June 1, 1984

Re: POLLUTION CONTROL TAX CREDIT RULES, CHAPTER 340, DIVISION 16

My name is Thomas C. Donaca and I am the General Counsel of the Association. We have been involved with the Pollution Tax Credit program since its inception and understand the need for rulemaking which is necessitated by the changes in the program resulting from legislative changes made by the 1983 Oregon Legislature.

We generally agree with the proposed rules which we believe carry out both the past practices of the agency as well as the mandates of the 1983 legislature. We are, however, concerned with several points which we believe need clarification.

First, the definitions of "facility", "principal purpose" and "sole purpose" (see page 16-2) may conflict with the language found at OAR 340-16-025 (1) (a) and (b) (see page 16-12). This latter language, except for the last two lines in subsection (1), repeat the statutory language of ORS 468.155 (1) (a) (A) and (B). We question whether both sets of "definitions" should be in the rule. Our understanding is that rulemaking of this kind is to clarify ambiguous language or language susceptible of more than one interpretation.

Perhaps removing OAR 340-16-025 (1) (a) (A) and (B) and placing them in the definition section whould be a proper action. We believe that "principal purpose" and "sole purpose" are properly defined in the statute and needs no further clarification.

Subsection (2), (3) and (4) would then become subsections (1), (2) and (3) and could be reworded slightly so that they would read properly. Please note that these sections are drawn almost verbatim from ORS 468.155 also.

Such action would be consistent with the statutory law, but would clarify the issue within your agencies' discretionary authority, and make more clear to applicants the meaning of these important definitions. We fear that without such modification "end of pipe controls" will be more attractive than process changes. The door should not be closed on process changes that result in significant

reduction in pollution but which may have more than one purpose. The issue of return on investment should resolve whether pollution control or other purposes were the controlling reason for the installation.

Second, we suggest that OAR 340-16-030 (a) and (d) (see page 16-19) need clarification. We believe that in the last sentence of subsection (a) that state and federal taxes as well as depreciation and interest should not be included in this calculation. Neither should state and federal taxes enter into the calculation of "gross annual income." This correction can be accomplished by adding "state and federal taxes" to the last sentence in (a) and deleting that same language from the end of (d).

Third, OAR 340-16-020 (a) (see page 16-7) uses both the words "submitted" and "file" or "filed", as does the statute ORS 468.165(6). This subsection has two purposes; to provide a time for filing an application and the time from which further agency response or appeal must be taken. We suggest that you change the word "submitted" to "filed" which then read with the last sentence in the paragraph would indicate that a completed application must be filed within two years. Because this may be onerous in some cases, we suggest that the extension period provided in subsection (c) be extended from 90 days to one year. This will avoid, among others, the problems of the applicant filing late in the second year, and the agency's requests for information, alone, eliminating the ability of the applicant to complete a filing within the two year period. Discretion would be left as to how much of a year is necessary to complete the filing and not be automatically a one year extension.

Fourth, in OAR 340-16-020 there should be provision that the applicant be notified of the DEQ action prior to a commission meeting. This will avoid the problem where the DEQ recommends denial or substantial modification and the applicant is unaware of the recommendation. Such notification would allow the applicant to request delay of commission action or to withdraw and reapply rather than be faced with commission denial and having to use the appeal procedures which are costly to both the applicant and agency.

Fifth, while we believe that the method of determining costs properly allocable to pollution control is complex and subject to misunderstanding by applicants,

we have no better alternative solution to offer.

We are still particularly concerned with Table 2 (see page 16-25). This table is drawn from the Quarterly Financial Report for Manufacturing, Mining and Trade published by the US Department of Commerce. What that report reflects is not "Return on Investment" but is "Return on Equity." Careful study of Table 2 against the economic history of manufacturers since 1970 closely parallels the economics of this country during that period. However, it must be remembered that when return on equity (ROE) is down, cash is short, and the ability to invest is impaired. Therefore, when ROE is down, ROI on individual investments for any kind of facilities must of necessity go up. Firms can only afford investments in high rate of return projects under such circumstances. Thus, ROE operates inversely to ROI. To avoid the sharp swings inherent in the use of one year increments, we suggest the use of a five year average to smooth out the effects of Table 2 and more closely approximate actual financial demands. Such a change would not severely change the effect of the rules as proposed.

We are further concerned, again, that use of one year reference percent returns will cause a tilt toward end of pipe controls, if available, rather than process changes. As pollution control has become more sophisticated and the available increments of pollution to control have been substantially reduced, process changes have become more often the most efficient and sure means of further pollution reduction. The adoption of these rules should be neutral relating to which kind of control is best, and we believe this can best be achieved by adopting a five year averaging period.

DEPARTMENT OF ENVIRONMENTAL QUALITY

OREGON ADMINISTRATIVE RULES FOR

POLLUTION CONTROL TAX CREDITS

CHAPTER 340, DIVISION 16

340-16-005 PURPOSE

The purpose of these rules is to prescribe procedures and criteria to be used by the Department and Commission for issuance of tax credits for pollution control facilities. These rules are to be used in connection with ORS 468.150 to 468.190 and apply only to facilities on which construction has been completed after December 31, 1983, except where otherwise noted herein.

340-16-010 DEFINITIONS

(1) "Circumstances beyond the control of the applicant" means facts, conditions and circumstances which applicant's due care and diligence would not have avoided.

(2) "Commencement of erection, construction or installation" means the beginning of a continuous program of on-site construction, erection or modification of a facility which is completed within a reasonable time, including site clearing, grading, dredging, landfilling or similar physical change made in preparation for the facility.

(3) "Commission" means Environmental Quality Commission.

(4) "Department" means Department of Environmental Quality.

(5) "Facility" means a pollution control facility.

(6) "Like-for-like replacement cost" means the current price of providing a new facility of the same type, size and construction materials as the original facility.

(7) "Principal purpose" means the most important or primary purpose. Each facility may have only one principal purpose.

(8) "Reconstruction or replacement" means the provision of a new facility with qualities and pollution control characteristics equivalent to the original facility. This does not include repairs or work done to maintain the facility in good working order.

(9) "Sole purpose" means the exclusive purpose.

(10) "Special circumstances" means emergencies which call for immediate erection, construction or installation of a facility, cases where applicant has relied on incorrect information provided by Department personnel as demonstrated by letters, records of conversations or similar evidence, or similar circumstances which directly resulted in applicant's failure to file a timely application for preliminary certification. Special circumstances shall not include cases where applicant was unaware of tax credit certification requirements or applied for preliminary certification in a manner other than that prescribed in 340-16-015(1).

(11) "Substantial completion" means the completion of erection, installation, modification, or construction of all elements of the facility which are essential to perform its purpose.

(12) "Useful life" means the number of years the claimed facility is capable of operating before replacement or disposal.

340-16-015 PROCEDURES FOR RECEIVING PRELIMINARY TAX CREDIT CERTIFICATION

(1) Filing of Application

(a) Any person proposing to apply for certification of a pollution control facility pursuant to ORS 468.165, shall file an application for preliminary certification with the Department of Environmental Quality before the commencement of erection, construction or installation of the facility. The application shall be made on a form provided by the Department. The preliminary certificate need not be issued prior to construction for compliance with this requirement.

(b) If construction commenced before the application is filed, the application will be rejected as incomplete due to failure to comply with ORS 465.175(1).

(c) The Commission may waive the filing of the application if it finds the filing inappropriate because special circumstances render the filing unreasonable and if it finds such facility would otherwise qualify for tax credit certification pursuant to ORS 468.150 to 468.190.

(d) Within 30 days of the receipt of an application the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. After examination thereof, the Department may request corrections and revisions to the plans and specifications. The Department may, also, require any other information necessary to determine whether the proposed construction is in accordance with Department statutes, rules and standards.

(e) The application shall be considered filed 30 days after the Department has received the application.

(f) The application shall not be considered complete until the Department receives the information requested and notifies the applicant in writing that the application is complete and ready for processing. However, if the Department does not make a timely request pursuant to subsection (d) above, the application shall be deemed complete on the date it is considered filed.

(g) Notice of the Department's recommended action to deny an application shall be mailed at least seven days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing.

(2) Approval of Preliminary Certification

(a) If the Department determines that the proposed facility is eligible it shall issue a preliminary certificate approving the erection, construction or installation within 60 days of receipt of a completed application. It is not necessary for this certificate to include a determination of the full extent a facility is eligible for tax credit.

(b) If within 60 days of the receipt of a completed application, the Department fails to issue a preliminary certificate of approval and the Commission fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The construction must comply with the plans, specifications and any corrections or revisions thereto, if any, previously submitted.

(c) Issuance of a preliminary tax credit certification does not guarantee final tax credit certification.

(3) Denial of Preliminary Certification

If the Department determines that the erection, construction or installation does not comply with the Department statutes, rules and standards, the Commission shall issue an order denying certification within 60 days of receipt of a completed application.

(4) Appeal

Within 20 days from the date of mailing of the order the applicant may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the Director of the Department. The hearing shall be conducted in accordance with the applicable provisions of ORS 183.310 to 183.550.

340-16-020 PROCEDURES FOR RECEIVING FINAL TAX CREDIT CERTIFICATION

(1) Filing of Application

(a) A written application for final tax credit certification shall be made to the Department on a form provided by the Department.

(b) Within 30 days of receipt of an application, the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. The Department may also require any other information necessary to determine whether the construction is in accordance with Department statutes, rules and standards.

(c) An application shall not be considered filed until all requested information is furnished by the applicant, and the Department notifies the applicant in writing that the application is complete and ready for processing.

(d) The application shall be filed within two years of substantial completion of construction of the facility. Failure to file a timely application shall make the facility ineligible for tax credit certification.

(e) The Commission may grant an extension of time to file an application if circumstances beyond the control of the applicant would make a timely filing unreasonable.

(f) An extension shall only be considered if applied for within two years of substantial completion of construction of the facility. An extension may be granted for no more than one year. Only one extension may be granted.

(g) An application may be withdrawn and resubmitted by applicant at any time within two years of substantial completion of construction of the facility.

(2) Commission Action

(a) Notice of the Department's recommended action on the application shall be mailed at least seven days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing. The Commission shall act on an application for certification before the 120th day after the filing of a complete application. The Commission may consider and act upon an application at any of its regular or special meetings. The matter shall be conducted as an informal public informational hearing, not a contested case hearing, unless ordered otherwise by the Commission.

(b) Certification

(A) If the Commission determines that the facility is eligible, it shall certify the actual cost of the facility and the portion of the actual cost properly allocable to pollution control, resource recovery or recycling as set forth in ORS 468.190. Each certificate shall bear a separate serial number for each such facility.

(B) No determination of the proportion of the actual cost of the facility to be certified shall be made until receipt of the application.

(C) If two or more facilities constitute an operational unit, the commission may certify such facilities under one certificate.

(D) A certificate is effective for purposes of tax relief in accordance with ORS 307.405, 316.097 and 317.072 if erection, construction or installation of the facility was begun before December 31, 1988.

(E) Certification of a pollution control facility qualifying under ORS 468.165(1) shall be granted for a period of 10 consecutive years. The 10-year period shall begin with the tax year of the person in which the facility is certified under this section. However, if ad valorem tax relief is utilized by a corporation organized under ORS Chapter 61 or 62 the facility shall be exempt from ad valorem taxation, to the extent of the portion allocable, for a period of 20 consecutive years from the date of its first certification by the Commission.

(F) Portions of a facility qualifying under ORS 468.165(1)(c) may be certified separately under this section if ownership of the portions is in more than one person. Certification of such portions of a facility shall include certification of the actual cost of the portion of the facility to the person receiving the certification. The actual cost certified for all portions of a facility separately certified under this subsection shall not exceed the total cost of the facility that would have been certified under one certificate. The provisions of ORS 316.097(8) or 317.116 whichever is applicable, shall apply to any sale, exchange or other disposition of a certified portion to a facility.

(c) Rejection

If the Commission rejects an application for certification, or certifies a lesser actual cost of the facility or a lesser portion of the actual cost properly allocable to the pollution control, resource recovery or recycling than was claimed in the application for certification, the Commission shall cause written notice of its action, and a concise statement of the findings and reasons therefore, to be sent by registered or certified mail to the applicant within 120 days after the filing of the application. Failure of the Commission to act constitutes rejection of the application.

(3) Appeal

If the application is rejected for any reason, or if the applicant is dissatisfied with the certification of actual cost or portion of the actual cost properly allocable to pollution control, resource recovery or recycling, the applicant may appeal from the rejection as provided in ORS 468.110. The rejection or the certification is final and conclusive on all parties unless the applicant takes an appeal therefrom as provided in ORS 468.110 before the 30th day after notice was mailed by the Commission.

340-16-025 QUALIFICATION OF FACILITY FOR TAX CREDITS

(1) "Pollution control facility" or "facility" shall include any land, structure, building, installation, excavation, machinery, equipment or device, or alternative methods for field sanitation and straw utilization and disposal as approved by the Field Burning Advisory Committee and the Department, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person, which will achieve compliance with Department statutes and rules or Commission orders or permit conditions, where applicable, if:

(a) The principal purpose of the facility is to comply with a requirement imposed by the Department, the Federal Environmental Protection Agency or regional air pollution authority to prevent, control or reduce air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil; or

(b) The sole purpose of the facility is to prevent, control or reduce a substantial quantity of air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil.

(2) Such prevention, control or reduction required by this subsection shall be accomplished by:

(a) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468.700;

(b) The disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468.275;

(c) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the commission;

(d) The use of a resource recovery process which obtains useful material or energy resources from material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 459.410, or used oil as defined in ORS 468.850;

(e) Subsequent additions to a solid waste facility, made either to an already certified facility or to an operation which would have qualified as a facility but for the fact that it was erected, constructed or installed before January 1, 1973, which will increase the production or recovery of useful materials or energy over the amount being produced or recovered by the original facility whether or not the materials or energy produced or recovered are similar to those of the original facility.

(f) The treatment, substantial reduction or elimination of or redesign to treat, substantially reduce or eliminate hazardous waste as defined in ORS 459.410; or

(g) Approved alternative field burning methods and facilities which shall be limited to:

(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning;

(B) Propane flamers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts; and

(C) Drainage tile installations which will result in a reduction of grass seed acreage under production.

(3) "Pollution control facility" or "facility" does not include:

(a) Air conditioners;

(b) Septic tanks or other facilities for human waste;

(c) Property installed, constructed or used for moving sewage to the collecting facilities of a public or quasi-public sewerage system;

(d) Any distinct portion of a solid waste, hazardous waste or used oil facility that makes an insignificant contribution to the purpose of utilization of solid waste, hazardous waste or used oil including the following specific items:

(A) Office buildings and furnishings;

(B) Parking lots and road improvements;

(C) Landscaping;

(D) External lighting;

(E) Company signs;

(F) Artwork; and

(G) Automobiles.

(e) Facilities not directly related to the operation of the industry or enterprise seeking the tax credit;

(f) Replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued under ORS 468.170, except:

(A) If the cost to replace or reconstruct the facility is greater than the like-for-like replacement cost of the original facility due to a requirement imposed by the department, the federal Environmental Protection Agency or a regional air pollution authority, then the facility may be eligible for tax credit certification up to an amount equal to the difference between the cost of the new facility and the like-for-like replacement cost of the original facility; or

(B) If a facility is replaced or reconstructed before the end of its useful life then the facility may be eligible for the remainder of the tax credit certified to the original facility.

(4) Any person may apply to the commission for certification under ORS 468.170 of a pollution control facility or portion thereof erected, constructed or installed by the person in Oregon if:

(a) The air or water pollution control facility was erected, constructed or installed on or after January 1, 1967.

(b) The noise pollution control facility was erected, constructed or installed on or after January 1, 1977.

(c) The solid waste facility was under construction on or after January 1, 1973, or the hazardous waste or used oil resource/recovery or recycling facility was under construction on or after October 3, 1979, and if:

(A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1);

(B) The facility will utilize material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 459.410 or used oil as defined in ORS 468.850:

(i) By burning, mechanical processing or chemical processing; or

(ii) Through the production, processing, presegregation, or use of:

(I) Materials for their heat content or other forms of energy of or from the material; or

(II) Materials which have useful chemical or physical properties and which may be used for the same or other purposes; or

(III) Materials which may be used in the same kind of application as its prior use without change in identity;

(C) The end product of the utilization is a usable source of power or other item of real economic value;

(D) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and

(E) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.

(d) The hazardous waste control facility was erected, constructed or installed on or after January 1, 1984 and if:

(A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1) and

(B) The facility is designed to treat, substantially reduce or eliminate hazardous waste as defined in ORS 459.410.

(5) The Commission shall certify a pollution control, solid waste, hazardous waste or used oil facility or portion thereof, for which an application has been made under ORS 468.165, if the Commission finds that the facility:

(A) Was erected, constructed or installed in accordance with the requirements of ORS 468.165(1) and 468.175;

(B) Is designed for, and is being operated or will operate in accordance with the requirements of ORS 468.155; and

(C) Is necessary to satisfy the intents and purposes of and is in accordance with the applicable Department statutes, rules and standards.

340-16-030 DETERMINATION OF PERCENTAGE OF CERTIFIED FACILITY COST ALLOCABLE TO POLLUTION CONTROL

(1) Definitions

(a) "Annual operating expenses" means the estimated costs of operating the claimed facility including labor, utilities, property taxes, insurance, and other cash expenses, less any savings in expenses attributable to installation of the claimed facility. Depreciation, interest expenses, and state and federal taxes are not included.

(b) "Average annual cash flow" means the estimated average annual cash flow from the claimed facility for the first five full years of operation calculated as follows:

(A) Calculate the annual cash flow for each of the first five full years of operation by subtracting the annual operating expenses from the gross annual income for each year and

(B) Sum the five annual cash flows and divide the total by five. Where the useful life of the claimed facility is less than five years, sum the annual cash flows for the useful life of the facility and divide by the useful life.

(c) "Claimed facility cost" means the actual cost of the claimed facility minus the salvage value of any facilities removed from service.

(d) "Gross annual income" means the estimated total annual income from the claimed facility derived from sale or reuse of recovered materials or energy or any other means.

(e) "Salvage value" means the value of a facility at the end of its useful life minus what it costs to remove it from service. Salvage value can never be less than zero.

(2) In establishing the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil for facilities qualifying for certification under ORS 468.170, the Commission shall consider the following factors, if applicable:

(a) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity;

(b) The estimated annual percent return on the investment in the facility;

(c) The alternative methods, equipment and costs for achieving the same pollution control objective;

(d) Related savings or increase in costs which occur or may occur as a result of the installation of the facility; or

(e) Other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

(3) For facilities that have received preliminary certification and on which construction has been completed before January 1, 1984, the portion of actual costs properly allocable shall be:

(a) Eighty percent or more.

(b) Sixty percent or more but less than 80 percent.

(c) Forty percent or more but less than 60 percent.

(d) Twenty percent or more but less than 40 percent.

(e) Less than twenty percent.

(4) For facilities on which construction has been completed after December 31, 1983, the portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent, the Commission shall issue an order denying certification.

(5) In considering the factors listed in 340-16-030 to establish the portion of costs allocable to pollution control, the Commission will use the factor, or combination of factors, that results in the smallest portion of costs allocable.

(6) When the estimated annual percent return on investment in the facility, 340-16-030(2)(b), is used to establish the portion of costs allocable to pollution control, the following steps will be used:

(a) Determine the claimed facility cost, average annual cash flow and useful life of the claimed facility.

(b) Determine the return on investment factor by dividing the claimed facility cost by the average annual cash flow.

(c) Determine the annual percent return on investment by using Table 1. At the top of Table 1, find the number equal to the useful life of the claimed facility. In the column under this useful life number, find the number closest to the return on investment factor. Follow this row to the left until reaching the first column. The number in the first column is the annual percent return on investment for the claimed facility. For a useful life greater than 30 years, or percent return on investment greater than 25 percent, Table 1 can be extended by utilizing the following equation:

$$I_R = \frac{1-(1+i)^{-n}}{i}$$

Where: I_R is the return on investment factor.
i is the annual percent return on investment.
n is the useful life of the claimed facility.

(d) Determine the reference annual percent return on investment from Table 2. Select the reference percent return from Table 2 that corresponds with the year construction was completed on the claimed facility. For each future calendar year not shown in Table 2, the reference percent return shall be the five-year average of the rate of return before taxes on stockholders' equity for all United States manufacturing corporations for the five years prior to the calendar year of interest.

(e) Determine the portion of actual costs properly allocable to pollution control from the following equation:

$$P_A = \frac{R_R - R_A}{R_R} \times 100\%$$

Where: P_A is the portion of actual costs properly allocable to pollution control in percent, rounded off to the nearest whole number.
R_A is the annual percent return on investment from Table 1.
R_R is the reference annual percent return on investment from Table 2.

If R_A is greater than or equal to R_R, then the portion of actual costs properly allocable to pollution control shall be zero percent.

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
0.00	1.000	2.000	3.000	4.000	5.000	6.000	7.000	8.000	9.000	10.000
0.25	0.998	1.993	2.985	3.975	4.963	5.948	6.931	7.911	8.889	9.864
0.50	0.995	1.985	2.970	3.950	4.926	5.896	6.862	7.823	8.779	9.730
0.75	0.993	1.978	2.956	3.926	4.889	5.846	6.795	7.737	8.672	9.600
1.00	0.990	1.970	2.941	3.902	4.853	5.795	6.728	7.652	8.566	9.471
1.25	0.988	1.963	2.927	3.878	4.818	5.746	6.663	7.568	8.462	9.346
1.50	0.985	1.956	2.912	3.854	4.783	5.697	6.598	7.486	8.361	9.222
1.75	0.983	1.949	2.898	3.831	4.748	5.649	6.535	7.405	8.260	9.101
2.00	0.980	1.942	2.884	3.808	4.713	5.601	6.472	7.325	8.162	8.983
2.25	0.978	1.934	2.870	3.785	4.679	5.554	6.410	7.247	8.066	8.866
2.50	0.976	1.927	2.856	3.762	4.646	5.508	6.349	7.170	7.971	8.752
2.75	0.973	1.920	2.842	3.739	4.613	5.462	6.289	7.094	7.878	8.640
3.00	0.971	1.913	2.829	3.717	4.580	5.417	6.230	7.020	7.786	8.530
3.25	0.969	1.907	2.815	3.695	4.547	5.373	6.172	6.946	7.696	8.422
3.50	0.966	1.900	2.802	3.673	4.515	5.329	6.115	6.874	7.608	8.317
3.75	0.964	1.893	2.788	3.651	4.483	5.285	6.058	6.803	7.521	8.213
4.00	0.962	1.886	2.775	3.630	4.452	5.242	6.002	6.733	7.435	8.111
4.25	0.959	1.879	2.762	3.609	4.421	5.200	5.947	6.664	7.351	8.011
4.50	0.957	1.873	2.749	3.588	4.390	5.158	5.893	6.596	7.269	7.913
4.75	0.955	1.866	2.736	3.567	4.360	5.117	5.839	6.529	7.188	7.816
5.00	0.952	1.859	2.723	3.546	4.329	5.076	5.786	6.463	7.108	7.722
5.25	0.950	1.853	2.711	3.525	4.300	5.035	5.734	6.398	7.029	7.629
5.50	0.948	1.846	2.698	3.505	4.270	4.996	5.683	6.335	6.952	7.538
5.75	0.946	1.840	2.685	3.485	4.241	4.956	5.632	6.272	6.876	7.448

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
0.00	11.000	12.000	13.000	14.000	15.000	16.000	17.000	18.000	19.000	20.000
0.25	10.837	11.807	12.775	13.741	14.704	15.665	16.623	17.580	18.533	19.484
0.50	10.677	11.619	12.556	13.489	14.417	15.340	16.259	17.173	18.082	18.987
0.75	10.521	11.435	12.342	13.243	14.137	15.024	15.905	16.779	17.647	18.508
1.00	10.368	11.255	12.134	13.004	13.865	14.718	15.562	16.398	17.226	18.046
1.25	10.218	11.079	11.930	12.771	13.601	14.420	15.230	16.030	16.819	17.599
1.50	10.071	10.908	11.732	12.543	13.343	14.131	14.908	15.673	16.426	17.169
1.75	9.927	10.740	11.538	12.322	13.093	13.850	14.595	15.327	16.046	16.753
2.00	9.787	10.575	11.348	12.106	12.849	13.578	14.292	14.992	15.678	16.351
2.25	9.649	10.415	11.164	11.896	12.612	13.313	13.998	14.668	15.323	15.964
2.50	9.514	10.258	10.983	11.691	12.381	13.055	13.712	14.353	14.979	15.589
2.75	9.382	10.104	10.807	11.491	12.157	12.805	13.435	14.049	14.646	15.227
3.00	9.253	9.954	10.635	11.296	11.938	12.561	13.166	13.754	14.324	14.877
3.25	9.126	9.807	10.467	11.106	11.725	12.324	12.905	13.467	14.012	14.539
3.50	9.002	9.663	10.303	10.921	11.517	12.094	12.651	13.190	13.710	14.212
3.75	8.880	9.523	10.142	10.740	11.315	11.870	12.405	12.920	13.417	13.896
4.00	8.760	9.385	9.986	10.563	11.118	11.652	12.166	12.659	13.134	13.590
4.25	8.644	9.250	9.833	10.391	10.927	11.440	11.933	12.406	12.859	13.294
4.50	8.529	9.119	9.683	10.223	10.740	11.234	11.707	12.160	12.593	13.008
4.75	8.417	8.990	9.537	10.059	10.557	11.033	11.488	11.921	12.335	12.731
5.00	8.306	8.863	9.394	9.899	10.380	10.838	11.274	11.690	12.085	12.462
5.25	8.198	8.740	9.254	9.742	10.206	10.647	11.066	11.465	11.843	12.202
5.50	8.093	8.619	9.117	9.590	10.038	10.462	10.865	11.246	11.608	11.950
5.75	7.989	8.500	8.983	9.441	9.873	10.282	10.668	11.034	11.379	11.706

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
0.00	21.000	22.000	23.000	24.000	25.000	26.000	27.000	28.000	29.000	30.000
0.25	20.433	21.380	22.324	23.266	24.205	25.143	26.077	27.010	27.940	28.868
0.50	19.888	20.784	21.676	22.563	23.446	24.324	25.198	26.068	26.933	27.794
0.75	19.363	20.211	21.053	21.889	22.719	23.542	24.359	25.171	25.976	26.775
1.00	18.857	19.660	20.456	21.243	22.023	22.795	23.560	24.316	25.066	25.808
1.25	18.370	19.131	19.882	20.624	21.357	22.081	22.796	23.503	24.200	24.889
1.50	17.900	18.621	19.331	20.030	20.720	21.399	22.068	22.727	23.376	24.016
1.75	17.448	18.130	18.801	19.461	20.109	20.746	21.372	21.987	22.592	23.186
2.00	17.011	17.658	18.292	18.914	19.523	20.121	20.707	21.281	21.844	22.396
2.25	16.590	17.203	17.803	18.389	18.962	19.523	20.072	20.608	21.132	21.645
2.50	16.185	16.765	17.332	17.885	18.424	18.951	19.464	19.965	20.454	20.930
2.75	15.793	16.343	16.879	17.401	17.908	18.402	18.883	19.351	19.806	20.249
3.00	15.415	15.937	16.444	16.936	17.413	17.877	18.327	18.764	19.188	19.600
3.25	15.050	15.545	16.024	16.488	16.938	17.373	17.795	18.203	18.599	18.982
3.50	14.698	15.167	15.620	16.058	16.482	16.890	17.285	17.667	18.036	18.392
3.75	14.358	14.803	15.232	15.645	16.043	16.427	16.797	17.154	17.498	17.829
4.00	14.029	14.451	14.857	15.247	15.622	15.983	16.330	16.663	16.984	17.292
4.25	13.712	14.112	14.496	14.864	15.217	15.556	15.881	16.193	16.492	16.779
4.50	13.405	13.784	14.148	14.495	14.828	15.147	15.451	15.743	16.022	16.289
4.75	13.108	13.468	13.812	14.141	14.454	14.753	15.039	15.312	15.572	15.820
5.00	12.821	13.163	13.489	13.799	14.094	14.375	14.643	14.898	15.141	15.372
5.25	12.544	12.868	13.176	13.469	13.747	14.012	14.263	14.502	14.728	14.944
5.50	12.275	12.583	12.875	13.152	13.414	13.662	13.898	14.121	14.333	14.534
5.75	12.015	12.308	12.584	12.846	13.093	13.326	13.547	13.756	13.954	14.141

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
6.00	0.943	1.833	2.673	3.465	4.212	4.917	5.582	6.210	6.802	7.360
6.25	0.941	1.827	2.661	3.445	4.184	4.879	5.533	6.149	6.728	7.274
6.50	0.939	1.821	2.648	3.426	4.156	4.841	5.485	6.089	6.656	7.189
6.75	0.937	1.814	2.636	3.406	4.128	4.804	5.437	6.030	6.585	7.105
7.00	0.935	1.808	2.624	3.387	4.100	4.767	5.389	5.971	6.515	7.024
7.25	0.932	1.802	2.612	3.368	4.073	4.730	5.343	5.914	6.447	6.943
7.50	0.930	1.796	2.601	3.349	4.046	4.694	5.297	5.857	6.379	6.864
7.75	0.928	1.789	2.589	3.331	4.019	4.658	5.251	5.802	6.312	6.786
8.00	0.926	1.783	2.577	3.312	3.993	4.623	5.206	5.747	6.247	6.710
8.25	0.924	1.777	2.566	3.294	3.967	4.588	5.162	5.693	6.182	6.635
8.50	0.922	1.771	2.554	3.276	3.941	4.554	5.119	5.639	6.119	6.561
8.75	0.920	1.765	2.543	3.258	3.915	4.520	5.075	5.587	6.057	6.489
9.00	0.917	1.759	2.531	3.240	3.890	4.486	5.033	5.535	5.995	6.418
9.25	0.915	1.753	2.520	3.222	3.865	4.453	4.991	5.484	5.935	6.348
9.50	0.913	1.747	2.509	3.204	3.840	4.420	4.950	5.433	5.875	6.279
9.75	0.911	1.741	2.498	3.187	3.815	4.387	4.909	5.384	5.817	6.211
10.00	0.909	1.736	2.487	3.170	3.791	4.355	4.868	5.335	5.759	6.145
10.25	0.907	1.730	2.476	3.153	3.767	4.324	4.829	5.287	5.702	6.079
10.50	0.905	1.724	2.465	3.136	3.743	4.292	4.789	5.239	5.646	6.015
10.75	0.903	1.718	2.454	3.119	3.719	4.261	4.751	5.192	5.591	5.951
11.00	0.901	1.713	2.444	3.102	3.696	4.231	4.712	5.146	5.537	5.889
11.25	0.899	1.707	2.433	3.086	3.673	4.200	4.674	5.101	5.484	5.828
11.50	0.897	1.701	2.423	3.070	3.650	4.170	4.637	5.056	5.431	5.768
11.75	0.895	1.696	2.412	3.053	3.627	4.141	4.600	5.011	5.379	5.709

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
6.00	7.887	8.384	8.853	9.295	9.712	10.106	10.477	10.828	11.158	11.470
6.25	7.787	8.270	8.725	9.153	9.556	9.935	10.291	10.627	10.943	11.241
6.50	7.689	8.159	8.600	9.014	9.403	9.768	10.111	10.432	10.735	11.019
6.75	7.593	8.050	8.477	8.878	9.253	9.605	9.935	10.243	10.532	10.803
7.00	7.499	7.943	8.358	8.745	9.108	9.447	9.763	10.059	10.336	10.594
7.25	7.406	7.838	8.240	8.616	8.966	9.292	9.596	9.880	10.145	10.391
7.50	7.315	7.735	8.126	8.489	8.827	9.142	9.434	9.706	9.959	10.194
7.75	7.226	7.635	8.014	8.365	8.692	8.995	9.276	9.537	9.779	10.004
8.00	7.139	7.536	7.904	8.244	8.559	8.851	9.122	9.372	9.604	9.818
8.25	7.053	7.439	7.796	8.126	8.430	8.712	8.971	9.212	9.433	9.638
8.50	6.969	7.345	7.691	8.010	8.304	8.575	8.825	9.055	9.268	9.463
8.75	6.886	7.252	7.588	7.897	8.181	8.442	8.683	8.904	9.107	9.294
9.00	6.805	7.161	7.487	7.786	8.061	8.313	8.544	8.756	8.950	9.129
9.25	6.726	7.071	7.388	7.678	7.943	8.186	8.408	8.612	8.798	8.968
9.50	6.647	6.984	7.291	7.572	7.828	8.062	8.276	8.471	8.650	8.812
9.75	6.570	6.898	7.196	7.468	7.716	7.942	8.147	8.335	8.505	8.661
10.00	6.495	6.814	7.103	7.367	7.606	7.824	8.022	8.201	8.365	8.514
10.25	6.421	6.731	7.012	7.267	7.499	7.709	7.899	8.072	8.228	8.370
10.50	6.348	6.650	6.923	7.170	7.394	7.596	7.779	7.945	8.095	8.231
10.75	6.277	6.570	6.836	7.075	7.291	7.486	7.663	7.822	7.966	8.095
11.00	6.207	6.492	6.750	6.982	7.191	7.379	7.549	7.702	7.839	7.963
11.25	6.138	6.416	6.666	6.891	7.093	7.274	7.438	7.584	7.716	7.835
11.50	6.070	6.341	6.583	6.801	6.997	7.172	7.329	7.470	7.596	7.710
11.75	6.003	6.267	6.503	6.714	6.903	7.072	7.223	7.358	7.480	7.588

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
6.00	11.764	12.042	12.303	12.550	12.783	13.003	13.211	13.406	13.591	13.765
6.25	11.521	11.784	12.032	12.266	12.485	12.692	12.887	13.070	13.242	13.404
6.50	11.285	11.535	11.770	11.991	12.198	12.392	12.575	12.746	12.907	13.059
6.75	11.057	11.294	11.517	11.725	11.921	12.104	12.275	12.436	12.586	12.727
7.00	10.836	11.061	11.272	11.469	11.654	11.826	11.987	12.137	12.278	12.409
7.25	10.621	10.836	11.036	11.222	11.396	11.558	11.709	11.850	11.981	12.104
7.50	10.413	10.617	10.807	10.983	11.147	11.299	11.441	11.573	11.696	11.810
7.75	10.212	10.406	10.585	10.752	10.907	11.050	11.184	11.307	11.422	11.529
8.00	10.017	10.201	10.371	10.529	10.675	10.810	10.935	11.051	11.158	11.258
8.25	9.827	10.002	10.164	10.313	10.451	10.578	10.696	10.804	10.905	10.997
8.50	9.644	9.810	9.963	10.104	10.234	10.354	10.465	10.566	10.660	10.747
8.75	9.465	9.623	9.769	9.902	10.025	10.138	10.242	10.337	10.425	10.506
9.00	9.292	9.442	9.580	9.707	9.823	9.929	10.027	10.116	10.198	10.274
9.25	9.124	9.267	9.398	9.517	9.627	9.727	9.819	9.903	9.980	10.050
9.50	8.961	9.097	9.221	9.334	9.438	9.532	9.618	9.697	9.769	9.835
9.75	8.803	8.932	9.049	9.157	9.254	9.343	9.425	9.498	9.566	9.627
10.00	8.649	8.772	8.883	8.985	9.077	9.161	9.237	9.307	9.370	9.427
10.25	8.499	8.616	8.722	8.818	8.905	8.984	9.056	9.121	9.180	9.234
10.50	8.354	8.465	8.566	8.657	8.739	8.814	8.881	8.942	8.997	9.047
10.75	8.212	8.318	8.414	8.500	8.578	8.648	8.712	8.769	8.821	8.868
11.00	8.075	8.176	8.266	8.348	8.422	8.488	8.548	8.602	8.650	8.694
11.25	7.941	8.037	8.123	8.201	8.270	8.333	8.389	8.440	8.485	8.526
11.50	7.811	7.903	7.984	8.058	8.124	8.183	8.236	8.283	8.326	8.364
11.75	7.685	7.772	7.850	7.919	7.981	8.037	8.087	8.131	8.171	8.207

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

%	EXPECTED USEFUL LIFE IN YEARS									
R.O.I.	1	2	3	4	5	6	7	8	9	10
12.00	0.893	1.690	2.402	3.037	3.605	4.111	4.564	4.968	5.328	5.650
12.25	0.891	1.685	2.392	3.021	3.583	4.082	4.528	4.925	5.278	5.593
12.50	0.889	1.679	2.381	3.006	3.561	4.054	4.492	4.882	5.228	5.536
12.75	0.887	1.674	2.371	2.990	3.539	4.026	4.457	4.840	5.180	5.481
13.00	0.885	1.668	2.361	2.974	3.517	3.998	4.423	4.799	5.132	5.426
13.25	0.883	1.663	2.351	2.959	3.496	3.970	4.388	4.758	5.084	5.372
13.50	0.881	1.657	2.341	2.944	3.475	3.943	4.355	4.718	5.038	5.320
13.75	0.879	1.652	2.331	2.929	3.454	3.915	4.321	4.678	4.992	5.267
14.00	0.877	1.647	2.322	2.914	3.433	3.889	4.288	4.639	4.946	5.216
14.25	0.875	1.641	2.312	2.899	3.413	3.862	4.256	4.600	4.902	5.166
14.50	0.873	1.636	2.302	2.884	3.392	3.836	4.224	4.562	4.858	5.116
14.75	0.871	1.631	2.293	2.869	3.372	3.810	4.192	4.524	4.814	5.067
15.00	0.870	1.626	2.283	2.855	3.352	3.784	4.160	4.487	4.772	5.019
15.25	0.868	1.621	2.274	2.841	3.332	3.759	4.129	4.451	4.729	4.971
15.50	0.866	1.615	2.264	2.826	3.313	3.734	4.099	4.415	4.688	4.925
15.75	0.864	1.610	2.255	2.812	3.293	3.709	4.068	4.379	4.647	4.879
16.00	0.862	1.605	2.246	2.798	3.274	3.685	4.039	4.344	4.607	4.833
16.25	0.860	1.600	2.237	2.784	3.255	3.660	4.009	4.309	4.567	4.789
16.50	0.858	1.595	2.228	2.770	3.236	3.636	3.980	4.274	4.527	4.745
16.75	0.857	1.590	2.219	2.757	3.218	3.613	3.951	4.241	4.489	4.701
17.00	0.855	1.585	2.210	2.743	3.199	3.589	3.922	4.207	4.451	4.659
17.25	0.853	1.580	2.201	2.730	3.181	3.566	3.894	4.174	4.413	4.617
17.50	0.851	1.575	2.192	2.716	3.163	3.543	3.866	4.142	4.376	4.575
17.75	0.849	1.570	2.183	2.703	3.145	3.520	3.839	4.109	4.339	4.534

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
12.00	5.938	6.194	6.424	6.628	6.811	6.974	7.120	7.250	7.366	7.469
12.25	5.873	6.123	6.346	6.544	6.721	6.878	7.019	7.143	7.255	7.354
12.50	5.810	6.053	6.270	6.462	6.633	6.785	6.920	7.040	7.147	7.241
12.75	5.748	5.985	6.195	6.381	6.547	6.693	6.823	6.939	7.041	7.132
13.00	5.687	5.918	6.122	6.302	6.462	6.604	6.729	6.840	6.938	7.025
13.25	5.627	5.852	6.050	6.225	6.380	6.516	6.637	6.743	6.837	6.921
13.50	5.568	5.787	5.979	6.149	6.299	6.431	6.547	6.649	6.739	6.819
13.75	5.510	5.723	5.910	6.075	6.220	6.347	6.459	6.557	6.644	6.720
14.00	5.453	5.660	5.842	6.002	6.142	6.265	6.373	6.467	6.550	6.623
14.25	5.397	5.599	5.776	5.931	6.066	6.185	6.289	6.380	6.459	6.529
14.50	5.341	5.538	5.710	5.861	5.992	6.106	6.206	6.294	6.370	6.437
14.75	5.287	5.479	5.646	5.792	5.919	6.029	6.126	6.210	6.283	6.347
15.00	5.234	5.421	5.583	5.724	5.847	5.954	6.047	6.128	6.198	6.259
15.25	5.181	5.363	5.521	5.658	5.777	5.881	5.970	6.048	6.115	6.174
15.50	5.130	5.307	5.461	5.594	5.709	5.803	5.895	5.969	6.034	6.090
15.75	5.079	5.252	5.401	5.530	5.641	5.738	5.821	5.893	5.955	6.009
16.00	5.029	5.197	5.342	5.468	5.575	5.668	5.749	5.818	5.877	5.929
16.25	4.979	5.144	5.285	5.406	5.511	5.601	5.678	5.745	5.802	5.851
16.50	4.931	5.091	5.228	5.346	5.447	5.534	5.609	5.673	5.728	5.775
16.75	4.883	5.039	5.173	5.287	5.385	5.469	5.541	5.603	5.655	5.700
17.00	4.836	4.988	5.118	5.229	5.324	5.405	5.475	5.534	5.584	5.628
17.25	4.790	4.938	5.065	5.172	5.264	5.343	5.410	5.467	5.515	5.557
17.50	4.745	4.889	5.012	5.117	5.206	5.281	5.346	5.401	5.447	5.487
17.75	4.700	4.841	4.960	5.062	5.148	5.221	5.283	5.336	5.381	5.419

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
12.00	7.562	7.645	7.718	7.784	7.843	7.896	7.943	7.984	8.022	8.055
12.25	7.442	7.521	7.591	7.653	7.709	7.759	7.803	7.842	7.877	7.908
12.50	7.326	7.401	7.467	7.526	7.579	7.626	7.667	7.704	7.737	7.766
12.75	7.212	7.283	7.347	7.403	7.453	7.497	7.536	7.571	7.602	7.629
13.00	7.102	7.170	7.230	7.283	7.330	7.372	7.409	7.441	7.470	7.496
13.25	6.994	7.059	7.116	7.166	7.211	7.250	7.285	7.316	7.343	7.367
13.50	6.889	6.951	7.005	7.053	7.095	7.132	7.165	7.194	7.219	7.242
13.75	6.787	6.845	6.897	6.942	6.982	7.017	7.048	7.075	7.099	7.120
14.00	6.687	6.743	6.792	6.835	6.873	6.906	6.935	6.961	6.983	7.003
14.25	6.590	6.643	6.690	6.731	6.766	6.798	6.825	6.849	6.870	6.889
14.50	6.495	6.546	6.590	6.629	6.663	6.693	6.718	6.741	6.761	6.778
14.75	6.403	6.451	6.493	6.530	6.562	6.590	6.615	6.636	6.654	6.670
15.00	6.312	6.359	6.399	6.434	6.464	6.491	6.514	6.534	6.551	6.566
15.25	6.225	6.269	6.307	6.340	6.369	6.394	6.415	6.434	6.450	6.465
15.50	6.139	6.181	6.217	6.249	6.276	6.299	6.320	6.337	6.353	6.366
15.75	6.055	6.095	6.130	6.159	6.185	6.208	6.227	6.243	6.258	6.270
16.00	5.973	6.011	6.044	6.073	6.097	6.118	6.136	6.152	6.166	6.177
16.25	5.893	5.930	5.961	5.988	6.011	6.031	6.048	6.063	6.076	6.087
16.50	5.815	5.850	5.880	5.905	5.927	5.946	5.962	5.976	5.988	5.999
16.75	5.739	5.772	5.801	5.825	5.846	5.864	5.879	5.892	5.903	5.913
17.00	5.665	5.696	5.723	5.746	5.766	5.783	5.798	5.810	5.820	5.829
17.25	5.592	5.622	5.648	5.670	5.689	5.705	5.718	5.730	5.740	5.748
17.50	5.521	5.550	5.574	5.595	5.613	5.628	5.641	5.652	5.661	5.669
17.75	5.452	5.479	5.502	5.522	5.539	5.553	5.565	5.576	5.584	5.592

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
18.00	0.847	1.566	2.174	2.690	3.127	3.498	3.812	4.078	4.303	4.494
18.25	0.846	1.561	2.166	2.677	3.110	3.475	3.785	4.046	4.267	4.454
18.50	0.844	1.556	2.157	2.664	3.092	3.453	3.758	4.015	4.232	4.415
18.75	0.842	1.551	2.148	2.651	3.075	3.431	3.732	3.985	4.198	4.377
19.00	0.840	1.547	2.140	2.639	3.058	3.410	3.706	3.954	4.163	4.339
19.25	0.839	1.542	2.131	2.626	3.041	3.388	3.680	3.925	4.130	4.302
19.50	0.837	1.537	2.123	2.613	3.024	3.367	3.655	3.895	4.096	4.265
19.75	0.835	1.532	2.115	2.601	3.007	3.346	3.629	3.866	4.063	4.228
20.00	0.833	1.528	2.106	2.589	2.991	3.326	3.605	3.837	4.031	4.192
20.25	0.832	1.523	2.098	2.577	2.974	3.305	3.580	3.809	3.999	4.157
20.50	0.830	1.519	2.090	2.564	2.958	3.285	3.556	3.781	3.967	4.122
20.75	0.828	1.514	2.082	2.552	2.942	3.265	3.532	3.753	3.936	4.088
21.00	0.826	1.509	2.074	2.540	2.926	3.245	3.508	3.726	3.905	4.054
21.25	0.825	1.505	2.066	2.529	2.910	3.225	3.484	3.699	3.875	4.021
21.50	0.823	1.500	2.058	2.517	2.895	3.205	3.461	3.672	3.845	3.988
21.75	0.821	1.496	2.050	2.505	2.879	3.186	3.438	3.645	3.815	3.955
22.00	0.820	1.492	2.042	2.494	2.864	3.167	3.416	3.619	3.786	3.923
22.25	0.818	1.487	2.034	2.482	2.848	3.148	3.393	3.593	3.757	3.892
22.50	0.816	1.483	2.027	2.471	2.833	3.129	3.371	3.568	3.729	3.860
22.75	0.815	1.478	2.019	2.459	2.818	3.111	3.349	3.543	3.701	3.830
23.00	0.813	1.474	2.011	2.448	2.803	3.092	3.327	3.518	3.673	3.799
23.25	0.811	1.470	2.004	2.437	2.789	3.074	3.306	3.493	3.646	3.769
23.50	0.810	1.465	1.996	2.426	2.774	3.056	3.284	3.469	3.619	3.740
23.75	0.808	1.461	1.989	2.415	2.760	3.038	3.263	3.445	3.592	3.711

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

%	EXPECTED USEFUL LIFE IN YEARS									
R.O.I.	11	12	13	14	15	16	17	18	19	20
18.00	4.656	4.793	4.910	5.008	5.092	5.162	5.222	5.273	5.316	5.353
18.25	4.613	4.746	4.860	4.955	5.036	5.105	5.162	5.211	5.253	5.288
18.50	4.570	4.700	4.810	4.903	4.982	5.048	5.104	5.151	5.191	5.224
18.75	4.528	4.655	4.762	4.852	4.928	4.992	5.046	5.091	5.130	5.162
19.00	4.486	4.611	4.715	4.802	4.876	4.938	4.990	5.033	5.070	5.101
19.25	4.446	4.567	4.668	4.753	4.824	4.884	4.934	4.976	5.012	5.041
19.50	4.406	4.523	4.622	4.705	4.774	4.832	4.880	4.921	4.954	4.983
19.75	4.366	4.481	4.577	4.657	4.724	4.780	4.827	4.866	4.898	4.926
20.00	4.327	4.439	4.533	4.611	4.675	4.730	4.775	4.812	4.843	4.870
20.25	4.289	4.398	4.489	4.565	4.628	4.680	4.723	4.760	4.790	4.815
20.50	4.251	4.358	4.446	4.520	4.581	4.631	4.673	4.708	4.737	4.761
20.75	4.214	4.318	4.404	4.475	4.534	4.583	4.624	4.657	4.685	4.708
21.00	4.177	4.278	4.362	4.432	4.489	4.536	4.576	4.608	4.635	4.657
21.25	4.141	4.240	4.321	4.389	4.444	4.490	4.528	4.559	4.585	4.606
21.50	4.105	4.202	4.281	4.347	4.401	4.445	4.481	4.511	4.536	4.557
21.75	4.070	4.164	4.242	4.305	4.358	4.400	4.436	4.465	4.488	4.508
22.00	4.035	4.127	4.203	4.265	4.315	4.357	4.391	4.419	4.442	4.460
22.25	4.001	4.091	4.164	4.224	4.274	4.314	4.347	4.374	4.396	4.414
22.50	3.968	4.055	4.127	4.185	4.233	4.272	4.303	4.329	4.350	4.368
22.75	3.935	4.020	4.090	4.146	4.193	4.230	4.261	4.286	4.306	4.323
23.00	3.902	3.985	4.053	4.108	4.153	4.189	4.219	4.243	4.263	4.279
23.25	3.870	3.951	4.017	4.071	4.114	4.149	4.178	4.201	4.220	4.235
23.50	3.838	3.917	3.982	4.034	4.076	4.110	4.138	4.160	4.178	4.193
23.75	3.807	3.884	3.947	3.997	4.038	4.071	4.098	4.120	4.137	4.151

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

%	EXPECTED USEFUL LIFE IN YEARS									
R.O.I.	21	22	23	24	25	26	27	28	29	30
18.00	5.384	5.410	5.432	5.451	5.467	5.480	5.492	5.502	5.510	5.517
18.25	5.317	5.342	5.363	5.381	5.397	5.409	5.420	5.429	5.437	5.444
18.50	5.252	5.276	5.296	5.313	5.328	5.340	5.350	5.359	5.366	5.372
18.75	5.189	5.212	5.231	5.247	5.261	5.272	5.282	5.290	5.297	5.303
19.00	5.127	5.149	5.167	5.182	5.195	5.206	5.215	5.223	5.229	5.235
19.25	5.066	5.087	5.104	5.119	5.131	5.141	5.150	5.157	5.163	5.168
19.50	5.007	5.026	5.043	5.057	5.069	5.078	5.086	5.093	5.099	5.104
19.75	4.948	4.967	4.983	4.996	5.007	5.017	5.024	5.031	5.036	5.041
20.00	4.891	4.909	4.925	4.937	4.948	4.956	4.964	4.970	4.975	4.979
20.25	4.836	4.853	4.867	4.879	4.889	4.897	4.904	4.910	4.915	4.919
20.50	4.781	4.797	4.811	4.823	4.832	4.840	4.846	4.852	4.856	4.860
20.75	4.727	4.743	4.756	4.767	4.776	4.783	4.790	4.795	4.799	4.802
21.00	4.675	4.690	4.703	4.713	4.721	4.728	4.734	4.739	4.743	4.746
21.25	4.624	4.638	4.650	4.660	4.668	4.674	4.680	4.685	4.688	4.691
21.50	4.573	4.587	4.598	4.608	4.615	4.622	4.627	4.631	4.635	4.638
21.75	4.524	4.537	4.548	4.557	4.564	4.570	4.575	4.579	4.582	4.585
22.00	4.476	4.488	4.499	4.507	4.514	4.520	4.524	4.528	4.531	4.534
22.25	4.428	4.440	4.450	4.458	4.465	4.470	4.475	4.478	4.481	4.484
22.50	4.382	4.393	4.403	4.410	4.417	4.422	4.426	4.429	4.432	4.434
22.75	4.336	4.347	4.356	4.364	4.369	4.374	4.378	4.381	4.384	4.386
23.00	4.292	4.302	4.311	4.318	4.323	4.328	4.332	4.335	4.337	4.339
23.25	4.248	4.258	4.266	4.273	4.278	4.282	4.286	4.289	4.291	4.293
23.50	4.205	4.214	4.222	4.228	4.234	4.238	4.241	4.244	4.246	4.248
23.75	4.163	4.172	4.179	4.185	4.190	4.194	4.197	4.200	4.202	4.203

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
24.00	0.806	1.457	1.981	2.404	2.745	3.020	3.242	3.421	3.566	3.682
24.25	0.805	1.453	1.974	2.393	2.731	3.003	3.222	3.398	3.539	3.653
24.50	0.803	1.448	1.967	2.383	2.717	2.986	3.201	3.375	3.514	3.625
24.75	0.802	1.444	1.959	2.372	2.703	2.968	3.181	3.352	3.488	3.598
25.00	0.800	1.440	1.952	2.362	2.689	2.951	3.161	3.329	3.463	3.571

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
24.00	3.776	3.851	3.912	3.962	4.001	4.033	4.059	4.080	4.097	4.110
24.25	3.745	3.819	3.879	3.926	3.965	3.996	4.021	4.041	4.057	4.070
24.50	3.715	3.787	3.845	3.892	3.929	3.959	3.983	4.003	4.018	4.031
24.75	3.686	3.756	3.812	3.858	3.894	3.923	3.946	3.965	3.980	3.992
25.00	3.656	3.725	3.780	3.824	3.859	3.887	3.910	3.928	3.942	3.954

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
24.00	4.121	4.130	4.137	4.143	4.147	4.151	4.154	4.157	4.159	4.160
24.25	4.081	4.089	4.096	4.101	4.106	4.109	4.112	4.114	4.116	4.118
24.50	4.041	4.049	4.055	4.060	4.065	4.068	4.071	4.073	4.075	4.076
24.75	4.002	4.009	4.015	4.020	4.024	4.028	4.030	4.032	4.034	4.035
25.00	3.963	3.970	3.976	3.981	3.985	3.988	3.990	3.992	3.994	3.995

Table 2

Reference Annual Percent Return on Investment

Year Construction Completed	Reference Percent Return
1975	19.1
1976	19.8
1977	21.0
1978	21.9
1979	22.5
1980	23.0
1981	23.6
1982	23.4
1983	21.5
1984	19.9

Calculation of the reference percent return was made by averaging the average annual percent return before taxes on stockholders' equity for all manufacturing corporations as found in the Quarterly Financial Report for Manufacturing, Mining and Trade Corporations, published by the U.S. Department of Commerce, Bureau of the Census, for the five years prior to the year shown.

340-16-035 PROCEDURE TO REVOKE CERTIFICATION

(1) Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, the Commission may order the revocation of the final tax credit certification if it finds that:

(a) The certification was obtained by fraud or misrepresentation or

(b) The holder of the certificate has failed substantially to operate the facility for the purpose of, and to the extent necessary for, preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or recycling or disposing of used oil as specified in such certificate, or has failed to operate the facility in compliance with Department or Commission statutes, rules, orders or permit conditions where applicable.

(2) As soon as the order of revocation under this section has become final, the Commission shall notify the Department of Revenue and the county assessor of the county in which the facility is located of such order.

(3) If the certification of a pollution control or solid waste, hazardous wastes or used oil facility is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax relief provided to the holder of such certificate by virtue of such certificate shall

be forfeited and the Department of Revenue or the proper county officers shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder under any provision of ORS 307.405, 316.097 and 317.116.

(4) If the certification of a pollution control or solid waste, hazardous wastes or used oil facility is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further relief provided under ORS 307.405, 316.097 or 317.116 in connection with such facility, as the case may be, from and after the date that the order of revocation becomes final.

340-16-040 PROCEDURES FOR TRANSFER OF A TAX CREDIT CERTIFICATE

To transfer a tax credit certificate from one holder to another, the Commission shall revoke the certificate and grant a new one to the new holder for the balance of the available tax credit following the procedure set forth in ORS 307.405, 316.097, and 317.116.

340- 16-045 [340-11-200] FEES FOR FINAL TAX CREDIT [FEES] CERTIFICATION

(1) [Beginning November 1, 1981 all persons applying for Pollution Control Facilities Tax Credit pursuant to ORS 468.170 shall be subject to a two-part fee consisting of a non-refundable filing fee of $50 per application, and] An application processing fee of one-half of one percent of the cost claimed in the application of the pollution control facility to a maximum of $5,000 [except that] shall be paid with each application. However, if the application processing fee is less than $50, no application processing fee shall be charged. A non-refundable filing fee of $50 shall be paid with each application. No application is complete until the filing fee and processing fee are submitted. An amount equal to the filing fee and processing fee shall be submitted as a required part of any application for a pollution control facility tax credit.

(2) Upon the Department's [acceptance] receipt of an application [as complete], the filing fee becomes non-refundable.

(3) The application processing fee shall be refunded in whole [when submitted with an application] if:

NOTE: Underlined _____ material is new. Bracketed [ ] material is deleted.

(a) The Department determines the application is incomplete for processing and applicant fails to submit requested information within

(b) [The Commission finds that the facility is ineligible for tax credit;] The application is rejected; or

[(c) The Commission issues an order denying the pollution control facility tax credit; or]

(c) [(d)] The applicant withdraws the application before final certification or denial by the Commission.

(4) The application processing fee shall be refunded in part if the final certified cost is less than the facility cost claimed in the original 180 days of date when the Department requested the information; or application. The refund [amount] shall be calculated by subtracting one-half of one percent of the actual certified cost of the facility from the amount of the application processing fee submitted with the application. If that calculation yields zero or a negative number, no refund shall be made.

(5) The fees shall not be considered by the Environmental Quality Commission as part of the cost of the facility to be certified.

NOTE: Underlined ____ material is new. Bracketed [ ] material is deleted.

(6) All fees shall be made payable to the Department of Environmental Quality.

340-16-050 TAXPAYERS RECEIVING TAX CREDIT

(1) A person receiving a certificate under this section may take tax relief only under ORS 316.097 or 317.116, depending upon the tax status of the person's trade or business except if the taxpayer is a corporation organized under ORS chapter 61 or 62, or any predecessor to ORS chapter 62 relating to incorporation of cooperative associations, or is a subsequent transferee of such a corporation, the tax relief may be taken only under ORS 307.405.

(2) If the person receiving the certificate is an electing small business corporation as defined in section 1361 of the Internal Revenue Code, each shareholder shall be entitled to take tax credit relief as provided in ORS 316.097, based on that shareholder's pro rata share of the certified cost of the facility.

(3) If the person receiving the certificate is a partnership, each partner shall be entitled to take tax credit relief as provided in ORS 316.097, based on that partner's pro rata share of the certified cost of the facility.

NOTE: Underlined _____ material is new. Bracketed [ ] material is deleted.

(4) Upon any sale, exchange or other disposition of a facility written notice must be provided to the Department of Environmental Quality by the company, corporation or individual for whom the tax credit certificate has been issued. Upon request, the taxpayer shall provide a copy of the contract or other evidence of disposition of the property to the Department of Environmental Quality.

(5) The company, corporation or individual claiming the tax credit for a leased facility must provide a copy of a written agreement between the lessor and lessee designating the party to receive the tax credit and a copy of the complete and current lease agreement for the facility.

(6) The taxpayer claiming the tax credit for a facility with more than one owner shall provide a copy of a written agreement between the owners designating the party or parties to receive the tax credit certificate.

Amend OAR 340, Division 26 as follows:

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 provisions and procedures pertaining to tax credits for approved alternative field sanitation facilities.]

(h) [(i)] OAR 340-26-031 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires."

(i) [(j)] OAR 340-26-035 establishes special provisions pertaining to open field burning for experimental purposes.

(j) [(k)] OAR 340-26-040 establishes special provisions and procedures pertaining to emergency open field burning and emergency cessation of burning.

(k) [(l)] OAR 340-26-045 establishes provisions pertaining to approved alternative methods of burning, such as "propane flaming."

NOTE: Underlined ____ material is new. Bracketed [ ] material is deleted.

[OAR 340-26-030 TAX CREDITS FOR APPROVED ALTERNATIVE METHODS AND APPROVED ALTERNATIVE FACILITIES]

[(1) 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 credits shall include:]

[(a) Mobile equipment including, but not 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.]

NOTE: Underlined _____ material is new. Bracketed [ ] material is deleted.

[(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

NOTE: Underlined ____ material is new. Bracketed [ ] material is deleted.

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.]

NOTE: Underlined ____ material is new. Bracketed [ ] material is deleted.

[(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;]

NOTE: Underlined ____ material is new. Bracketed [ ] material is deleted.

[(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.]

NOTE: Underlined _____ material is new. Bracketed [ ] material is deleted.

[(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 of 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) of this rule shall make an irrevocable election to take the tax credit relief under ORS 316.097, 317.072, or the ad volorem 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: Underlined ____ material is new. Bracketed [ ] material is deleted.

VICTOR ATIYEH
GOVERNOR

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. I, June 29, 1984, EQC Meeting

Proposed Adoption of Amendments to the General Groundwater Quality Protection Policy, OAR 340-41-029, to Incorporate Additional Policies for Control Program Implementation

Background

On February 24, 1984, the Commission authorized the Department to conduct public hearings in Bend, Eugene, and Portland to receive testimony on proposed rule amendments to the existing General Groundwater Quality Protection Policy, OAR 340-41-029. The proposed amendments would add a problem abatement policies section, delete certain existing policy statements, and make several minor language and rule numbering changes.

Notice was given by publication in the Secretary of State's Bulletin on April 1, 1984, and by direct mail to the Water Quality Division's current mailing list. The mailing dates were April 6 and April 9, 1984.

The hearings were held on May 9, 10, and 11 in Bend, Eugene, and Portland respectively, and the hearings officer's report is contained in Attachment C.

Detailed background information on the proposed rule amendments is contained in the February 24, 1984, EQC Agenda Item (Attachment B).

Evaluation of Testimony

The proposed amendments provide additional guidance for developing and implementing groundwater problem abatement plans. Presented below is an evaluation of the testimony received.

Several people and groups testified in support of the proposed amendments. Some of these people suggested that the groundwater protection rules should be as stringent as possible and that standards be applied equally. One person testified that the Commission could make the policy more explicit and thereby send a clearer signal to the public, industries, and agencies. It was suggested that this could be accomplished by adding a discussion of the Department's enforcement measures in a preamble to the proposed

abatement section or by adding a separate section entitled "Enforcement Policies" or by changing the language in policy statement 3 (c)(F) to indicate what other measures are available. The Department in response to this testimony has expanded policy statement 3 (c)(F) and has added a short preamble to the abatement section.

Testimony was received asking that higher priority be given to leaking sewer lines and that they be addressed before on-site sewage disposal system problems. The Department believes that sewer system failures affecting groundwater quality are an important problem and when detected these should be addressed by the sewer system operator. However, the Department does not agree that leaking sewer lines should receive higher priority than septic system problems, but that groundwater problem priorities be determined based on severity.

Testimony was received asking the Department to justify the need for the proposed policy amendments. The Department believes that the February 24, 1984, Commission staff report provides an adequate evaluation and documentation for the proposed amendments.

Several people and organizations testified in opposition to the proposed deletion of policy statement 1 (e) in the existing policy. In general, these people were concerned that the Commission, by deleting this paragraph, would no longer recognize that groundwater protection plan development and implementation may take time. Instead, the Commission, by this action, would now intend to require problem abatement immediately upon detection. Deletion of this paragraph does not mean that the Department is moving away from the careful consideration of feasible abatement measures and their orderly and timely implementation. In order to clarify this position, a brief preamble statement has been added to the proposed abatement policies section.

Testimony was received expressing concern over who would be responsible for investigating groundwater problems and developing and implementing the needed abatement plans. The Department believes that individual sources should be responsible for examining possible groundwater problems and developing and implementing, if needed, the appropriate abatement plans. This would not however preclude the Department from completing an independent investigation. In the case of areawide on-site sewage disposal problems, the Department would work with local agencies to examine the potential groundwater problem and possible abatement measures. But local units of government would be responsible for implementing abatement plans. The Department, however, would offer its assistance as time and resources permit to help identify possible financing for needed abatement measures.

Testimony was received from one person stating that the Department's groundwater program has been ineffective or non-existent because

ORS 454.235(2)* and ORS 454.645** have not been used in a single enforcement or implementation situation. It was stated that although the proposed abatement policies are a small step in the right direction, the policies fail to put people on notice that Oregon is serious about groundwater quality and quantity. The testimony suggests that minimum dollar amount penalties be established and that the powers of ORS 454.645 be extended to local governments. The testimony also asked that the effect of the proposed amendments on land use goals*** 3, 5, 7, and 15 be addressed in addition to goals 6 and 11 previously addressed by the Department

The Department believes that using or not using the statutes identified above to solve a specific groundwater problem is not a test nor a valid evaluation of the state's groundwater program. The identification and abatement of past and present groundwater problems is occurring without the direct use of these statutes. Furthermore, the proposed abatement policies formalize a process whereby a schedule would be developed to identify where these statutes might be used in future abatement plans.

The Department believes it has adequate authority to assess penalties for the pollution of groundwater and that the penalty amount is best set on a case-by-case basis. The Department believes this provides the needed flexibility to address the wide range of possible problems.

The Department also believes that the proposed actions most directly affect goals 6 and 11. The protection of groundwater quality is not in conflict with these goals. The issues identified in goals 3 and 7 relate to quantity and not quality, and the regulation of quantity is not the intent of the proposed amendments. The proposed amendments are consistent with goals 5 and 15 because they protect a natural resource and the quality of groundwater discharged to the Willamette River.

Testimony was received that supports the proposed abatement policies but cautioned the Department and Commission to go slowly and carefully when

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* ORS 454.235(2), Compelling bond elections, Commission order to construct needed disposal system and hold election on the question of bond sale, if necessary pursue court order directing the issuing of self-liquidating bonds.

** ORS 454.645, Public health hazard, Department action compelling the person or governmental unit in control to cease and desist operation or to make improvements or corrections to remove health hazard or threat.

*** Goal: 3 - Agricultural Lands; 5 - Open Spaces, Scenic and Historic Areas, and National Resources; 6 - Air, Water and Land Resources Quality; 7 - Areas Subject to Natural Disasters and Hazards; 11 - Public Facilities and Services; and 11 - Willamette River Greenway.

implementing these policies. The testimony suggests that each problem needs to be carefully examined and that any groundwater protection plan developed should identify the appropriate solution, and implementation schedule for that particular problem. Groundwater protection plans should be carefully developed and implemented and the Department agrees with this testimony.

Testimony was received expressing concern over the use of the term "shallow aquifer" in policy statement 1 (b). This term was considered to be relative and its meaning could vary between areas of differing hydrological characteristics. The Department agrees with this testimony. The original intent of policy statement 1 (b) was to encourage the testing of domestic well water drawn from water table aquifers. These aquifers are not protected naturally from potential contaminating activities on the surface. Therefore, the Department proposes to delete the term shallow aquifer and replace it with the term "water table aquifers."

Finally, testimony was received concerning the availability of water testing facilities, particularly if the Commission, under policy statement 1 (b), is going to encourage such testing. In the past, water testing was available as a public service. However, as the costs and the number of analyses increased, this service was discontinued. It is unlikely with the present budget limitations that this service will be offered in the future.

Summation

1. On August 28, 1981, the Commission adopted a General Groundwater Protection Policy, OAR 340-41-029.

2. The expansion of the policy is desired to provide more specific direction regarding the process to be followed in imposing a requirement upon the appropriate local government to develop and implement an abatement plan.

3. The Commission authorized the Department to conduct public hearings on the proposed amendments on February 24, 1984.

4. The authorized hearings were held in Bend, Eugene, and Portland on May 9, 10, and 11 respectively.

5. Attachment C contains the hearings officer's report and the written testimony received.

6. Based on an evaluation of the testimony, the Department has modified the proposed policy amendments. This includes the addition of a preamble to the abatement policies section, expansion of the proposed policy statement 3(c)(F), and deletion of the term "shallow aquifer" in policy statement 1(b) which will be replaced with the term "water table aquifer".

7. ORS 468.020, together with the policy directions established in ORS 468.710 and ORS 468.715, gives the Commission authority to adopt the proposed rules.

Director's Recommendation

Based on the summation, it is recommended that the Commission amend the existing General Groundwater Protection Policy to include problem abatement policies and to make several housekeeping changes which include deleting two existing policies (Attachment A).

Fred Hansen

Attachments: 3
- A. Proposed Rule Amendments OAR 340-41-029
- B. Staff report and attachments for Agenda Item E, February 24, 1984, EQC Meeting
- C. Hearings Officer's Report and the Written Testimony received.

Neil J. Mullane:l
TL3414
229-6065
June 15, 1984

Proposed Amendments to OAR 340-41-029

GENERAL GROUNDWATER QUALITY PROTECTION POLICY

The following statements of policy are intended to guide federal agencies and state agencies, cities, counties, industries, citizens,and the Department of Environmental Quality staff in their efforts to protect the quality of groundwater:

(1) [PLANNING POLICIES:] GENERAL POLICIES

(a) [It is the policy of the EQC that within its responsibilities for the regulation and control of waste sources, such activities be conducted in a manner so as to minimize the impairment of the natural quality of groundwater within practicable limits to protect presently recognized beneficial uses and assure protection of the resources for beneficial use by future generations.]

It is the responsibility of the EQC to regulate and control waste sources so that impairment of the natural quality of groundwater is minimized to assure beneficial uses of these resources by future generations.

(b) [(c)] In order to assure maximum reasonable protection of public health, the public should be informed that groundwater--and most particularly local flow systems or [shallow groundwaters] water table aquifers --should not be assumed to be safe for domestic use unless quality testing demonstrates a safe supply. Domestic water drawn from [shallow aquifers] water table aquifers should be tested frequently to assure its continued safety for use.

(c) [(b)] For the purpose of making the best use of limited staff resources, the Department will concentrate its control strategy development and implementation efforts in areas where waste disposal practices and activities regulated by the Department have the greatest potential for degrading groundwater quality. These areas will be delineated from a statewide map outlining the boundaries of major water table aquifers prepared in 1980 by Sweet, Edwards & Associates, Inc. This map may be revised periodically by the Water Resources Department.

(d) The Department will seek the assistance and cooperation of the Water Resources Department to design an ambient monitoring program adequate to determine long-term quality trends for significant groundwater flow systems. The Department will assist and cooperate with the Water Resources Department in their groundwater studies. The Department will also seek the advice, assistance, and cooperation of local, state, and federal agencies to identify and resolve groundwater quality problems.

[(e) The EQC recognizes that orderly financing and implementation of a long-range groundwater improvement and quality protection plan may necessitate some increased quality degradation for a short period of time. The EQC may approve a groundwater quality protection plan which allows limited short-term further degradation provided:]

[(A) Beneficial use impairment will not be significantly increased;]

[(B) Public health risk is not significantly increased;]

Underlined ____ material is new.
Bracketed [ ] material is deleted.

[(C) Irreparable damage to the groundwater resources does not occur; and]

[(D) The groundwater quality protection plan has been duly adopted as part of the comprehensive planning process by the responsible local government,]

[(E) A financing plan has been developed and adopted to assure implementation, and]

[(F) The responsible local government has committed to implement the program in accordance with a timetable which is included in a written agreement with the EQC.]

(e) [(3)] The EQC recognizes and supports the authority and responsibilities of the Water Resources Department and Water Policy Review Board in the management of groundwater and protection of groundwater quality. In particular, existing programs to regulate well construction and to control the withdrawal of groundwater provide important quality protective opportunities. These policies are intended to complement and not duplicate the programs of the Water Resources Department.

(2) [PROGRAM POLICIES:] SOURCE CONTROL POLICIES

(a) Consistent with general policies for protection of surface water, highest and best practicable treatment and control of sewage, industrial wastes, and landfill leachates, shall be required so as to minimize potential pollutant loading to groundwater. Among other factors, energy, economics, public health protection, potential value of the groundwater resource to present and future generations, and time required for recovery of quality after elimination of pollutant loadings may be considered in arriving at a case-by-case determination of highest and best practicable treatment and control. For areas where urban density development is planned or is occurring and where rapidly draining soils overlay local groundwater flow systems and their associated [shallow aquifers,] water table aquifers, the collection, treatment and disposal of sewage, industrial wastes and leachates from landfills will be deemed highest and best practicable treatment and control unless otherwise approved by the EQC pursuant to subsections (b) and (c) of this section.

(b) Establishment of controls more stringent than those identified in subsection (a) of this section may be required by the EQC in situations where:

(A) DEQ demonstrates such controls are needed to assure protection of beneficial uses;

(B) The Water Resources Director declares a critical groundwater area for reasons of quality; [and] or

(C) EPA designates a sole source aquifer pursuant to the Federal Safe Drinking Water Act.

(c) Less stringent controls than those identified in subsection (a) of this section may be approved by the EQC for a specific area if a request, including technical studies showing that lesser controls will adequately protect beneficial uses is made by representatives of the area and if the request is consistent with other state laws and regulations.

(d) Disposal of wastes onto or into the ground in a manner which allows potential movement to groundwater shall be authorized and regulated by the existing rules of the Department's Water Pollution Control Facility (WPCF) Permit, Solid Waste Disposal Facility Permit, or On-Site (Subsurface) Sewage Disposal System Construction Permit, whichever is appropriate:

(A) WPCF permits shall specify appropriate groundwater quality protection requirements and monitoring and reporting requirements. Such permits shall be used in all cases other than for those covered by Solid Waste Disposal Facility Permit or On-site (subsurface) sewage disposal permits.

(B) Solid Waste Disposal Facility Permits shall be used for landfills and sludge disposal not covered by NPDES or WPCF permits. Such permits shall specify appropriate groundwater quality protection requirements and monitoring and reporting requirements.

(C) On-Site Sewage Disposal System Construction permits shall be issued in accordance with adopted rules. It is recognized that existing rules may not be adequate in all cases to protect groundwater quality. Therefore, as deficiencies are documented, the Department shall propose rule amendments to correct the deficiencies.

[(e) Where groundwater quality is being degraded by waste disposal practices, the Department will require individual sources to improve or modify waste treatment and disposal practices as necessary to reduce the pollutant loading to groundwater. Such requirements will be implemented by permit condition or repair order as appropriate. For areas where an areawide approach is essential (rather than an individual approach), the Department will seek cooperation of the responsible local government to develop and implement a regional groundwater quality protection plan to abate the problem. A written agreement should be used in such cases to delineate the planned correction program and timetable. The Department will report to more formal pollution abatement actions such as abatement orders and civil penalties only if voluntary compliance efforts within a specified time frame are not successful.]

(e) [(f)] In order to minimize groundwater quality degradation potentially resulting from nonpoint sources, it is the policy of the EQC that activities associated with land and animal management, chemical application and handling, and spill prevention be conducted using the appropriate state of the art management practices ("Best Management Practices").

(3) PROBLEM ABATEMENT POLICIES

(a) It is the intent of the EQC to see that groundwater problem abatement plans are developed and implemented in a timely fashion. In order to accomplish this all available and appropriate statutory and administrative authorities will be utilized, including but not limited to: permits, special permit conditions, penalties, fines, Commission orders, compliance schedules, moratoriums, Department orders, and geographic rules. It is recognized, however, that in some cases the identification, evaluation and implementation of abatement measures may take time and that continued degradation may occur while the plan is being developed and implemented. The EQC will allow short-term

continued degradation only if the beneficial uses, public health, and groundwater resources are not significantly affected, and only if the approved abatement plan is being implemented on schedule.

(b) In areas where groundwater quality is being degraded as a result of existing individual source activities or waste disposal practices the Department may establish the necessary control and abatement schedule requirements to be implemented by the individual sources to modify or eliminate their activities or waste disposal practices through existing permit authorities, Department orders, or Commission orders issued pursuant to ORS Chapter 183.

(c) In urban areas where groundwater is being degraded as a result of on-site sewage disposal practices and an areawide solution is necessary, the Department may propose a rule for adoption by the Commission and incorporation into the appropriate basin section of the State Water Quality Management Plan (OAR Division 41) which will achieve the following:

(A) Recite the findings describing the problem,

(B) Define the area where corrective action is required,

(C) Describe the problem correction and prevention measures to be ordered,

(D) Establish the schedule for required major increments of progress,

(E) Identify conditions under which new, modified, or repaired on-site sewage disposal systems may be installed in the interim while the area correction program is being implemented and is on schedule,

(F) Identify the conditions under which enforcement measures will be pursued if adequate progress to implement the corrective actions is not made. These measures may include but are not limited to the measures authorized in ORS 454.235(2), 454.685, 454.645, and 454.317.

(G) Identify all known affected local governing bodies which the Department will notify by certified mail of the final rule adoption, and

(H) Any other items declared to be necessary by the Commission.

(d) The Department shall notify all known impacted or potentially affected local units of government of the opportunity to comment on the proposed rule at a scheduled public hearing and of their right to request a contested case hearing pursuant to ORS Chapter 183 prior to the Commission's final order adopting the rule.

Neil J. Mullane:gl
229-6065
TG578
6/14/84

Underlined ____ material is new.
Bracketed [ ] material is deleted.

VICTOR ATIYEH
GOVERNOR

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, February 24, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Amendments to the General Groundwater Quality Protection Policy, OAR 340-41-029, to Incorporate Additional Policies for Control Program Implementation.

Background and Problem Statement

On August 28, 1981, the Environmental Quality Commission adopted a General Groundwater Protection Policy (OAR 340-41-029). The policy is ". . . intended to guide federal agencies and state agencies, cities, counties, industries, citizens, and the Department of Environmental Quality staff in their efforts to protect the quality of groundwater."

Where groundwater quality is being threatened or degraded as a result of waste discharges or activities of identified individual sources, the policy has provided reasonable guidance for using permit requirements and schedules to achieve progress toward correction and protection. The greatest obstacle continues to be the difficulty, cost, and time required to gather the data necessary to determine the nature and extent of the problem so as to plan the necessary control program.

Where groundwater quality is being degraded by on-site sewage disposal practices in unincorporated areas of urban density development, the policy seeks cooperation of the responsible local government to develop and implement a plan to abate the problem. The Department is working with several problems of this type where a responsible local government in the area is not clearly defined. In addition, the form of the current declaration of groundwater quality problems in such areas has not been consistent and is not very clear. As a result, progress has been slow at best.

Additional guidance is desirable for describing groundwater quality degradation problem areas where an areawide solution is needed, for establishing clear requirements and schedules for abatement, and for assuring that all potentially responsible local units of government are notified of their responsibilities for problem correction.

Alternatives and Evaluation

One alternative considered by the Department is to continue to rely on the existing statement of policy, but with an effort to more systematically and formally document problem areas and requested control programs. Some of the initially identified groundwater problem areas are presently documented only by "implication" in the on-site sewage disposal rules as a result of a moratorium rule or establishment of a date after which cesspool type sewage disposal systems will not be approved. More recently, in the cases of the LaPine and North Florence groundwater quality problem areas, the Department has proposed rules which were adopted by the Commission as part of the Deschutes and Mid-Coast Water Quality Management Plans respectively. These latter rules were an effort to move to a more systematic documentation of problems. The Department would intend to continue this approach in the event no other guidance is provided by the Commission.

Another alternative is to propose modifications to the General Groundwater Quality Protection Policy to provide clearer guidance to the Department as well as the potentially impacted local governments. Such modifications would more specifically define the process to be followed in imposing a requirement upon the appropriate local governments to develop and implement a program to control sewage discharges to groundwater. The Department would prefer this approach since better guidance from the Commission will be of some assistance in dealing with local governments on problem areas.

Attachment A contains proposed modifications to the General Groundwater Quality Protection Policy to implement the preferred alternative. Changes include some rearrangement of existing policy statements, addition of a new subsection (3) labeled "Problem Abatement Policies" and deletion of two existing subsections that are replaced by the new section.

The new subsection (3) describes a process for enacting a rule which would describe the area where groundwater quality is degraded by on-site sewage disposal practices and prescribe the required control program and schedule.

ORS 468.020 together with the policy direction established in ORS 468.710 and ORS 468.715 give the Commission authority to adopt the proposed rule amendments.

Summation

1. On August 28, 1983, the Commission adopted a General Groundwater Protection Policy (OAR 340-41-029).

2. Expansion of the policy is desirable to provide more specific direction regarding the process to be followed in imposing a requirement upon the appropriate local governments to develop and implement a program to control sewage discharges to groundwater in urbanized areas where on-site sewage disposal practices are adversely impacting groundwater quality.

3. ORS 468.020 together with the policy direction established in ORS 468.710 and ORS 468.715 give the Commission authority to adopt rules and rule amendments.

Director's Recommendation

Based on the summation, it is recommended that the Commission authorize a public hearing to take testimony on whether to amend the existing General Groundwater Quality Protection Policy, OAR 340-41-029, as proposed in Attachment A.

Fred Hansen

Attachments: (3) Proposed Amendments to OAR 340-41-029
Statement of Need for Rulemaking
Proposed Hearing Notice

Neil J. Mullane:g
229-6065
February 13, 1984

TG3221

Proposed Amendments to OAR 340-41-029

GENERAL GROUNDWATER QUALITY PROTECTION POLICY

The following statements of policy are intended to guide federal agencies and state agencies, cities, counties, industries, citizens, and the Department of Environmental Quality staff in their efforts to protect the quality of groundwater:

(1) [PLANNING POLICIES:] GENERAL POLICIES

(a) It is the policy of the EQC that within its responsibilities for the regulation and control of waste sources, such activities be conducted in a manner so as to minimize the impairment of the natural quality of groundwater within practicable limits to protect presently recognized beneficial uses and assure protection of the resources for beneficial use by future generations.

(b) [(c)] In order to assure maximum reasonable protection of public health, the public should be informed that groundwater--and most particularly local flow systems or shallow groundwaters--should not be assumed to be safe for domestic use unless quality testing demonstrates a safe supply. Domestic water drawn from shallow aquifers should be tested frequently to assure its continued safety for use.

(c) [(b)] For the purpose of making the best use of limited staff resources, the Department will concentrate its control strategy development and implementation efforts in areas where waste disposal practices and activities regulated by the Department have the greatest potential for degrading groundwater quality. These areas will be delineated from a statewide map outlining the boundaries of major water table aquifers prepared in 1980 by Sweet, Edwards & Associates, Inc. This map may be revised periodically by the Water Resources Department.

(d) The Department will seek the assistance and cooperation of the Water Resources Department to design an ambient monitoring program adequate to determine long-term quality trends for significant groundwater flow systems. The Department will assist and cooperate with the Water Resources Department in their groundwater studies. The Department will also seek the advice, assistance, and cooperation of local, state, and federal agencies to identify and resolve groundwater quality problems.

Underlined ____ material is new.
Bracketed [ ] material is deleted.

[(e) The EQC recognizes that orderly financing and implementation of a long-range groundwater improvement and quality protection plan may necessitate some increased quality degradation for a short period of time. The EQC may approve a groundwater quality protection plan which allows limited short-term further degradation provided:]

[(A) Beneficial use impairment will not be significantly increased;]

[(B) Public health risk is not significantly increased;]

[(C) Irreparable damage to the groundwater resources does not occur; and]

[(D) The groundwater quality protection plan has been duly adopted as part of the comprehensive planning process by the responsible local government,]

[(E) A financing plan has been developed and adopted to assure implementation, and]

[(F) The responsible local government has committed to implement the program in accordance with a timetable which is included in a written agreement with the EQC.]

(e) [(3)] The EQC recognizes and supports the authority and responsibilities of the Water Resources Department and Water Policy Review Board in the management of groundwater and protection of groundwater quality. In particular, existing programs to regulate well construction and to control the withdrawal of groundwater provide important quality protective opportunities. These policies are intended to complement and not duplicate the programs of the Water Resources Department.

(2) [PROGRAM POLICIES:] SOURCE CONTROL POLICIES

(a) Consistent with general policies for protection of surface water, highest and best practicable treatment and control of sewage, industrial wastes, and landfill leachates, shall be required so as to minimize potential pollutant loading to groundwater. Among other factors, energy, economics, public health protection, potential value of the groundwater resource to present and future generations, and time required for recovery of quality after elimination of pollutant loadings may be considered in arriving at a case-by-case determination of highest and best practicable treatment and control. For areas where urban density development is planned or is occurring and where rapidly draining soils overlay local groundwater flow systems and their associated shallow aquifers, the collection, treatment and disposal of

sewage, industrial wastes and leachates from landfills will be deemed highest and best practicable treatment and control unless otherwise approved by the EQC pursuant to subsections (b) and (c) of this section.

(b) Establishment of controls more stringent than those identified in subsection (a) of this section may be required by the EQC in situations where:

(A) DEQ demonstrates such controls are needed to assure protection of beneficial uses;

(B) The Water Resources Director declares a critical groundwater area for reasons of quality; and

(C) EPA designates a sole source aquifer pursuant to the Federal Safe Drinking Water Act.

(c) Less stringent controls than those identified in subsection (a) of this section may be approved by the EQC for a specific area if a request, including technical studies showing that lesser controls will adequately protect beneficial uses is made by representatives of the area and if the request is consistent with other state laws and regulations.

(d) Disposal of wastes onto or into the ground in a manner which allows potential movement to groundwater shall be authorized and regulated by the existing rules of the Department's Water Pollution Control Facility (WPCF) Permit, Solid Waste Disposal Facility Permit, or On-Site (Subsurface) Sewage Disposal System Construction Permit, whichever is appropriate:

(A) WPCF permits shall specify appropriate groundwater quality protection requirements and monitoring and reporting requirements. Such permits shall be used in all cases other than for those covered by Solid Waste Disposal Facility Permit or On-site (subsurface) sewage disposal permits.

(B) Solid Waste Disposal Facility Permits shall be used for landfills and sludge disposal not covered by NPDES or WPCF permits. Such permits shall specify appropriate groundwater quality protection requirements and monitoring and reporting requirements.

(C) On-Site Sewage Disposal System Construction permits shall be issued in accordance with adopted rules. It is recognized that existing rules may not be adequate in all cases to protect groundwater quality. Therefore, as deficiencies are documented, the Department shall propose rule amendments to correct the deficiencies.

[(e) Where groundwater quality is being degraded by waste disposal practices, the Department will require individual sources to improve or modify waste treatment and disposal practices as necessary to reduce the pollutant loading to groundwater. Such requirements will be implemented by permit condition or repair order as appropriate. For areas where an areawide approach is essential (rather than an individual approach), the Department will seek cooperation of the responsible local government to develop and implement a regional groundwater quality protection plan to abate the problem. A written agreement should be used in such cases to delineate the planned correction program and timetable. The Department will report to more formal pollution abatement actions such as abatement orders and civil penalties only if voluntary compliance efforts within a specified time frame are not successful.]

(e) [(f)] In order to minimize groundwater quality degradation potentially resulting from nonpoint sources, it is the policy of the EQC that activities associated with land and animal management, chemical application and handling, and spill prevention be conducted using the appropriate state of the art management practices ("Best Management Practices").

(3) PROBLEM ABATEMENT POLICIES

(a) In areas where groundwater quality is being degraded as a result of existing individual source activities or waste disposal practices the Department may establish the necessary control and abatement schedule requirements to be implemented by the individual sources to modify or eliminate their activities or waste disposal practices through existing permit authorities or Commission order issued pursuant to ORS Chapter 183.

(b) In urban areas where groundwater is being degraded as a result of individual on-site sewage disposal practices and an areawide solution is necessary, the Department may propose a rule for adoption by the Commission and incorporation into the appropriate basin section of the State Water Quality Management Plan (OAR Division 41) which will achieve the following:

(A) Recite the findings describing the problem.

(B) Define the area where corrective action is required.

(C) Describe the problem correction and prevention measures to be ordered.

(D) Establish the schedule for required major increments of progress.

Underlined ____ material is new.
Bracketed [ ] material is deleted.

(E) Identify conditions under which new, modified, or repaired on-site sewage disposal systems may be installed in the interim while the area correction program is being implemented and is on schedule.

(F) Identify the conditions under which enforcement measures will be pursued if adequate progress to implement the corrective actions is not made. These measures may include but are not limited to the measures authorized in ORS 454.235(2).

(G) Identify all known affected local governing bodies who the Department will notify by certified mail of the final rule adoption.

(c) The Department shall notify all known impacted or potentially affected local units of government of the opportunity to comment on the proposed rule at a scheduled public hearing and of their right to request a contested case hearing pursuant to ORS Chapter 183 prior to the Commission's final order adopting the rule.

Neil J. Mullane:g
229-6065
TG578
2/10/84

Underlined ____ material is new.
Bracketed [ ] material is deleted.

Agenda Item F, February 24, 1984, EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended action to amend a rule.

(1) Legal Authority

This proposal amends OAR 340-41-029, General Groundwater Quality Protection Policy. It is proposed under authority of ORS 468.020.

(2) Need for the Rule

The Commission and the Department are becoming increasingly involved in the correction of existing groundwater pollution problems. The Commission adopted on August 28, 1981, a General Groundwater Protection Policy which set forth policies to provide guidance to the Department in the approaches used to address groundwater pollution. This proposed amendment will add a section to the existing rule to provide policies on the abatement of groundwater quality problems. Specifically, it identifies the actions to be taken by the Department to develop and implement groundwater quality control programs.

(3) Principal Documents Relied Upon in this Rulemaking

1. Environmental Quality Commission Report from the Director, Agenda Item No. R, dated August 28, 1981.

2. OAR 340-41-029, General Groundwater Quality Protection Policy.

3. Report entitled "Groundwater Quality Protection, Background Discussion and Proposed Policy," prepared by the Oregon Department of Enviromental Quality, April 1980 (revised August 1980).

(4) Fiscal and Economic Impact

The proposed amendments to the General Groundwater Quality Protection Policy (OAR 340-41-029) are aimed specifically at imposing requirements for future rules developed to abate local groundwater quality problems. The local rules developed under these guiding policies will, in most circumstances, increase the costs for waste water treatment and control in order to modify or eliminate the polluting discharge or activity.

1. Abatement policy (a) is directed toward individual source activities. Costs for abatement may be substantial and may include private citizens or business firms. To the extent that there are increased costs, the small business impact is negative.

2. Abatement policy (b) is directed toward urban areas, and may impact local governments, private citizens, and businesses. The proposed amendment will provide guidance to local governments on the development and implementation of groundwater problem abatement plans. To the extent that uncertainties about waste water treatment and control are removed and good planning is facilitated, the impact on local government and small business is positive. However, it should be recognized that construction of needed facilities may impose fiscal and economic costs on the affected local government and hence the impact could be negative.

The implementation of the abatement plans may also impose fiscal and economic costs on the small businesses in the affected area and, therefore, it could have a negative impact.

(5) Land Use Consistency

The proposed amendment to the General Groundwater Quality Protection Policy conforms with Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water, and Land Resources Quality) The proposed rule amendment is designed to improve and maintain water quality statewide and is consistent with the Goal.

Goal 11 (Public Facilities and service): The proposed amendment will facilitate implementation of needed pollution control facilities and is consistent with the goal.

The proposed rule amendment 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.

Neil J. Mullane:g
229-6065
2-2-84

TG3175

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Amendments to the State's Groundwater Quality Protection Policy

Date Prepared: April 1, 1984
Hearing Date: May 9,10,11, 1984
Comments Due: May 17, 1984

WHO IS AFFECTED: Residents and landowners in areas where the Department of Environmental Quality would require waste water control programs for the protection of groundwater quality.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend the existing General Groundwater Quality Protection Policy to add policies guiding the development and implementation of control programs to correct groundwater problems resulting from on-site sewage disposal.

WHAT ARE THE HIGHLIGHTS: The proposed rule describes the informational and procedural requirements for the development and implementation of future groundwater control programs.

The proposed rule would establish procedures for notifying affected local jurisdictions of their responsibilities for developing and implementing control programs.

HOW TO COMMENT:

Public Hearings

Bend - May 9, 1984, 2 p.m. - Conference Room, State Office Bldg. 2150 N.E. Studio Road

Eugene - May 10, 1984, 2 p.m. - Harris Hall, Lane County Courthouse 125 E. Eighth St.

Portland - May 11, 1984, 2 p.m. - 14th Floor Conference Room Department of Environmental Quality 522 S.W. 5th Ave. (Yeon Bldg.)

Written comments should be sent to Neil Mullane, Department of Environmental Quality, Water Quality Division, P.O. Box 1760, Portland, OR 97207. The comment period will end May 17, 1984.

Any questions or request for the draft rule or other information should be directed to Neil Mullane of the Water Quality Division, 229-6065, or toll free 1-800-452-4011.

WHAT IS THE NEXT STEP: The Department will take the proposed rule to the public hearings listed above, summarize the public testimony and modify the proposed rule as a result of testimony or maintain the present language and present the final proposed rule to the Environmental Quality Commission for adoption at a meeting later this year.

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

VICTOR ATIYEH
Governor

Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Thomas J. Lucas, Hearings Officer

Subject: Report on the Public Hearings held on May 9, 10, and 11, 1984, in Bend, Eugene, and Portland, Respectively, to Receive Testimony on the Proposed Amendments to the General Groundwater Quality Protection Policy

Summary of Procedure

Pursuant to Public Notice, public hearings were held in -

Bend, May 9, 1984, 2 p.m. - Conference Room, State Office Building, 2150, N.E. Studio Road

Eugene, May 10, 1984, 2 p.m. - Harris Hall, Lane County Courthouse, 125 E. Eighth Street

Portland, May 11, 1984, 2 p.m.- 14th Floor Conference Room, Department of Environmental Quality 522 S.W. 5th Ave.

The purpose of the hearings was to receive testimony regarding proposed amendments to the General Groundwater Quality Protection Policy (OAR 340-41-029). A total of twenty-six people attended the hearings; a copy of the attendance list is attached.

Four witnesses presented oral testimony only. One witness submitted written testimony and presented an oral summation. Eight witnesses submitted written testimony only.

A summary of all testimony is presented below; a copy of the written testimony is attached.

Summary of Testimony

Tom McIntyre, Deschutes County, Environmental Health Division, described a particular subsurface problem in Deschutes County and the difficulties encountered in addressing this type of problem. He stated that the policy amendments provide the basis for correcting an existing groundwater problem. However, Mr. McIntyre cautioned the Commission and the Department on implementing the policy amendments too quickly and that a slow and careful approach is more advisable. He commented that the policy amendments can certainly be adopted but they may be impossible to enforce.

Terry M. Smith, City of Eugene testified that he was pleased to see the general simplification and straight forward approach to the resolution of groundwater problems reflected in the rule modification. The General Policy Section has been clarified so that there is much less ambiguity about what the Department is attempting to do. The only significant area of concern mentioned was the kind of signal that the policy may be sending to the public and other agencies. He did not believe that the policy amendments clearly indicate the seriousness with which the Department views the issue. Mr. Smith commented that the rule could be strengthened by including a discussion of enforcement measures that the Department may take.

He suggested that there are a number of ways the Department could accomplish this. First, there could be a separate section for enforcement policies where the Department could list its various enforcement measures. Second, a general enforcement policy could be developed in a preamble statement. Third, the proposed policy statement, 3b(f), could be expanded to list the Department's enforcement measures.

In closing, Mr. Smith summarized two points that should characterize a section on an enforcement policy. First, it needs to be explicit in describing the enforcement options and second, it needs to be graduated in describing the measures available to address the wide range of groundwater problems.

Deane Seeger, Morrow County Building Department testified that Morrow County was concerned about the proposed policy amendments because it was unclear as to the extent to which the county and cities will be responsible for planning and enforcement. He stated that the county would like to be involved in any future groundwater investigations and planning activity concerning Morrow County, and that this would give the county an opportunity to gauge the degree of responsibility that it may have to implement the groundwater protection plans developed.

Irvin E. Rauch, Morrow County Court testified that the county was concerned about their responsibility for implementing groundwater protection plans, particularly as it relates to financing the corrective action potential in the plan. He stated that although the county may have the responsibility for implementing corrective actions, this does not always mean that they have the funds to handle the problem or the ability to secure them.

Jonathon F. Schlueter summarized written testimony submitted on behalf of the Northwest Food Processors Association (NWFPA). The testimony identified NWFPA's concern that DEQ had not demonstrated the need for the actions being proposed.

Mr. Schlueter also expressed concern over the proposal to delete policy statement 1 (e). He stated that the Commission is apparently abandoning its policy recognition that "orderly financing and implementation of a long-range groundwater improvement and quality protection plan may necessitate some increased degradation for a short period of time." He commented that the industry believes this is an important point which needs to be stated in the policy.

Charles R. Norris, Realtor, Hermiston submitted written testimony covering two concerns. First, he stated that the term "shallow aquifer" appearing in policy statement 1(b) is not defined. He believes that this could be a

relative term within and between areas of differing hydrologic characteristics. Mr. Norris suggested that it have some specific meaning or not be relied upon as a criterion for suggesting that wells be tested. The second concern dealt with the availability of water testing facilities. He stated that if the Department is going to encourage well testing as described in policy 1(b), then reasonably convenient and economical means should be provided to accomplish this.

Craig Trueblood, Northwest Environmental Defense Center submitted written testimony stating that effective enforcement and implementation of the present General Groundwater Quality Protection Policy is non-existent. He commented that the Department has only two effective weapons to combat groundwater polluters:ORS 454.235(2) and ORS 454.645, and since Oregon case law fails to reveal a decision regarding these methods, they must be inadequate and/or ineffective in light of persistent groundwater problems. He also believes that the proposed amendments fail to give notice that Oregon is serious about groundwater quality. Mr. Trueblood suggested that actual dollar amount penalties be set for violators and that ORS 454.645 powers be extended to local governments for enforcement.

Finally, Mr. Trueblood stated that further land use issues under State Land Use Goals 3, 5, 7, and 15, need to be addressed.

Basil Tupyi, Amalgamated Sugar Company submitted written testimony stating that they are concerned about the impact on individuals and industry, by deleting policy statement 1 (e). He stated that the existing language provides for a cost/ benefit evaluation relative to protecting beneficial uses in preparing long-range groundwater improvement and quality protection plans. Mr. Tupyi commented that deleting this paragraph inferred that any degree of groundwater degradation must be abated immediately without such a cost/benefit consideration.

John C. Neely, Jr. submitted written testimony expressing concern over how the agency addresses exfiltration from sewer lines. He utilized local examples from Eugene and Lowell to illustrate his point that the Department is not adequately investigating and describing groundwater contamination resulting from leaking sewer lines. Mr. Neely stated that exfiltration should be defined as on-site sewage disposal and classified as a cesspool and the proposed abatement revisions should apply to these situations.

Edith Bartel, League of Women Voters of Columbia County submitted written testimony expressing concern about water quality in general, the problems in her specific area and to urge that groundwater quality requirements be stringent enough to prevent pollution.

Norma S. Upson, West Hill and Island Neighbors submitted written testimony stating that while the goals of the General Groundwater Quality Protection Policy are admirable, unless the criteria are stringent and clearly spelled out, they become "pretty words" and useless. She further commented that standards and regulations need to be defined and adhered to through vigorous enforcement. She also stated that standards should apply to everyone.

David M. Siegel, City of Salem submitted written testimony stating that in preparing and editing the policy, that the Department should keep the protection of Salem drinking water supply in our considerations.

Thomas J. Lucas

NJM:1
TL3397

Attachments

CITY OF SALEM, OREGON
City Hall / 555 Liberty St.
Zip Code 97301
Public Works Department

May 16, 1984

Neil Mullane
Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Subject: Proposed Amendments to the State Groundwater Quality Protection Policy

Dear Mr. Mullane:

The City of Salem draws it's drinking water from the North Santiam River slightly east of the City of Stayton. With the exception of chlorination, our potable water supply is not chemically treated. It is, however, processed through a sand filtration gallery prior to chlorination. Obviously, water high in turbidity or other chemical impurities would be classed as unacceptable for diversion and use by the City of Salem. Any treatment technique to rid water of high turbidity or other chemical impurities would be extremely expensive for City of Salem taxpayers.

The majority of the North Santiam River Watershed is located in the Willamette National Forest. A very small portion of the watershed is located in the Mt. Hood National Forest. A substantial portion of the North Santiam River frontage (upstream from our diversion point), is in private ownership and therefore subject to development.

We would expect that, in preparing editing the proposed Groundwater Quality Protection Policy, you will continue to keep the quality of Salem's drinking water supply in the forefront of your considerations.

It has been our pleasure to participate in the comment process for this rule, and we would ask that your agency notify us of the outcome as well as any further developments that may interest us.

Sincerely,

David M. Siegel, AICP
Senior Planner

DMS/gks

cc: Ronald J. Merry, Director of Public Works
Rosalind A. Daniels, Assistant Director of Public Works
David Wiley, Management Analyst

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W H I

West Hill and Island Neighbors
P. O. Box 03237
Portland, Oregon 97203

May 14, 1984

Mr. Neil Mullane
Dept. of Environmental Quality
Water Quality Division
PO Box 1760
Portland, Oregon 97207

While the goals of the General Groundwater Quality Protection Policy are admirable, unless the criteria are stringent and clearly spelled out, they become "pretty words" and useless.

For years we have been reading and listening to words like, "all adverse impacts on groundwater can be mitigated" in connection with the aquifer. We have heard bland assertions that the "recharge value of soil will purify the aquifer" on one hand while reports of Foundation Sciences state that "recharging has not been proven acceptable with certain modern leachate contaminants."

Until standards and regulations are defined and adhered to through vigorous enforcement which is **above political ploys**, there will be an unfortunately well-founded belief on the part of the public that political expediency, commercial and industrial influence and know-how will continue to dictate county, state, and federal policy.

One cannot but question the policy when Wah Chang, the Metropolitan Service District, etc. can bypass "stringent" water policy while less powerful or less knowledgeable parties find their smaller projects rejected out of hand.

No one--no municipality, industry, agricultural or commercial enterprise, or individual--should be allowed to discharge waste which could be detrimental to groundwater from which others draw their water for domestic or agricultural needs.

Standards should apply to everyone. Conditional permits and "mitigation" procedures should **not be allowed** in the future. Groundwater must be assiduously protected without privilege or favor. If rules are made, rules must be **equally** and **evenly** enforced.

WHI requests that these comments be included in the record as our comments on the Proposed Amendments to the State's Groundwater Quality Protection Policy.

Sincerely,

Carole Winner for

Norma S. Upson,
WHI Study Group

West Hills and Island Neighbors
c/o Norma S. Upson
23596 NW St. Helens Road
Portland, Oregon 97231
1-543-7274

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LEAGUE OF WOMEN VOTERS
OF
COLUMBIA COUNTY
P. O. BOX 1102
SCAPPOOSE, OREGON 97056

May 14, 1984

Neil Mullane, D.E.Q.
Water Quality Division
P.O. Box 760
Portland, OR 97207

To: Water Quality Division of D.E.Q.

The League of Women Voters of Ore. has had an on-going study on Water Quality thru-out the state including surface run-offs, various stream polutions, and ground water polutions.

During this time the Columbia Co. LWV has been looking into ground waters specifically as it effects drinking water (wells). We have learned how land faults and slide area effect ground waters as well as leachette from landfills. For example, the City of Scappoose and Sauvies Island, according to the publication "Highlights of Ground Water Quality" is an area of sensitive aquifers.*

In reviewing the CH^2M Hill Engineers' report drawn up for the Metropolitan Service District, in regard to the Wildwood landfill siting area, we have discovered their report challenged by such eminent sources as Geologist Dr. Geo. Shlicker, Shannon Wilson Engrs., Foundation Sciences, to name a few.

The Wildwood residents, City of Scappoose**, and Sauvies Island would be effected by the proposed Wildwood landfill site ground waters as they are definitely in the sensitive aquifer area mentioned in the above publication.

We urge Ground Water Quality requirements be stringent enough to prevent polution; an ounce of prevention is better than pounds of mitigation.

League of Women Voters of Columbia County

Edith Bartel

Edith Bartel, Water Quality Chair
51270 Bankston Rd.
Scappoose, OR 97056
Phone: 543-6287

* Page 2, Section 3
** Proposed Wildwood Landfill siting area is a few miles from Columbia Co. border and the City of Scappoose

POB 121
Hermiston, OR 97838
Ph: 567-5897(Bus), 567-8652(Res)

May 2, 1984

Neil Mullane
Department of Environmental Quality
Water Quality Division
P.O. Box 1760
Portland, OR 97207

Dear Mr. Mullane:

Reference: Proposed amendments to OAR 340-41-029 (Groundwater Quality Protection Policy), prepared April 1, 1984.

Today I received and have reviewed the referenced document. On page 1, paragraph (1)(b); ATTACHMENT A, reads, in part, "Domestic water drawn from shallow aquifers should be tested frequently to assure its continued safety for use.". (Apparently this is not new material and has been policy for some time.) This is a laudable goal but one which presents some practical problems, and the following comments are offered in connection therewith.

1. "Shallow aquifer" is not defined. This can be a relative term within and between areas of differing hydrological characteristics and should either have some specific meaning or not be relied on as a criterion for the need of being "tested frequently. . . for use.".

2. Once upon a time, a long time ago, potability testing of wells in this community was a simple and inexpensive process. Both the Oregon State Health Department and the Umatilla County Health Department had personnel and facilities capable of doing the job with little or no cost as a public service. That capability and service have long since been discontinued in the interests, I assume, of economy and efficiency. (I think it happened about the time that responsibility for water quality was shifted from the Department of Health to the DEQ.) Now to test a well we must travel to H&R Consulting Services in Umatilla to obtain a sample bottle, travel to the well and draw a sample, take the sample to H&R who ships it to Aqua Tech Laboratory, Inc. in Portland (all of which has to be done in a rather tight time frame), and wait for the results. The most recent charge for this service was $30.00. I have no idea whether or not our situation is typical around the state, but it is certainly not conducive to water sources being "tested frequently to assure its continued safety for use.". If the state, through the DEQ, is going to mandate, or even encourage, such testing, then a means reasonably convenient and economical should be provided.

Your consideration of the foregoing comments will be appreciated.

Sincerely,

C. R. Norris
REALTOR

cc: Rep. Bob Harper
Brad Morris, OAR

THE AMALGAMATED SUGAR COMPANY

ROUTE 1, BOX 3000, PAUL, IDAHO 83347 ● PHONE (208) 438-2115

May 15, 1984

Neil Mullane
Department of Environmental Quality
Water Quality Division
P.O. Box 1760
Portland, Oregon 97207

Gentlemen:

Having reviewed the proposed ammendements to Oregon's Groundwater Quality Protection Policy (ammends OAR 340-41-029), we are concerned of the potential impact these amendments may have on the individual/ industry. Eliminating paragraph 1E in "Planning Policies" removes an element stressing joint cooperation between regulatory agencies and individual/industry toward developing groundwater quality protection plans. Restrictions are necessary to control and prevent groundwater degradation, but we believe evaluating beneficial uses (to include domestic, industrial and agricultural water supplies, recreation, wildlife habitat, and aesthetics) and the costs relative to attaining beneficial use must be considered in preparing long range groundwater improvement and quality protection plans. Without cost/benefit considerations, individual/ industries could be required (as per proposed regulations) to protect low land drains or mountain streams with equal vigor and capital.

Paragraph 3A in "Problem Abatement Policies" infers any degree of groundwater degradation must be abated. It should be understood wastewater land application and lagoon system (unless base is 100% impervious) are designed to minimize the level of groundwater degradation and not to prevent degradation. For example, municipal wastewater land application systems are designed for maximum plant uptake of organics (nitrogen) and inorganics (salts and heavy metals) and minimum tranfer of nitrates, salts, and heavy metals into groundwater. Thus, acceptable leachate levels are governed by groundwaters' beneficial use. Primary and secondary water standards are often the leachate limits for protecting domestic water supplies. Therefore, groundwater abatement measures should be required if a beneficial use has been specifically and negatively affected by a source activity.

We appreciate the opportunity of commenting on the proposed regulations however the proposed additions and deletions suggest "save the environment and don't be concerned with costs" attitude. DEQ Pendleton staff indicated the above phrase is not the intent of the regulations, but we believe our aforedescribed concerns and suggestions, if incorporated into the regulations, will help develop a more cooperative relationship between individual/industry and regulatory agency and produce more effective groundwater degradation controls.

Sincerely,

Basil Tupyi

Basil Tupyi
Environmental Engineer

BT/rh

cc Doug Russell
Dennis Stegenga
George Hobbs

NORTHWEST FOOD PROCESSORS ASSOCIATION
2828 S.W. CORBETT
PORTLAND, OREGON 97201

OREGON
WASHINGTON
IDAHO
(503) 226-2848

Testimony Submitted On Behalf Of Northwest Food Processors Association Before the Oregon Department of Environmental Quality, May 11, 1984, Regarding Proposed Changes in the State's Groundwater Protection Policy

Statement Prepared And Submitted By Jonathan F. Schlueter, NWFPA Staff

Northwest Food Processors Association (NWFPA) is a regional trade association representing 72 fruit, vegetable and potato processing companies in Oregon, Washington and Idaho. Based in Portland, Oregon, the Association represents 47 processing facilities in the State of Oregon. Together these operations contribute more that $700 million annually to the State's economy, and employ almost 21,000 Oregonians.

By the very nature of the industry, water is an essential resource. Oregon agriculture is dependent upon a bountiful supply of pure water for it's very existence and viability as the State's leading industry. For this fundamental reason, the Oregon members of NWFPA share a committed interest and concern for assuring the protection of all water resources for future generations in this State.

After reviewing and analyzing the April 1, DEQ proposal to add numerous control policies to the existing Groundwater Quality Protection Plan, there are a number of issues which we believe require further explanation, and questions raised, but left unanswered by the proposal statement. NWFPA's testimony and input to these hearings will be to seek clarification of these issues, and determine their implications for agriculture generally, and food processors, specifically.

The primary concern of NWFPA's Oregon membership in reviewing the April 1 proposal, is to have DEQ demonstate that the need for regulatory control is justifiable for the actions being proposed, and that this proposal will responsibly and adequately deal with the problems. DEQ states in the April 1 proposal that the Department is "increasingly involved in the correction of existing groundwater pollution problems." But there is no elaboration or explanation given, as to the nature of these "problems" which might justify these additional control policies.

Without this, NWFPA is concerned by DEQ's assessment that the abatement policy should be directed at "individual source activities," even though "costs for abatement may be substantial and may include private citizens or business firms." There is no question that the quality of Oregon's water resources have improved dramatically in recent years through the combined efforts of industry, governmental

(more)

agencies, and private citizens. Given this successful record, the DEQ should acknowledge the efforts made by industry and local governments to improve individual source discharges to the environment.

Instead, it would appear that the agency is proposing to "throw the baby out with the bathwater," by deleting the language and provisions contained in OAR 340-41-029, Section (1), Paragraph (e).

By deleting the provisions in this section, the Commission is apparently abandoning its policy recognition that "orderly financing and implementation of a long-range groundwater improvement and quality protection plan may necessitate some increased degradation for a short period of time." By doing so, the Commission will be walking away from the orderly pollution control measures which industries and local governments have successfully implemented already. Such changes may not be cost justified for the incremental benefits for groundwater resource quality improvement.

Without this policy recognition, there are a number of terms contained in the proposal which require very specific definition--if industry is to have any opportunity to estimate the impact of these changes.

First, in Section (1), Paragraph (a), the new lanquage should provide clarity as to the Commission's definition of "minimized....impairment of the natural quality of groundwater" while still providing for the "beneficial uses of these resources by future generations."

Using the illustration of a food processing facility in the Willamette Valley which uses a spray irrigation system to dispense process waters to a land site, will highlight NWFPA's concerns :

If DEQ groundwater monitoring tests in the area around the food plant reveal a presence of nitrogen, presumably the Commission could initiate the abatement policy against the processor as an identifiable and individual source activity. If immediate corrective measures can not be made, presumably the processor would be precluded in further use of the land application site.

For the reasons outlined above, if a groundwater degradation situation is found to exist, the processor (as an individual source activity) would be primarily responsible for immediate corrective measure. Yet, without provision for orderly financing to accomplish the corrective actions, the processor will be forced to terminate the spray irrigation practices which may risk further degradation (however defined) of the groundwater resource. Without other treatment facilities or sites available for immediate substitution, the processing plant presumably would have to terminate operations until alternatives can be found.

While such actions may well contribute to the enhanced quality of the resource, it most certainly would defeat the aim of assuring continued "beneficial uses." Put another way, the benefits may be attainable---but at an economic impact which far exceeds their desirablity.

(more)

NWFPA contends that the need to enhance the environmental quality of our State should be tempered with the need to enhance the economic climate for Oregon businesses operating here.

The importance of protecting and enhancing this State's environmental quality is a fundamental precept shared by all Oregonians. The responsive measures undertaken by industry and local governments alike demonstrate the strides which have already been taken, and the benefits they will continue to have in improving the natural resources of the State.

Given the uncertainties and conflicts contained in the April 1 groundwater protection amendments, NWFPA recommends that further action towards their implementation be terminated until such time as the appropriate changes, outlined above, can be incorporated therein.

Submitted By

J. Schlueter

Jonathan F. Schlueter
Manager, Technical Programs
Northwest Food Processors Association

J.C.N.

Mr. Neil Mullane
Water Quality Division

May 15, 1984

Oregon Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Re: Chance to Comment on . . . amending, ORS 183.335(7) authority, OAR 340-41-029 to require waste water control programs for the protection of groundwater quality.

1. When DEQ does amend the Existing General Groundwater Quality Protection Policy guiding the development and implementation of control programs to correct groundwater problems resulting from on-site sewage disposal, keep in mind that the Salem, Oregon 1983 study disclosed there being 60 to 90 percent of sewer system infiltration is from the house to street right-of-way. This would also apply to polluting industries.
   A. These wet seasons infiltrations become dry seasons exfiltrations locations of raw sewage, with the several types of wogans characteristic to raw sewage, and the polluting industries organic and inorganic toxics and heavy metals. All of those locations are part of the on-site sewage disposal at each location and they form cesspools which provide these pollutants to go into the groundwater without the benefit of state-mandated minimal secondary treatment of these pollutants.
      1) EPA and DEQ have been on record as saying that these are non-point-source and are not cost-effective to repair. This has been said for the Eugene-Springfield area. The contrast is that those locations are point-specific and Lowell, Oregon has sleeved those sewer lines to within five feet of the structures, in conjunction with having replaced and/or repaired the laterals and interceptors. This has resulted in Lowell retaining approximately 208 gallons per capita per day (gpcd) of raw sewage flow in dry seasons, as contrast to Eugene-Springfield retaining only approximately 90 gpcd during dry seasons sewage flow.
      2) While CH2M Hill engineers report variations in sewage flows between different municipal, centralized systems, those variations are not equivalent to the difference between Eugene-Springfield and Lowell retained dry weather sewage flows. The nominal difference must then be exfiltrating as raw sewage and industrial pollutants going into the groundwater.
      3) The groundwater flows FROM EUGENE, into River Road-Santa Clara, and beyond. This is exactly the condition shown in the RR-SC 1978-79 Groundwater Study raw data. It does not show in the computer readouts upon which the Sweet Reports, 1980, are based, and upon which the DEQ based its EQC stipulated agreement with Lane County.
   B. That raw data also shows relative difference in the groundwater rate of flow of sulfates to be many times more than with the nitrates. Normal domestic on-site systems nitrates are EPA-said to flow with the groundwater flow, this translates to there being abnormal nitrates in this groundwater which can only have its source from exfiltrating sewer lines.
      1) The heavy metals in the nitrates from leaking sewer lines into the groundwater are attracted to or have attraction for the sand particles in the aquifer channels and slow the rate of flow of those abnormal nitrates to approximately 200 feet per year, providing a nitrates buildup of approximately 89 years, while normal nitrates rate of flow being much faster prevents their buildup for more than four years. DEQ/EQC may not have read this in the reports upon which it has based its stipulated agreement with Lane County, while the raw data provides those comparisons.
      2) The raw data also shows surface nitrates concentration to be consistently higher than in the groundwater in RR/SC when both comparable test methods for nitrates are utilized on the same test sites on the same day of testing. Nitrates precipitation via cadmium has consistently produced more nitrates than by the alternate and comparable method. The cadmium method nitrates results clearly demonstrate that cadmium from leaking sewer lines, together with the other pollutants of concern, have moved down-gradient into RR/SC from Eugene.
      3) Lowell's sewer system director Mr. Marshall P. Lockwood has said that Lowell's sewer lines acted like a large drainfield prior to major repair. The raw data from the 1978-79 RR/SC groundwater study indicates the similar condition existing in Eugene. Neither Eugene's nor Lowell's exfiltrations to the groundwater provide secondary treatment of those exfiltrations prior to their going to the groundwater. RR/SC on-site systems do not emit raw sewage to the aquifer.
      4) RR/SC on-site systems emit secondary treated effluent. This has become the accepted fact by the EPA and DEQ having accepted the new plant plans for this regional area. The new plant will not be treating septages; it is to be dumped into the lagoon which receives the sludge from this new plant's activated sludge process.

cont'd.

5) DEQ went to the legislature to assume the control not wanted by the state health department to, in part, control where septage is to be disposed. It having accepted the plant plans and provided EPA funding to help build this plant and have the septage not go through this new plant for further treating than has been accomplished in the septic tanks, produces the realization that septage and its drainfield effluent is now considered by both the federal and state environmental agencies personnel to be secondary treated.

4) These perspectives provide the cumulative perception that on-site systems, in areas where the U.S. Soil Conservation Service indicates the soils are ideal for continued use in low-density areas of domestic development, should be continued in use to help dilute the sewerlines exfiltrations in this aquifer and reduce the overload on this new plant during the rainy seasons and storm conditions, because the DEQ directed Eugene to secondary treat all wastes collected by July 1, 1983 (re: Eugene's NPDES permit No. 1941-J, page 2.)

a. Eugene can not secondary treat its sewer lines raw sewage exfiltrations to the groundwater. Those wastes which exfiltrate the sewer lines were first collected to have been there to exfiltrate; contrast is that on-site systems do not exfiltrate raw sewage, so DEQ's efforts to amend OAR 340-41-029 should accent upon control of and elimination of such cesspools or sewer lines exfiltrations as primarily the source of major groundwater degradation and being violations of the DEQ requirements to secondary treat all wastes collected to sewer systems.

b. Conversely, should DEQ be allowing construction in East Multnomah on cesspools as constituting secondary treatment, the on-site septic tank systems should be considered to constitute a form of tertiary treatment, which DEQ is understood to require but the new plant does not provide nor can the sewer lines exfiltration locations provide as cesspools.

2. The Attachment A page 1 item (1) General Policies deletion and addition appear to say the same in different phrasing. When DEQ allows cesspools under the deleted phrasing, how differently would cesspools be eliminated via this new phrasing?

A. Page 3, item 3 addition phrasing addresses "degraded as a result of existing individual source activities or waste disposal practices". This most definitely includes the cesspools from exfiltrating sewer lines -- Lowell is an excellent example in the dry seasons efforts required to eliminate/reduce cesspools contributions from sewer lines; Lowell is also an excellent example in the structure to street right-of-way sewer pipelines exfiltrations being the direct result from "individual source activities or waste disposal practices." Lowell has made substantial connections which appear to have been from exercising authority under the existing ORS chapter 183 provisions.

1) Eugene should also be required to make improvements under the same provisions. This would be the mitigating measure toward substantially reducing the groundwater degradation in RR/SC. Check the 1978-79 groundwater study raw data to confirm. Read the River Road/Santa Clara Citizen Advisory Team (CAT) drafts in the sewer service element for confirmation. See the CAT's final review wording, which has deleted references to health hazard in this aquifer; it just refers to a groundwater problem, which automatically refers back to the 1978-79 study, so study the raw data directly. It is revealing.

2) Page 4, item (b) (F) refers to existing ORS 454.235 (2). Obviously the DEQ has authorized installation and continuation of cesspools under this statute, which must be considered to be contradictory to provisions intended to be used to mitigate groundwater degradation. Until all untreated sources of the groundwater degradation are eliminated, there is no logic in pursuing elimination of secondary treated effluent of septic tanks from going to the groundwater. Doing so will result in increased degradation from the cesspools pollutants allowed to pollute the same aquifer.

3. Even the best centralized sewage collection systems do deteriorate -- Lowell and Eugene are excellent examples. Cause them to be repaired to eliminate cesspools from them and the remaining contributions from on-site systems secondary treatment provide assurance in the groundwater being protected, because on-site systems anaerobic treatment produces less nitrates than do aerobic process plants and sewer lines leaks cesspools. DEQ appears to need to amend its biases more than its power/regulations.

John C. Neely, Jr.
John C. Neely, Jr.
2100 Horn Lane - Eug, OR 97404

P.S. I did not receive this CHANCE TO COMMENT early enough to retype these comments and have them be at DEQ by May 17, 1984.

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Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
(503) 244-1181 ext.707

DT: May 14, 1984

TO: Oregon Department of Environmental Quality

RE: Proposed Amendments to the General Groundwater Quality Protection Policy - (OAR 340-41-029)

NEED FOR THE RULE

The need for policy statements and enforcement regulations for groundwater pollution control is distinct in any area west of the Mississippi and Missouri rivers. Many states, such as Kansas, Nebraska, South Dakota, Colorado, Wyoming, Oklahoma, New Mexico and Texas, are directly involved in attempts to improve groundwater quality and quantity by means of aquifer recharge. The Federal government, through the Interior Department, is presently allocating over $20 million for aquifer recharge projects in Washington, Nevada, Utah, Montana and Oregon. Any policy or implementation measures taken by the Oregon DEQ should be coordinated with the Interior Department to assure efficient and practical solutions to groundwater quality and shortage problems.

Since 1981, when DEQ first issued a General Groundwater Quality Protection Policy, effective enforcement and implementation have been non-existent. DEQ has only two effective weapons with which to combat groundwater polluters: ORS 454.235(2) and ORS 454.645. The first allows DEQ to force municipalities to seek voter approval of a bond issue to pay for pollution control. If the municipality refuses or the voters decline to pay then DEQ may seek a court order to force the expenditures. The second, ORS 454.645, allows DEQ to seek summary disposition of any action brought to stop use of and enhance the efficient of subsurface sewage disposal systems which violate regulations.

An extensive search of the Oregon case law fails to reveal a single decision regarding these two methods of enforcement or implementation. Evidently these methods are inadequate and/or ineffective in light of the persistent groundwater problems.

PROPOSED AMENDMENT

The proposed amendment is a small step in the right direction yet fails to put municipalities, industries and individuals on notice that Oregon is serious about groundwater quality and quantity. The proposal merely recites the procedural steps which DEQ will perform before using existing methods of enforcement. Nothing new has been added in a substantive sense.

First, minimum penalties in actual dollar amounts need to be promulgated. There of course must be room to adjust these penalties on a case by case basis but at a minimum violators must know DEQ is serious.

Second, ORS 454.645 powers should be extended to loca-governments for purposes of enforcement against industria and individual facilities in non-compliance with DEQ regulations. The local governments must be able to wield some weapon to force compliance or else all the policy and breast-beating is hypocritical and a waste of time.

Finally, DEQ should consider a test case situation to use these new measures. Go after some violators, slap them with fines and the rest of the operators will know DEQ stands strong on this issue and that local governments will be able to do some damage to violators with DEQ backing.

LAND USE

Land use issues not addressed in the Notice include: Goal 3, agricultural lands will not be preserved without sufficient supplies of groundwater for irrigation; Goal 5, groundwater falls directly under the Open-space and Natural Resources goal; Goal 7, drought by reason of insufficient water table levels is a natural disaster; and Goal 15, the Willamette River and its values as a natural and economic resource are directly affected by groundwater policy and implementation.

Before any decision by DEQ is reached all these Goals and issues must be addressed on the record, otherwise the action will violate Oregon land use laws.

Respectfully submitted,

Craig Trueblood
Law Clerk - NEDC

Department of Environmental Quality Hearing in Portland, Oregon

ATTENDANCE LIST

Date: May 11 1984

Proposed Amendments to the States Groundwater Quality Protection Policy

NAME AND ADDRESS	REPRESENTING
Bond EASLY	SCANTZAR STEEL
Jonathan Schlueter	NW Food Processors Assn
Darrell Covert	Lamb-Weston
Dan Clapp	Lamb-Weston
Bill Sobolewski	EPA
Rich Reed	THE OREGONIAN
Ione Rauch	Morrow County
Donald J. Eppenbach	City of Irrigon
Roger Conner	Morrow Co.
Dean Seeger	Morrow County.
Paul F Bishop Sr.	Umc. County. Farm Forestry Assn.

Dept. of Environmental Quality Hearing in Bend, Oregon

ATTENDANCE LIST

Date: May 9 1984

Proposed Amendments to the State's Groundwater Quality Protection Policy

NAME AND ADDRESS	REPRESENTING
Gertrude Goldsmith 2263 NW Easton Bend 97701	Bend Chamber of Commerce
KEN STATEN WWCP, P.O. BOX 431, BEND OR 97701	CITY OF BEND WASTEWATER AND WATER DEPT.
Tom McIntyre	Deschutes Co.
Jeff Nielson, Bend Bulletin	1526 NW Hill St, Bend
Carol McMullen, Century West Engineering P.O. Box 1179 Bend OR 97709	
Robert E. Shotwell	The Oregonian / KICE-FM

ATTENDANCE LIST

Date: May 10 1984

Eugene, Oregon DEQ Groundwater Hearing

"Proposed Changes to the States Groundwater Policy"

NAME AND ADDRESS	REPRESENTING
William Lucas	Agripac Inc.
W E Gillham	agripac Inc
Don Walker	Agripac Inc
Terry M. Smith	Eugene Public Works Dept.
Gary Youngquist	LANE COUNTY PUBLIC WORKS
RALPH CHRISTENSEN	" " " "
Betty Reynolds Donaldson	398 Hawthorne Eugene 97404
Mike Gray	353 Knox Lane Eugene 97404
Nora E Heintz 1038 Jayne Dr-Eug OR 97404	

VICTOR ATIYEH
GOVERNOR

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. J, June 29, 1984, EQC Meeting

Proposed Adoption of a Rule Exempting Certain Classes of Disposal Site from the Solid Waste Permit Requirements, OAR 340-61-020(2)

Background

At its April 6, 1984 meeting, the Commission granted the Department authority to conduct a public hearing on the proposed exemption of certain classes of disposal sites from the solid waste permit requirements. The Department proposes to exempt recycling and salvage facilities and refuse collection vehicles that serve as mobile transfer stations. On the advice of legal counsel, the Department is formalizing existing informal policy, with one exception. None of the facilities that are proposed to be exempted have ever been required to obtain a permit. The exception is that one class of disposal site, known as reload facilities, will now be required to obtain solid waste disposal permits. A copy of Agenda Item F, for the April 6, 1984 Commission meeting is attached.

Pursuant to public notice, a hearing was held in Portland, on May 17, 1984. Copies of the Hearing Officer's report and the Department's Response to Public Comment are attached. As a result of the public comment, the proposed rule has been changed slightly. The Department now requests adoption of the proposed rule (Attachment 4). The Commission is authorized to adopt such a rule by ORS 459.215. Statements of Need, Statutory Authority, Fiscal Impact and Principal Documents Relied Upon are included in Attachment 5. A Land Use Consistency Statement is Attachment 6.

Alternatives and Evaluation

Four people attended the May 17, 1984 public hearing. Two of these people testified. In addition, seven people submitted written testimony. All testimony received was given consideration. The Hearing Officer's report is Attachment 2. Several issues came to light during the rule development and public comment periods. These are described in the attached copies of Agenda Item F, for the April 6, 1984 Commission meeting and the Department's Response to Public Comment. The four most significant issues are summarized below.

First, is the issue of whether or not the Department should regulate single-company reload facilities. These facilities are private transfer stations used by the refuse collection industry. They are not open for use by the general public. The industry contends that there is no demonstrated need to regulate such facilities and points to the fact that the Department previously exempted two such facilities as a matter of policy. It is the Department's position that these facilities can receive substantial amounts of solid waste and pose a potential threat to public health, safety and the environment. Also, the recent proposed construction of several of these facilities in Columbia, Washington and Yamhill Counties has created planning problems for the local government and revealed a need for additional state regulatory attention.

Second, is the issue of whether or not existing reload facilities should be exempted. Industry argues that at least two facilities were built with DEQ approval and with the understanding that no permit would be required. They say the Department is obligated to continue this previous, informal exemption. The Department's legal counsel has advised, however, that the previous informal exemption of reload facilities by Department staff was improper. Therefore, that decision should not be binding. We now believe that such facilities should be under permit and do not agree that existing facilities should be granted a special exemption.

Third, is the issue of whether or not local solid waste management program approval should be required as part of the permit application for a reload facility. Industry argues that local solid waste programs needlessly duplicate the state program and that local approval adds unnecessary extra review to the permitting process. The Department finds clear statutory directives that encourage local solid waste management programs and require local input in the permitting process, if such programs exist.

Fourth, is the issue of whether or not legislative intent has changed with the passage of the Recycling Opportunity Act (SB 405) such that recycling depots should no longer be considered to be "solid waste disposal sites" (i.e., that recycling facilities should be exempted by definition). This question demands a legal interpretation of the statutes. The Department has asked counsel for an opinion, but has not yet received a response. As a practical matter, we believe it is best to adopt the proposed rule amendment relating to recycling facilities now and to resolve this issue later. Failure to do so would subject existing recycling depots to permit fees on July 1, 1984. Also, this action would assure that recycling depots are exempted, which is what the Department and recyclers want, regardless of how legal counsel interprets the law.

A final, minor issue concerns the wording of the proposed exemption for recycling facilities. Comments from Portland Recycling suggest that the term "material" be substituted for the term "waste." This change would make the rule consistent with the language in the statute, as amended by SB 405. The Department agrees that change is proper and has amended the proposed rule accordingly.

Summation

1. On the advice of legal counsel, the Department is proposing to formally exempt, from the solid waste permit requirements, certain classes of disposal sites that were previously informally exempted. Facilities to be exempted include recycling and salvage operations and refuse collection vehicles that serve as mobile transfer stations.

2. The Department proposes to require permits for reload facilities, which were previously exempted, due to environmental and public health considerations and because of demonstrated need for solid waste management planning consideration by local and state government.

3. A public hearing on the proposed rule was held in Portland on May 17, 1984. All testimony received has been evaluated and one minor change was made in the proposed rule. The Department now seeks adoption of the proposed rule.

4. The Commission is authorized to exempt classes of disposal sites from the permit requirements by ORS 459.215.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt the proposed rule, OAR 340-61-020(2).

Fred Hansen

Attachments 1. Agenda Item F, April 6, 1984, EQC Meeting
2. Hearing Officer's Report
3. Department's Response to Public Comment
4. Proposed Rule, OAR 340-61-020(2)
5. Statement of Need and Fiscal Impact
6. Land Use Consistency Statement

William H. Dana:b
229-6266
June 6, 1984
SB3506

Attachment 1
Agenda Item J
June 29, 1984 EQC Meeting

VICTOR ATIYEH
GOVERNOR

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. F, April 6, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on a Proposed Rule Amendment Relating to the Exemption of Certain Classes of Disposal Sites from the Solid Waste Permit Requirements, OAR 340-61-020(2).

Background & Problem Statement

Operators of solid waste disposal sites are required to obtain permits from the Department. The term "disposal site" is defined by ORS 459.005 and OAR 340-61-010 to include "land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes . . ." The term "transfer station" is defined to include both "fixed or mobile" facilities and the term "resource recovery" is defined to include "recycling."

Traditionally, the Department has exercised discretion and has not strictly enforced the permit requirement for "disposal sites" that receive only source separated recyclable materials (i.e., salvage businesses and recycling depots). With an increase in the number of recycling facilities anticipated, as a result of the new Opportunity to Recycle Act (SB 405), and with permittees now being required to pay fees for permits, it is appropriate to clarify the status of such facilities and either formally exempt them or put them under permit.

In addition, a new form of transfer station that is used only by refuse collectors and is not open to the public has recently appeared. With several more of these facilities now being proposed, it is also appropriate to make a decision as to whether those operations should be permitted or exempted.

We have discussed this matter with legal counsel and have been advised that any proposed exemptions should be in the form of a rule amendment. Accordingly, the Department has drafted proposed amendments to OAR 340-61-020(2) which would formally exempt certain classes of disposal sites from the Department's permit requirements. The Department now requests authority to conduct a public hearing to receive testimony on this matter. ORS 459.215 provides that, by rule, the Commission may exclude classes of disposal sites from the permit requirement.

Alternatives and Evaluation

Salvage/recycling operations have traditionally been excluded from routine regulation by the Department, because the potential environmental and public health impacts of such facilities are typically minimal. Normally, source separated recyclable wastes do not include putrescibles (i.e., rapidly decomposing materials) which may cause malodors, and which may serve to attract or sustain disease vectors such as flies and rodents. It is true that some recycling or salvage operations may be unsightly, but this is a subjective matter that is best dealt with by local agencies. Accordingly, the Department believes that its limited resources should more appropriately be restricted to the regulation of more significant sources. A few recycling operations do accept food scraps and the like for composting. Such facilities may pose a threat to public health, and we therefore do not propose to exempt them from permit requirements.

Another factor to consider is that the recently adopted schedule of fees for Solid Waste Disposal Permits may serve as a disincentive to the establishment of conveniently located recycling depots, unless an exemption is granted. The Department expects and encourages an increase in the number of such facilities as Oregon's new Opportunity to Recycle Act (SB 405) is implemented.

During January and March, 1982, the Commission discussed the issue of regulating recycling/salvage operations as the result of an Attorney General's opinion that the Department had received on this matter. At its March 5, 1982 meeting, the Commission directed the Department to, among other things, "regulate resource recovery as defined in ORS 459.005 only where there is a potential threat to public health or the environment and leave the regulation of vector control, aesthetic nuisances and land use to local agencies." The Department believes that the proposed exemption of recycling/salvage facilities merely confirms this existing policy. A copy of Agenda Item J, March 5, 1982, EQC Meeting is attached.

Transfer stations are facilities at which solid waste is "transferred" from one vehicle to another to provide more efficient and cost effective transport of wastes. For example, at a typical public-use transfer station, wastes from many small vehicles (i.e., cars, pickups, etc.) are transferred to large 45 or 50 cubic yard containers which, when full, are loaded onto trucks and taken to a disposal site. The greater the distance to the disposal site, the more cost effective such a system becomes. Transfer stations may be fixed or mobile and may or may not be open to public use.

For many years, refuse collectors have used a private, mobile transfer system which employs what they call a "mother truck." In this system, a large truck receives wastes from several smaller trucks at various locations along the collection route. While the large truck goes to the

disposal site or to a fixed transfer station, the smaller trucks are able to continue collecting refuse. These facilities, of course, are for the use of the refuse collector only and are not available for direct use by the public. Traditionally, the Department has not attempted to regulate these private, mobile transfer operations. They simply have not been a problem, except for some occasional leakage, spillage or noise. Also, as a practical matter, mobile facilities are inherently difficult to monitor and there may be large numbers of these systems in operation around the state. The Department now proposes to formally exempt mobile, private-use transfer vehicles from the permit requirement.

Recently, some collectors have proposed building fixed transfer stations, using 45-50 cubic yard containers, for their own use. One has been constructed (with DEQ oversight) in Marion County, two are proposed in Yamhill County, two are proposed in Washington County and three have been proposed in Columbia County. In each case, the existing local solid waste management plan does not address such facilities, which are known in the trade as "reload facilities." Potentially, refuse collectors could circumvent local solid waste management plans and thus interfere with the orderly implementation of those plans. DEQ regulation would pull these facilities back into the system by requiring that the permit applicant obtain local approval and demonstrate that the proposal is compatible with the local solid waste management plan.

In addition to these planning considerations, it is the Department's position that these fixed, private-use reload facilities pose some of the same potential impacts on public health and the environment as do public-use facilities. We believe that these potential problems are primarily a function of waste type and volume rather than ownership or public access. In both cases large amounts of putrescible wastes may be stored for up to seven days in a single location. This circumstance creates a significant potential for malodors, litter, the attraction and sustenance of disease vectors (i.e., insects and rodents) and related nuisance conditions for neighbors if improperly located or managed. Some of the proposed single company reload facilities are quite large. The proposed Hillsboro Garbage Disposal, Inc. facility, for example, would receive an estimated 150 cubic yards of refuse a day. In addition, a Washington County corporation, consisting of four refuse collection companies, has requested an exemption on the basis that it is essentially a single company, private-use operation. This proposed facility would receive an estimated 180 cubic yards of refuse per day. Such a broad interpretation could allow other large facilities to avoid regulation, if an exemption is granted to "single company" reload facilities. Accordingly, the Department is now proposing to <u>not</u> exempt fixed reload facilities from the permit requirement, design review and subsequent inspection.

The Department considered, but rejected, the idea of excluding reload facilities that receive less than some specific amount of waste per unit of time. Our reason for rejection is that this type of facility is new and, at this time, we have no experience upon which to establish a minimum level

of waste flow for regulatory purposes. We would be willing to reconsider this matter based on future experience.

Summation

1. The Department proposes to formalize existing policy and exempt salvage and scrap material businesses, recycling depots and mobile, private-use transfer stations from the permit requirement.

2. The Department proposes to not exempt fixed, private-use transfer stations (reload facilities), including "single company" facilities, because of the potential for environmental, public health and nuisance problems.

3. The Department has drafted a proposed rule amendment and requests authorization to conduct a public hearing.

4. The Commission is authorized to exempt classes of disposal sites from the permit requirement by ORS 459.215.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed exemption of certain classes of disposal sites from the Department's permit requirements, OAR 340-61-020(2).

Fred Hansen

Attachments I. Agenda Item J, March 5, 1982, EQC Meeting
II. Draft Statement of Need and Fiscal Impact
III. Draft Hearing Notice
IV. Draft Land Use Consistency Statement
V. Draft Rule OAR 340-61-020(2)

William H. Dana:b
229-6266
March 8, 1984
SB3099

VICTOR ATIYEH
GOVERNOR

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: Joseph F. Schultz, Hearing Officer

Subject: Report on Public Hearing Held May 17, 1984, in Portland Concerning the Exemption of Certain Classes of Disposal Sites from the Solid Waste Permit Requirements

Summary of Procedure

Pursuant to public notice, a public hearing was convened in the City of Portland at 10:15 a.m. on May 17, 1984. The purpose of the hearing was to receive testimony concerning the proposed exemption of certain classes of disposal sites from the Department's solid waste permit requirements. Four people attended in addition to Department staff. Two people testified. William Dana of the Solid Waste Division staff gave a brief summary of the proposed rule change and the reasons for the change. The hearing was then opened to public testimony. Following the hearing, the record was kept open until 5:00 p.m, Friday, May 25, 1984 for the receipt of additional written testimony.

Summary of Verbal Testimony

Penny Kooyman, representing Clackamas County Refuse Disposal Association expressed concern that the Department not delegate permitting or regulation of reload facilities to local governments. The association she represents would prefer to deal with one agency only (DEQ) and not with several layers of government.

Roger Emmons, representing Oregon Sanitary Service Institute, submitted written testimony and summarized it as follows:

1. At least two reload facilities were built with DEQ approval and with the understanding that no permit would be required. These facilities should not be required to obtain a permit now. To obtain a permit, local approval is required. If local approval is denied, the facilities would have to close and a considerable amount of money would be lost. DEQ could be liable for misleading the owners of these facilities.

2. For future reload facilities, only local land use approval should be required. There is no need for other local review and approval. Local government has in several cases substantially delayed construction of these facilities through inaction and failure to make a decision.

3. A variance is not the way to deal with these existing reload facilities. This situation probably does not meet the statutory requirements necessary to obtain a variance. Also, the variance process can be time consuming and expensive for the applicant and the

Department. This matter shouldn't have to go clear to the Commission to be resolved.

Summary of Written Testimony

An anonymous letter was received expressing concern that the proposed exemption for "mother trucks" would allow unscrupulous refuse collectors to illegally transport and dispose of hazardous wastes.

Dan R. Bartley, representing the Container Corporation of America, supports the proposed exemption for facilities which receive only source separated recyclable materials.

R. F. Brentano, representing United Disposal Service, Inc., stated that DEQ regulation and local land use approval should be adequate to protect the public's interest. Other involvement by local government would cause duplication of effort and would result in delays for his company.

Judy Roumpf, representing Portland Recycling, stated that the proposed rule amendment fails to adequately address the issue. She believes that recycling depots should no longer be considered to be disposal sites as a result of the new Recycling Opportunity Act. She requests that the rule be rewritten to define recycling facilities as separate from disposal sites and that we use the term "material" instead of "waste" when referring to source separated recyclables.

Mike Borg, representing Clackamas County Refuse Disposal Association, states that the combination of DEQ regulations and local land use laws should be enough to satisfy the public's interests. He believes there is no need for local governments to duplicate DEQ efforts.

Roger Emmons, representing Oregon Sanitary Service Institute, submitted two letters. Mr. Emmons summarized his first letter verbally during the public hearing (see above). The second letter states that no need has been established for permits for a single-company reload facility. He recommends that such facilities be exempted. Mr. Emmons also states that the permit should not be used as a means to obtain local solid waste management planning. Lastly, Mr. Emmons believes that the language used in our proposed exemption for "mother trucks" is inadequate. He suggests some alternative language.

Paul Rankin, representing the National Association of Recycling Industries, Inc., wrote in support of the proposed exemption for facilities which receive source separated recyclable materials. Mr. Rankin states that recyclers handle commodities, not wastes and that the proposed exemption correctly differentiates recycling businesses from solid waste disposal facilities.

Copies of the hearing attendance list and written testimony are available upon request.

Respectfully submitted,

Joseph F. Schultz (JFS)

Joseph F. Schultz
Hearing Officer

Joseph F. Schultz
229-6237
June 5, 1984
SB3501

DEPARTMENT'S RESPONSE TO PUBLIC COMMENTS

The following is a summary of comments received in response to the proposed exemption of certain classes of disposal sites from the solid waste permit requirements and the Department's responses to those comments:

Comment:

Several people objected to the fact that applications for permits for reload facilities must include approval by the local government unit having jurisdiction for solid waste management. They believe that DEQ rules adequately address solid waste management issues and that local input should be limited to land use considerations. They claim that local solid waste agencies merely duplicate DEQ efforts and cause the refuse collection and disposal industry needless "red tape" and delays.

Response:

The Department appreciates the concerns of business people who must deal with several layers of governmental regulation. However in this case, we are prohibited by law from taking steps that would restrict local government input and/or regulation. ORS 459.015 states that the policy of the State of Oregon is to "retain primary responsibility for management of adequate solid waste management programs with local government units . . ." ORS 459.017 states that "local government has the primary responsibility for planning for solid waste management." ORS 459.235 states that applications for solid waste permits "shall include a recommendation by the local government unit or units having jurisdiction . . ." In view of these statutes, it would clearly not be proper for the Department to issue a permit without first providing the local solid waste management agency the opportunity to approve or deny the proposal. Also, there appears to be nothing in the statutes that would authorize the Department to prohibit or restrict local solid waste regulatory programs.

Comment:

There is no demonstrated need to require permits for single-company reload facilities.

Response:

The statute requires that all disposal sites obtain a permit. The Department, therefore, does not have to justify this requirement. Rather, the Department must justify to the Commission why certain classes of disposal site should be exempted.

In this case, the Department has several concerns about single-company reload facilities and is not prepared to ask the Commission for an exemption. For example, such facilities can receive large quantities of residential, commercial and other wastes. Improper management of such wastes can result in threats to public health and safety and to the environment. DEQ should regulate facility design and construction and routinely monitor the operation for compliance with state standards. Enforcement after the fact (i.e., only when complaints have been received) is often ineffective.

In addition, the Department is concerned that such facilities are not addressed in many local solid waste management ordinances. We have recently observed somewhat chaotic situations in Columbia and Yamhill Counties where two or more competing facilities were proposed in the same area. The existence of duplicate facilities would not only be costly and inefficient, but could also significantly disrupt the local solid waste management program. By requiring a permit, DEQ returns control to local government as the statutes intend. To obtain a permit, applicants must first obtain local solid waste management program approval.

Comment:

Existing reload facilities, constructed with DEQ approval and with the understanding that no permit would be required, should be exempted.

Response:

The Department's legal counsel has advised that the previous informal exemption of reload facilities by Department staff was improper. The fact that the Department made an error then, should not be sufficient reason for exempting such facilities now. Environmental standards are always subject to change. The two facilities that were informally exempted were the first ones that we had encountered. At that time, we did not anticipate any problems. Now that several such facilities have been proposed and we have seen potential problems in Columbia and Yamhill Counties, as described above, we have concerns. We now believe such facilities should be under permit and do not agree that existing facilities should be exempted.

Comment:

As a result of the new Recycling Opportunity Act (Senate Bill 405), the solid waste statutes now differentiate between "solid waste" and "recyclable material." Therefore, recycling depots are not "solid waste disposal sites" by definition.

Response:

This question requires an interpretation of the law. The Department has asked legal counsel for an opinion and hopes to have a response by the June 29, 1984, Commission meeting. In the interim, the Department is recommending approval of the proposed exemption. Failure to obtain an exemption now would subject recycling depots to permit fees on July 1, 1984, based on our current interpretation of the law.

Comment:

The proposed exemption for "mother trucks" would allow hazardous wastes to be illegally transported and disposed.

Response:

The proposed amendment to the solid waste rules in no way changes the Department's hazardous waste rules. All transporters of hazardous waste must be licensed by the Public Utilities Commission and all shipments of hazardous waste must be manifested.

Comment:

The Department needs to define whether or not any of the following facilities are "transfer stations" and require a permit:

1. Large containers at multi-family housing units, such as apartments and condominiums.

2. Large containers used by more than one retail store at a shopping center.

3. Large containers used by the public at a park or roadside rest area.

4. Large containers which are leased to a person for a period of time up to six months (e.g., for use at a construction site).

5. Vehicles and/or large containers used by the public during cleanup campaigns, etc.

6. Facilities where loads of solid waste are dumped, sorted, recyclable materials removed and non-recyclable residue reloaded for disposal.

Response:

The facilities described in examples 1-4 are not transfer stations. They are solid waste collection/storage containers, located at the source of waste generation. The facility described in example 5 is a mobile transfer station. In accordance with the Department's proposed exemption, a permit or written authorization would be required if the vehicle remains at one location for more than 24 hours. The facility described in example 6 is a "resource recovery facility" in that "material recovery" is occurring. Such facilities currently require a permit.

WHD:b

Attachment 4
Agenda Item U
June 29, 1984, EQC Meeting

OAR 340-61-020(2) is proposed to be amended as follows:

340-61-020(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.

(d) Facilities which receive only source separated, recyclable materials excluding putrescible materials.

(e) Solid waste collection vehicles, operated by commercial solid waste collection companies or government agencies, which serve as mobile and roving transfer stations that are not available for direct use by the general public and do not stay in one location for a period to exceed 24 hours.

SB3099.5

Attachment 5
Agenda Item No. J
June 29, 1984, EQC Meeting

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of Amendments to the Rule Relating to the Exemption of Certain Classes of Disposal Sites from the Solid Waste Permit Requirements, OAR Chapter 340, Section 61-020(2)	)))))	Statutory Authority, Statement of Need, Principal Documents Relied Upon, and Statement of Fiscal Impact

1. Citation of Statutory Authority

ORS 459.215 provides that by rule and after public hearing, the Environmental Quality Commission may prescribe criteria and conditions for excluding classes of disposal sites from the permit requirements of ORS 459.205.

2. Statement of Need

Due to limited resources, the Department of Environmental Quality needs to restrict its permitting activities to only those solid waste management facilities which actually pose a significant threat to public health or the environment. There is also a concern that recently approved fees for solid waste permits would tend to act as a deterrent to the growth of recycling activities and the establishment of conveniently located recycling depots.

3. Principal Documents Relied Upon in This Rulemaking

a. Oregon Revised Statutes, Chapter 459.

b. Oregon Administrative Rules, Chapter 340, Division 61.

4. Statement of Fiscal Impact

This action will have a beneficial fiscal impact upon small businesses concerned with recycling, salvage or scrap materials, in that they will be exempt from the fees required for solid waste permits. Refuse collectors who use mobile, solid waste transfer facilities (commonly called "mother trucks") will receive a similar benefit. Compliance determination fees for holders of solid waste permits range from $50 to $62,000 annually, depending upon the type and amount of waste received. This loss in potential revenue will not affect the Department's programs, since fees from these facilities were not anticipated in the Department's budget.

SB3099.2

Attachment 6
Agenda Item J
June 29, 1984, EQC Meeting

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Amendments to the Rule Relating to the Exemption of Certain Classes of Disposal Sites from the Solid Waste Permit Requirements, OAR Chapter 340, Section 61-020(2)	))))))	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 exempt certain classes of disposal sites from the Department's solid waste permit requirements. Only those classes of disposal sites which have been determined to pose no significant threat to public health or the environment, such as recycling depots and certain types of refuse collection vehicles, would be exempted. This appears to be consistent with the requirements of Goal No. 6.

With regard to Goal No. 11, the proposal would apply to certain classes of 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. Under the proposed rule amendments, no reduction in the number of disposal sites is anticipated. In fact, exempting recycling depots and certain refuse collection systems from permit-related fees may tend to increase the number of such facilities. This would result in more convenient and cost-effective recycling and/or disposal of solid wastes.

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 rule amendments identical to the ones proposed, adopt modified amendments as a result of testimony received, or may decline to amend the rule.

WHD:b
SB3099.4
3/15/84

Commercial & Residential Garbage Service

Containers & Drop Boxes Also Available

UNITED DISPOSAL SERVICE, INC.

180 S. PACIFIC HWY.
WOODBURN, OREGON 97071
PH. 981-1278

May 22, 1984

Bill Dana
Dept. of Environmental
Quality
522 S.W. Fifth
P.O. Box 1760
Portland, Oregon, 97207

Re: Disposal site permit exemptions

Dear Bill Dana,

It is recognized by our company, that supervision and permits will be issued for any re-load facilities.

We would propose that this be handled thru D.E.Q., in order to make it possible that these are successfull working stations and are not bogged down with layers of governing bodies duplicating regulations and enforcement policies.

The land use laws governing the various facilities locations would be enough to take care of the publics' concern for the proper use of the property. If the facility follows the designated laws, and D.E.Q.'s regulations, this would be in the best interest of the public.

Should the local governments and counties have to get involved it may put many delays on going ahead with our recycling programs.

We are working towards improving and increasing our recycling program and appreciate this opportunity to express our views on this matter.

Sincerely,

R.F. Brentano
President

RFB/pk

D

May 3, 1984

DEQ
Solid Waste Division
Box 1760
Portland, Oregon

Re: Proposed Amendments to OAR 340-61-020 (2)

My concern is that on the east coast illegal movers of hazardous wastes have done so with trucks that are unregulated, giving the appearance of being moved legitimately. SCA Services has been repeatedly caught by the FBI doing this; other companies too. This company operates in the Portland metropolitan area, under the same syndicate ownership.

Such exemption law lays down one more obstacle - that much the easier for the highly profitable business of illegal disposal - especially when a double set of books is kept by waste generators. (books on waste inventory, disposal, generation). Here's a lot of luck going on here. Please don't give them any more help.

My husband is in the hauling business + they figure this to help hide their activities. Please, don't be mum about this!

75

Clackamas County Refuse Disposal Association

May 22, 1984

Bill Dana
Dept. of Environmental
Quality
522 S.W. Fifth
Portland, Oregon 97207

Re: Disposal site permit exemptions

Dear Bill Dana,

This association would like to respond to the questions of proposed disposal site exemptions.

At this time it is felt that the collection systems ordinances regulate the industry and define what should be done, so there is no need for the local jurisdictions to duplicate the efforts and intent of ORS 459. This does not interfer with any major solid waste transfer or flow control facilities.

The land use planning laws in the various locations also define the acceptable use of the property and what can take place on them.

The combination of the Solid Waste Ordinances, prevailing land use laws and D.E.Q.'s regulations should be enough to satisfy the best interest of the public that is served.

Sincerely,

Mike Borg

Mike Borg
President

MB/pk

OREGON SANITARY SERVICE INSTITUTE
4372 Liberty Rd. S.
Salem, OR 97302
(503) 399-7784

May 17, 1984

DEQ Hearing on Permit Rule Revision

This preliminary and rough drafted statement applies only to the reload facility consideration and not to recycling centers.

1. PURPOSE OF RULE CHANGE. To reflect the opinion of the Attorney General's Office that reload and certain recycling centers are transfer station type disposal sites which require a permit under ORS 459.205.

   Until that ruling, the DEQ staff public oral and written position was that no permit was required unless there was a risk of environmental problems. The DEQ staff was effectively applying the standards for exclusion in 459.215, a job the Attorney General's Office says is reserved to the EQC as rule maker.

   The rule should then reflect only the minimium necessary changes to achieve compliance, not create another major hurdle to location and building critically needed reload facilities.

2. EXISTING FACILITIES. By failing to protect those reload facilities built under letter approval by the DEQ Staff, the proposed rule may subject both the Agency and Staff to liability for damages.

   Of especial concern is any requirement for local goverment approval for reloads that are in existence. These were built with your permission. And they were built for just one purpose, to move the garbage quickly and efficiently in compliance with all laws. And the facilities offer a later opportunity for dump and pick type recycling of materials where the source cannot or will not source separate.

   PROPOSED CHANGE. ADD TO PROPOSED OAR 340-61-020(2):

   <u>(f) Fixed reload facilities receiving wastes from only the solid waste collector which owns or operates the facility where the facility was constructed with a letter authority from the Department prior to May 1, 1984.</u>

3. FUTURE RELOAD FACILITIES. Such facilities were not

even contemplated when the permit requirements were by the Legislature in 1971.

There is no public need for intensive regulation.

There is no need for local government approval of the creation of the facility other than compliance with Land Use.

There has not, to the best of my knowledge, been any compliants on the operation of such reload facilities or their much larger kissing cousin, the drop box type mini-transfer station.

The industry needs these facilities now to safely, lawfully and efficiently transport wastes the ever increasing distance to what few disposal sites or general transfer stations are available. We cannot wait for another 13 years of inaction, talk, talk, discussion, hearing, hearing, and further nonaction as in the case of providing a transfer facility in Washington County. Every industry attempt to build such a facility has been rebuffed by Metro, not that it is not needed, but that they want to own it or put it out to bid or whatever.

PROPOSED AMENDMENT

(f) Fixed reload facilities receiving wastes from only the solid waste collector which owns or operates the facility where the facility was constructed with a letter authority from the Department prior to May 1, 1984. For reload facilities after this date, the recommendation of a local government unit required by ORS 459.235 (1) shall be limited to compliance with land use requirements.

4. COMPLIANCE. Pursuant to ORS 459.215 (1), nothing in the limited exclusions proposed would "...relieve any person from compliance with other requirements of ORS 459.005 to 459.105, 459.205 to 459.245 and 459.255 to 459.285 and the rules and regulations adopted pursuant thereto."

Thus the public is fully and enviornmentally protected which is, after all, the purpose of all of ORS Chapter 459, the EQC and the DEQ.

5. VARIANCE AS ALTERNATIVE? This is a time and money grabber for both the DEQ and the applicant.

It's utter nonsense to take a mini-reload facility all the way to the EQC!

At the same time, there would a legal concern as to the validity of a variance. I suggest that you carefully review that with your legal Counsel. You might consider requesting additional information from Tom Donaca who drew this basic provision.

If the local government recommendation were the only problem for a particular facility, could the EQC grant a variance on the grounds that the reload "...cannot meet one or more of the requirements..."?

In law, a variance is generally intended to meet special conditions and authority is narrowly construed. This is particularly true where there is a specific authority to the EQC to exempt by class or subclass from the permit requirements those facilities with low or no environmental risk. A variance from a permit may be harder to justify that a variance from a specific operation or location requirement on a case by case basis with ample need shown and minimal environmental risk.

Respectfully submitted,

Roger W. Emmons, Ex. Director

D

PORTLAND RECYCLING

3045 N.W. Front Ave., Portland, Oregon 97210 (503) 228-5375

May 23, 1984

Hearings Officer
Department of Environmental Quality
Solid Waste Division
P.O. Box 1760
Portland, OR 97207

Dear Hearings Officer:

On behalf of the Board of Directors of Portland Recycling Team, I request the Department of Environmental Quality extend the period for hearing the Proposed Rule Amendment to Exempt Certain Classes of Disposal Sites from the Solid Waste Permit Requirements. The proposed amendment to exempt recycling facilities from the permit requirements does not adequately address the issue.

Recycling centers are in fact not disposal sites. And the attorney general's opinion which stated that recycling facilities are disposal sites was issued prior to the passage of The Recycling Opportunity Act (SB 405). We urge the department to write a rule based upon this new law -- a rule that doesn't merely exempt such facilities from permit requirements (still requiring compliance with rules for proper operation that may be inappropriate), but one that defines recycling facilities separate from disposal sites. In addition, the rule should use language consistent with SB 405, e.g., "source separated, recyclable material" not "source separated, recyclable waste."

We would be glad to work with DEQ staff and other interested parties to develop a rule that addresses these concerns.

Sincerely,

Judy Roumpf

Judy Roumpf
Board Member

Container Corporation of America

West Coast Division Headquarters
and Marketing Center

2800 De La Cruz Boulevard
Santa Clara, California 95050

Phone: 408 496-5000

April 19, 1984

Department of Environmental Quality
Solid Waste Division
Box 1760
Portland, OR 97297

RE: Proposed Rule Amendment to Exempt Certain Classes of
Disposal Sites from the Solid Waste Permit Requirements

Container Corporation of America, one of the largest paper recyclers in the United States with operations in Oregon, supports the proposed rule to exempt facilities that receive only source-separated recyclable materials such as paper, glass and metals from the solid waste permit requirements.

As these sites, when properly operated, do not constitute a public threat or health hazard, it would be in the best interest of all concerned to formalize the Department's current informal policy of exempting such facilities.

Very truly yours,

Dan Bartley

Dan R. Bartley
Regional Counsel

NATIONAL ASSOCIATION OF RECYCLING INDUSTRIES, INC.

330 MADISON AVENUE / NEW YORK, N.Y. 10017 / (AREA CODE 212) 867-7330

Reply To:
Suite 1100, 1511 K Street, N.W., Washington, D.C. 20005 / 202-737-8494

May 29, 1984

Mr. Robert Brown
Chief, Solid Waste Division
Department of Environmental Quality
Box 1760
Portland, OR 97207

Dear Mr. Brown:

On behalf of the Oregon members of The National Association of Recycling Industries, Inc., I would like to offer our strong support for the proposed recycling amendment to the state's solid waste regulations. The amendment appropriately recognizes the unique and important contribution recyclers make to both the state and national economies.

NARI represents over 1100 private companies who are involved in the beneficial recycling of a wide range of materials including ferrous and non-ferrous metals, paper, textiles and rubber. Several of our members do business in the state.

The proposed amendment to OAR 340-61-020(2) correctly differentiates legitimate recycling businesses from solid waste disposal facilities. Recyclers handle commodities, not wastes. By returning materials that have served their original economic utility back into the economic mainstream, recyclers help to conserve precious landfill space while supplying significant quantities of valuable raw materials to industry.

We appreciate the department's efforts to promote legitimate recyclers and would be pleased to supply you with any additional information you may need on this or any related matter.

Sincerely,

Paul W. Rankin
Director, Field Services

cc: Warren Rosenfield
Paul Parker

Oregon Sanitary Service Institute
4645 18th Pl. S.
Salem, OR 97302
(503) 399-7784

May 25, 1985

DEQ Hearing Record
Proposed Transfer Station Permit Amendment
Additional Testimony and Recommendations

1. No need has been established for permits for a single company reload facility.

   A. If there is any environmental concern or hazard, all rules and regulations other than the requirement for permit apply and can be enforced.

   B. Solid Waste Director Ernie Schmidt noted that by requiring permits and local government recommendations, DEQ can force local solid waste planning.

      This industry is trying to cut through years of delay and indecision. Collectors are trying to build these new facilities to offer lawful, safe and efficient service. To hold them hostage to a useless permit and local government updating of a solid waste plan is not sound public policy.

      If the Department so badly needs updated plans, then candidly go to the Legislature and say so, as was done in limited recycling plan requirements in SB 405 and Waste Reduction under SB 925. Let this industry get on with it's collection and recycling jobs.

   C. The best indication that there is no problem is fact that your agency was issuing letters citing no need for a permit. It was only when Legal Counsel cited need for the Commission to make that determination that the Department suddenly found urgent need to regulate these minifacilities!

2. OSSI Amendment Recommendations. To OAR 340-61-020(2), Add:

   (e) Vehicles, whether or not self propelled, and any containers or boxes used for the accumulation, storage, collection or transportation of solid wastes.

(f) Lands and facilities thereon which receive solid wastes from only one person where:

(1 Such person is engaged in solid waste collection; and

(2 The collected wastes are to be reloaded directly or after recycling for transport to a lawful transfer, disposal or resource recovery site or system.

3. We considered definitions using the following:

A. Duration on Location. We rent out some boxes for as six months at a time. Boxes so commonly remain on site for more than 24 hours that we allow the first 48 to 72 hours without any demurrage or rental charge.

B. Class of Use. The list of negatives grew so long as to be useless. Cleanups, public and private parks, roadside rest areas, containers or boxes not accessable to the public, containers or boxes used by only a single user (problem where boxes are used by five stores in a shopping center plus every cheap citizen who uses it as the local transfer station).

C. Intended Purpose. Impossible to define and regulate. Amounts to punishment for subjective intent or changed intent if circumstances change.

D. Ownership. Again, the customer may own the containers or boxes, or some other person or the colector. How do you distinguish between an industrial owner who has his or her own system. In fact, we have non-collector owned drop box systems in Oregon.

In summary, why create a problem where none exists. Just continue the status quo where single collector reloads are not under permit, but must meet all environmental, health and safety requirements of state and federal laws and regulations.

Respectfully submitted,

Roger W. Emmons, Ex. Director

VICTOR ATIYEH
GOVERNOR

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: Director

SUBJECT: Addendum to Agenda Item J, June 29, 1984, EQC Meeting

Proposed Adoption of a Rule Exempting Certain Classes of Disposal Sites from the Solid Waste Permit Requirements, OAR 340-61-020(2)

Attached for your information is the attendance list from the public hearing and copies of written testimony.

Fred Hansen

FH:cs

Attachments

PLEASE PRINT

ATTENDANCE LIST

Date: MAY 17, 1984

PUBLIC HEARING, PROPOSED RULE AMENDENT EXEMPTING CERTAIN CLASSES OF SOLID WASTE DISPOSAL SITES.

NAME AND ADDRESS	REPRESENTING
[illegible]	Publishers Paper
Penny Kooyman 160 So. [illegible] Hwy [illegible]	Clackamas Co Disposal Assoc.
[illegible] Reese	DEQ
[illegible] Johnson	DEQ
MARY ANN HUTTON 16716 Butteville Rd NE Woodburn, OR 97071	CANON & HUTTON Rep. PUBLISHERS PAPER
ERNIE SCHMIDT	DEQ
ROBERT BROWN	DEQ
ROGER EMMONS (by WHB)	OSSI

11

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. K, June 29, 1984, EQC Meeting

Request by Crook County for Variance from Rules Prohibiting Open Burning of Industrial Wood Waste, OAR 340-61-040(2)

Background

The Crook County Landfill serves the majority of Crook County, including Prineville and six major wood products mills. Historically, industrial wood waste from these mills was burned at the landfill following closure of the mills' wigwam burners. When the Solid Waste Disposal Permit was renewed in April 1981, a condition was included allowing the burning of selected industrial wood waste only until July 1, 1981. The wood waste has been landfilled since that date.

The County is now requesting authorization to again burn industrial wood waste, an activity which is prohibited by OAR 340-61-040(2). A copy of the request is attached. The County is concerned that landfilling the waste will cut short the useful life of the landfill. In its 1974 permit application, the County estimated the remaining landfill life was twenty years. In 1981, the County's consultant projected that the landfill would be full in 1990 if the industrial wood waste was landfilled, and 1994 if this waste was burned. The County has updated this figure, based on a remaining usable landfill area of 96 acres. It now estimates that the landfill will be closed in 1996 if the wood waste is landfilled, and 2000 if it is burned.

Two mills produce most of the wood waste going to the landfill. Both of these are moulding plants and both of them reuse as much of the waste as possible. In addition, there is a new firm in Prineville, D & E Wood Products, which is recycling mill ends from the lumber mills and pallets from all industrial sources in the area. They have substantially reduced the overall volume of wood waste going to the landfill.

The majority of the industrial wood waste now going to the landfill consists of packaging material from raw materials shipments to the mills, pallets which are no longer repairable, stringy material and vinyl-covered moulding trims. The vinyl-coated material is being replaced with a cellulose base (paper) material, eliminating the vinyl coating from the

waste stream. Some pallets have often been repeatedly dipped in pentachlorophenol. The raw material packaging includes dunnage (structural support for loads) from railway cars and overseas shipping crates. Both of these items include metal contaminants from banding and nails which are not compatible with existing hammer hogs. The stringy material is difficult to hog with existing equipment because it is very pliable.

The Commission is authorized to grant variances from the solid waste management rules by ORS 459.225.

Alternatives and Evaluation

The statute states that the Commission shall grant a variance only if:

1. Conditions exist that are beyond the control of the applicant.

2. Special conditions exist that render strict compliance unreasonable, burdensome and impractical.

3. Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available.

To support its request, the County makes five claims. Those claims and the Department's comments are as follows:

1. The County claims that air quality will not be a problem if the industrial wood waste is only burned annually. The Department would agree that there would be no significant impact if clean wood waste is burned. However, a significant amount of pallets contaminated with pentachlorophenol is contained in the current wood waste pile at the landfill, which would cause concern for air quality impacts. If a variance is granted, the Department recommends that it not apply to the current wood waste pile. The County currently burns brush and stumps which it says produces more visible smoke than the industrial wood waste would. We have not received any complaints about this permitted burning activity. Additionally, the landfill is located in a rural setting with no nearby residences to impact.

2. The County claims that the mills are already recycling most usable wood waste. The Department agrees. The two moulding plants have developed in-house programs to recycle wood waste. Additionally, D & E Wood Products now recycles mill ends and broken pallets from the other four mills. One of the mills is considering a new heating system for their plant that includes a wood-fired boiler. This is expected to create an alternative use for the wood waste in the area which is now going to the landfill.

3. The County claims that special conditions, including the number of mills in the area and the shallow, rocky soil at the landfill, render strict compliance unreasonable, burdensome or impractical. These conditions are beyond the control of the County. The Department does not feel that the number of mills is a

significant issue. Only two of the mills contribute significant volumes of waste, which totals approximately 5,900 cubic yards per year. Other communities have similar numbers of wood products plants and have not felt a need to request permission to burn industrial waste. The shallow, rocky soil is a problem. Variable soil depth to bedrock makes trench construction difficult and reduces the potential area available for trench construction.

4. The County claims that strict compliance would result in substantial curtailment and premature closing of the landfill and no alternative is available. The Department would agree that landfilling the wood waste would fill the site faster than if it were burned. A 25% reduction in the remaining life of the site is projected if burning is prohibited and no further waste utilization occurs. Looking at the total life of the site, however, the projected closing in 1996 or 2000 would not appear to be a substantial curtailment. The Department is aware of only one other potential landfill site that has been evaluated. This is the "Point Site" which was found to be too small for the County's needs. Other suitable landfill sites may exist.

5. The County claims that no competitive advantage for the mills can be attributed to the County's request to burn the industrial waste. The Department does not agree with this. The disposal fee for industrial wood waste at the Crook County Landfill is 50 cents per cubic yard. In contrast, the disposal fee for similar waste in Bend is $1.75 per cubic yard. This clearly provides an economic advantage. The Department believes that this difference in disposal fees is due solely to the lower costs of burning as opposed to landfilling. Wood waste received at the Crook County Landfill is currently being stockpiled rather than buried, in anticipation of a possible variance. Thus, the "disposal" costs are minimal. Other wastes received at the landfill, which are buried, are charged a disposl fee of $1.50 per cubic yard. The current situation not only provides an economic advantage for mills in the area, but also serves to increase the amount of wood waste coming to the landfill. For example, the Les Schwab Tire Center disposes of pallets at the County landfill rather than at its own permitted landfill. The Schwab site consists of approximately 640 acres of potential area and is the same distance from Prineville as the County landfill. Schwab apparently takes its waste to the County's site because this is cheaper than operating its own site and burying the waste.

There are three alternatives for the Commission to consider:

1. Deny the County's request and require that the current practice of landfilling the industrial wood waste continue.

2. Approve the County's request.

3. Approve the County's request with specific conditions and limitations.

After carefully reviewing the statute requirements, the permit file and the request, the Department must recommend that the variance request be denied. We agree with the County that burning the wood waste would not create significant air quality impacts because of the location of the landfill. We also agree that current wood waste recycling activities are very successful in removing usable wood from the waste stream. We do not feel, however, that the argument presented by the County meets the requirements of ORS 459.225(3).

Summation

1. Crook County requests a variance under the provisions of ORS 459.225 to burn industrial wood waste at its landfill.

2. The County estimates that a prohibition on the burning of wood waste would reduce remaining landfill life by four years if no additional wood recycling is accomplished. However, such a reduction would still allow the landfill to operate until 1996. This is not considered to demonstrate a "substantial curtailment." To date, only one alternative landfill site has been evaluated; others may exist.

3. Considerable progress has been made by industry to recycle Prineville area waste wood. These efforts may be expanded in the near future to include more wood waste currently being landfilled.

4. Burning clean wood waste would not cause a significant impact on air quality. However, the existing wood waste pit contains pallets which have been repeatedly dipped in pentachlorophenol and moulding trims covered with a vinyl coating. Burning this material could cause air quality problems.

5. Current landfill disposal rates offer some economic advantage to the Prineville mills when compared to disposal fees that mills in other areas must pay.

6. The County's request does not meet the requirements of ORS 459.225(3) which states:

   "(b) Special conditions exist that render strict compliance unreasonable, burdensome and impractical.

   (c) Strict compliance would result in substantial curtailment or closing of a disposal site . . ."

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission deny Crook County a variance from rules prohibiting open burning of industrial wood waste, OAR 340-61-040(2).

Fred Hansen

Attachment: Request from Crook County dated April 20, 1984

Donald L. Bramhall:c
388-6146 (Bend)
June 7, 1984
SC1565

Attachment
Agenda Item K
June 29, 1984 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF THE REQUEST FOR A VARIANCE TO SOLID WASTE PERMIT NO. 74, BY CROOK COUNTY

REQUEST FOR A VARIANCE SW PERMIT NO. 74

COMES NOW CROOK COUNTY, a political subdivision of the State of Oregon, by and through Greg Hendrix, County Counsel and Dave Riggs, Public Health Administrator, and hereby respectfully requests a variance to OAR 340-61-040 (2), which prohibits open burning of industrial wood waste for SW Permit No. 74. This request is based on ORS 459.225 (3) (b) and (c), and on OAR 340-61-080.

In support of this request, Crook County submits the attached memorandum and report, and letters to be submitted on or before the Hearing.

DATED this 20th day of April, 1984.

GREG HENDRIX
County Counsel

DAVE RIGGS
Public Health Administrator

PRINEVILLE, OREGON 97754
PHONE 447-4156

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF THE REQUEST FOR A VARIANCE TO SOLID WASTE PERMIT NO. 74, BY CROOK COUNTY	)))	MEMORANDUM IN SUPPORT OF THE REQUEST FOR A VARIANCE SW PERMIT NO. 74

MEMORANDUM

I. AUTHORITY AND GROUNDS FOR A VARIANCE

Oregon Administrative Rule 340-61-040(2) states:

> (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.

(Emphasis supplied.)

OAR 340-61-080 allows the Commission to grant a variance "when circumstances of the solid waste disposal site location, operating procedures, and/or other conditions indicate that the purpose and intent of these rules can be achieved without strict adherence to all of the requirements." Statutory guidelines for a grant of a variance are found in ORS 459.225 (3):

> (b) Special conditions exist that render strict compliance unreasonable, burdensome or impractical.
>
> (c) Strict compliance would result in substantial curtailment or closing of a disposal site and no alternative facility or alternative method of solid waste management is available.

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Crook County submits that:

(1) Air quality is not a problem with the annual burn of industrial wood waste;

(2) Recycling can be, and currently is, achieved without strict adherance to all of the requirements pursuant to OAR 340-61-080;

(3) Special conditions, namely the number of wood waste generators and the generally rocky soil conditions, exist that renders strict compliance unreasonable, burdensome or impractical, pursuant to ORS 459.225 (3)(b); these conditions are beyond the control of the county, ORS 459.225 (3)(a);

(4) Strict compliance would result in substantial curtailment and premature closing of the county landfill and no alternative facility or method is available. This closing would occur 25% sooner if open burning of industrial wood waste is not allowed; and

(5) No current competitive advantage can be attributed to the county's practice and the county is, and will be, cooperative with DEQ on any program which will eradicate any proven competitive advantage.

II. FACTS SUPPORTING THE VARIANCE REQUEST

Crook County submits that the Commission may grant a variance based on any one of the first four factors listed by the county in this request. ORS Ch. 459. The fifth factor is listed to assist the Commission.

A. AIR QUALITY

Air quality concerns have been raised in the past, but are not now the basis of DEQ's prohibition of open burning of industrial wood wastes. The current permit allows for the burning of brush, tree stumps and limbs which is not only a much longer burn, but also contains more particulate.

An accepted method of recycling industrial wood wastes is to

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make the wastes available to the public for firewood. This is presently being done in Crook County. Of course,home burning causes the same effect on the air shed as the burning at the landfill. The product is burned either way.

B. RECYCLING

Crook County continues to work with DEQ in recycling industrial wood wastes. Further, the generators of the wood wastes not only cooperate with DEQ and the county to lessen the quantity of wastes, but they also have an economic incentive to be as productive as possible.

Recycling has been the rule in Oregon for at least fifteen years. New statutory requirements are written nearly every legislative session including the most recent. 1983 OR Laws Ch. 729. No person or business is unaware of the social and economic benefits of recycling.

Because of the modern incentives for the recovery and use of formerly wasted resources the wood waste generators of Crook County have and will continue to use new methods for resource recovery. Current methods include:

a) Particle board manufacture;

b) Hog-Fuel production;

c) Public firewood;

d) Repair and reuse of packing crates and pallets; and

e) Public use for small building projects.

Several of these methods bestow an economic benefit on the wood waste generators and thus, encourages the generators to investigate all new

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ideas and alternatives to simply disposing of wood products.

By the submitted letters the Commission has the testimony of the generators that they have and will continue to pursue resource recovery methods. Moreover, DEQ has not yet shown that any viable method of recycling is available and not in use by Crook County's wood waste generators. All the generators have expressed their willingness to cooperate with DEQ and the county.

C. SPECIAL CONDITIONS

Crook County has two special conditions which independently render the ban on open burning of industrial wood wastes unreasonable, burdensome and impractical. First, the county is home to an unusual number of wood waste generators. Second, the soil condition of the county is generally rocky which restricts the amount of usable, non-irrigated land and limits the depth of landfill trenches. Moreover, the conditions are beyond the control of the county.

1. County's Wood Products Industry

Prineville is the only incorporated city in Crook County and was founded in 1868. As one of the oldest cities east of the Cascades it has always been the center of the region's wood products industry. No less than six major mills currently operate in or near Prineville. They are: Clear Pine Moulding, American Forest Products, Consolidated Pine, Ochoco Lumber, Pine Products and Louisiana-Pacific. Another major generator of wood waste is Les Schwab Tires which has its corporate office and main distribution plant in Prineville. Les Schwab Tire hauls broken pallets to the landfill.

This concentration of major generators places Crook County in

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the forefront of wood waste management problems. New techniques in resource recovery has lessened these problems somewhat, but the location of so many generators insures a wood waste crisis as long as the industry survives.

2. County Soil Conditions

Pursuant to the approved Comprehensive Plan, the county may not site a landfill on irrigated farm land. Other range land within an appropriate traveling distance from Prineville is scarce due to the generally rocky nature of the County's soils. The present location is no exception where average trench depths are from five to ten feet only.

The Commission is well aware of the problems with locating a new landfill. It is, therefore, in the best interests of the county to use the existing site as long as possible.

D. SUBSTANTIAL CURTAILMENT OF DISPOSAL SITE

In 1981, at the request of DEQ, the county commissioned Russel Fetrow, Jr., P.E., to study the landfill. Fetrow's report is attached which shows that without the open burning of industrial wood wastes the landfill life would be shortened by 27.5%. A similar study in 1984 conducted by the Crook County Public Health Administrator shows a 24.7% reduction.

1. The Fetrow Report

The report contains three important findings. First, air pollution is not a serious concern relative to the open burning issue. (Fetrow, p.9). Second, significant public use is made of the wood waste pile for firewood or other uses. Fetrow, p.8).

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Third, because the life of the landfill would be reduced from eleven to seven years, open burning should continue. (Fetrow, p. 9)

Fetrow studied the east section of the landfill. Test pits showed an average depth of five to seven feet only. Because Fetrow ignored the western area his calculations showed eleven or seven years remaining life, depending on whether open burning was allowed.

The findings show that the industrial wood waste does not compact to any significant degree. The residue ash from the burning could be used as trench coverings. Fetrow reported that much of the waste was unsuitable for hog fuel. Moreover, wood waste accounts for 30% of the disposal volume. (Fetrow, p.4). Finally, by the report's chart (Fetrow, p. 10) the current life of the landfill would be curtailed from eleven to seven years, or 27.5%, if open burning is halted.

2. 1984 Study

Recently, Dave Riggs, Crook County Public Health Administrator studied the question of landfill life. Riggs used figures for the entire permit area, less air safety clear zones and known areas where bedrock is present on the surface. These figures are based on approximately 120 acres remaining.

Of this 120 acres, about 24 acres is unusable due to fire breaks, trench spacing, proximity to roads and buildings and future landfill roads. The study is also based on the estimated 12% compacting of disposed wood waste that has been shown by experience. The study is as follows:

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1) Remaining Landfill Area (Estimate)

120 Ac. x 43,560 sq. ft./ac.	5,227,200 sq. ft. (Gross Ar
-24 Ac. x 43,560 sq. ft./ac.	-1,045,440 sq. ft. (Unusable
96 Net Usable Acres	4,181,760 sq. ft. (Net Area

2) Remaining Landfill Volume (Estimate)

4,181,760 sq. ft. x 4.7 ft. (Av. Depth)
4,181,760 sq. ft. x 2.5 ft. (Cover)

Estimated Net Remaining Volume

19,654,272 Cu. Ft. (Gross)
10,454,400 Cu. Ft. (Cover)

9,199,872 Cu. Ft. (Net) or 340,736 Cu. Yd. (Net)

3) Domestic (Mixed) Loading (1980-84 Averages)

General Public (Loose) - - - - -	39,000 Cu. Yds/Yr.
Private Hauler (Loose) - - - - -	15,096 Cu. Yds/Yr.
Private Hauler (Truck/Compacted)	5,208 Cu. Yds/Yr.

4) Inplace (Compacted) Loading (1980-84 Averages)

General Public - - - - - - - - -	12,000 Cu. Yds/Yr.
Private Hauler (Loose) - - - -	3,659 Cu. Yds/Yr.
Private Hauler (Truck Compacted)	4,557 Cu. Yds/Yr.
	20,216 Cu. Yds/Yr.

5) Projected Life for Landfill

With Domestic Loading Only.	340,736 Cu. Yds
(This figure includes burned (ash) wood residual loading which is negligible)	÷ 20,216 Cu. Yds/Yr.
	16.85 Yrs.

6) Wood Residual Loading (Non-Incinerated)

Clear Pine - - - - - - - - - - - - -	3640 Cu. Yds/Yr.
American Forest Products - - - - -	1560 Cu. Yds/Yr.
Pine Products - - - - - - - - - - -	518 Cu. Yds/Yr.
Consolidated Pine - - - - - - - - -	496 Cu. Yds/Yr.
Les Schwab Tire Center (Brkn. Pall)	1340 Cu. Yds/Yr.
Total Wood Residue Loading - - - -	7554 Cu. Yds/Yr.

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Inplace compacted will reduce wood residue by approximately 12%, therefore:

7554 Cu. Yds/Yr.
x.88
6648 Cu. Yds/Yr.

7) Final loading/Potential Life Calculations

Estimated (remaining) net landfill volume 340,736 Cu. Yds.
Loading Per Yr. (with Burned Wood Residue) ÷20,216 Cu. Yds.

Potential Landfill Life Expectancy - - - - 16.85 Yrs.

Estimated (remaining) Net Landfill Volume 340,736 Cu. Yds.
Loading per yr (buried & composted wood residue) ÷ 26,864 Cu. Yds.
Potential Landfill Life Expectancy - - - - 12.68 Yrs.

3. Disposal Site Curtailment

The Riggs study shows a landfill life expectancy reduction from about 17 years to almost 13 years, or nearly 25%. This figure is very close to the Fetrow figure of 27.5%.

Whether the Commission adopts the independant evaluation of Fetrow or the in-house study by the County Health Administrator, either figure shows a critical need for the requested variance. Certainly a 25% reduction in landfill usability qualifies as a "substantial curtailment . . . of a disposal site." ORS 459.225 (3)(c).

E. COMPETITIVE ADVANTAGE

Questions have been raised as to whether the county is conferring a competitive advantage upon local operators by allowing disposal of industrial wood wastes. This is an important issue, and though not a statutory or OAR requirement, the matter is addressed here.

First, Prineville is unique in being home to so many major wood products companies. Thus, by definition, Prineville will have

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an unusual amount of industrial wood waste. Second, as shown in the submitted letters, local operators have done much to recover previously wasted resources.

All major operators have pledged to work with the county and DEQ to further reduce waste as new ideas and technologies become available. It is most important to note that there has been no showing by anyone that the operators are not cooperating or that local mills have, in fact and not in theory, a competitive advantage because of the operation of this landfill.

III. THE COUNTY'S PLAN

Various suggestions by DEQ have been made concerning the wood waste problem. Crook County remains ready to work with DEQ and local industry. While the county seeks to fully cooperate, it would not be fair to penalize the county and its citizens for the twist of history which is responsible for so many wood products industries to be located here.

The study of this problem is not complete and will never be. Factors such as the cyclical nature of wood products demand, new ideas, technological advancement and local landfill needs insure that this situation will never be static. The county intends to continue to monitor the question and seek state agency assistance. Crook County will have to face this issue with every permit renewal.

RESPECTFULLY SUBMITTED,

GREG HENDRIX,
Crook County Counsel

DAVE RIGGS,
Public Health Administrator

PRINEVILLE, OREGON 97754
PHONE 447-4158

IN THE COUNTY COURT OF THE STATE OF OREGON

FOR THE COUNTY OF CROOK

IN THE MATTER OF THE REQUEST FOR A VARIANCE BEFORE THE ENVIRONMENTAL QUALITY COMMISSION	))))	RESOLUTION 84-1

WHEREAS, it is the finding of the Crook County Court that it is in the best interests of the citizens to obtain the maximum use of the existing landfill facility; and

WHEREAS, the Crook County Court finds that due to the unique number of wood products industries concentrated in the county the landfill must dispose of an excessive amount of industrial wood waste; and

WHEREAS, the Crook County Court finds that recycling of all usable wood resources is in the best interest of the citizens; and

WHEREAS, the Crook County Court finds that presently much industrial wood waste cannot be recovered and that such wastes constitute a major factor in reducing the life expectancy of the county landfill.

BE IT RESOLVED, that the Crook County respectfully requests a variance to Solid Waste Permit No. 74 to allow for the annual burning of industrial wood wastes.

DATED this _____ day of April, 1984.

_____
CROOK COUNTY JUDGE

_____ _____
COUNTY COMMISSIONER COUNTY COMMISSIONER

COURTHOUSE
PRINEVILLE, OREGON 97754
PHONE 447-4158

VICTOR ATIYEH
GOVERNOR

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. L, June 29, 1984, EQC Meeting

Informational Report: EQC and DEQ Landfill Siting (SB 925 - 1979 Legislature)

Background

The Department is presenting this report to the EQC to outline the history, questions surrounding, and present status of Chapter 773 Oregon Laws 1979 (SB 925) known as the landfill "supersiting" legislation. Because of difficulty in siting landfills at the local level, the 1979 Legislature passed the legislation which would allow local government to request DEQ assistance in siting, and in a five-county area allow the EQC to order a landfill sited or actually have the Department establish the landfill.

Major provisions of the law amended ORS 459. Sections were added to the law as follows:

> ORS 459.047 - Upon request of a city or county, DEQ may site a landfill and issue a permit. The permit authorized by the EQC binds all other state and local permits to be issued.
>
> ORS 459.049 - In Marion, Polk, Clackamas, Washington and Multnomah Counties, the EQC may order a landfill disposal site be constructed. If local government fails, the EQC may order DEQ to site.

There has been no siting requested under ORS 459.047 and up to now no need to invoke the requirements of ORS 459.049. However, there is a possibility that in either or both the Metro area and Marion County, the EQC may be required to order landfill(s) established.

During the past several months, DEQ staff has examined the law and identified problem areas. Time-frames for DEQ siting (459.047) and supersiting by the EQC (459.049) were identified. Major questions revolve around when is the right time and what event triggers initiation of the supersiting order by the EQC and what are the land use constraints on both DEQ and EQC landfill siting. The staff's estimate of time-frames on both sections of the law were very long, ranging up to 58 months or longer depending on the delay of consecutive court challenges. Supersiting was one of the six solid waste issues discussed at the November 1983 Significant Issues Workshop.

As a result of testimony given by Rick Gustafson, Metro, to the Joint Interim Committee on Land Use in December 1983, the Department was requested to make a presentation at their January 30, 1984 hearing. The committee specifically asked whether the legislation was workable, and what was the time-frame involved in implementation. A copy of the written

testimony is attached which includes a summary of the legislation and estimated time-frames for implementation. Several legal questions were raised at the hearing and the committee asked their staff and DEQ to return to their March 6, 1984 hearing with answers from Legislative Counsel and the Attorney General's office through DEQ.

The Department received the written responses from counsel on March 2, 1984 and prepared written testimony for the March 6, 1984 hearing (copy of testimony and legal opinions attached). The legal opinions confirm the time-frames estimated by the Department and indicated that the EQC is subject to the same land use challenges as local government in both 459.047 and 459.049 siting circumstances.

After review of the legal opinions and testimony by Metro and DEQ, committee members asked that both Metro and DEQ return to a summer, 1984 hearing with suggestions on how to "speed up" the process. Staff has analyzed the present legislation and determined that the only place the process can be shortened without a change in the law is during the initial stages. The work group on landfill siting and supersiting at the fall, 1983 Significant Issues Workshop recommended that the series of events leading to the EQC order for DEQ to site the landfill could be "routinely" initiated when the regional landfill filed for a closure permit (5 years prior to closure) required by ORS 459.205(2). This would involve integrating the early EQC findings and directives actions with the local siting efforts, including: (1) hearing to determine need, (2) EQC order for local government to site, and (3) a time period for siting. The siting process would be shortened approximately 11 months from the scenario envisioned in the language of the statute.

In the opinion of the Department, any other shortening of the projected time-frame would require legislative changes removing some or all of the land use review process and other normal opportunities for appeal to the courts. Limitation or elimination of "due process" granted to the citizens of the state would be an extraordinary act and involves significant political implications. We are preparing to outline these alternatives to the Joint Interim Committee on Land Use in response to their request. However, the Department is not proposing to suggest any specific legislative changes to the Committee or to the Legislature.

Director's Recommendation

No action by the EQC is necessary.

Fred Hansen

Attachments
Robert L. Brown:b
229-5157
May 31, 1984
SB3476

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

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After review of the legal opinions and testimony by Metro and DEQ, committee members asked that both Metro and DEQ return to a summer, 1984 hearing with suggestions on how to "speed up" the process. Staff has analyzed the present legislation and determined that the only place the process can be shortened without a change in the law is during the initial stages. The work group on landfill siting and supersiting at the fall, 1983 Significant Issues Workshop recommended that the series of events leading to the EQC order for DEQ to site the landfill could be "routinely" initiated when the regional landfill filed for a closure permit (5 years prior to closure) required by ORS 459.205(2). This would involve integrating the early EQC findings and directives actions with the local siting efforts, including: (1) hearing to determine need, (2) EQC order for local government to site, and (3) a time period for siting. The siting process would be shortened approximately 11 months from the scenario envisioned in the language of the statute.

In the opinion of the Department, any other shortening of the projected time-frame would require legislative changes removing some or all of the land use review process and other normal opportunities for appeal to the courts. Limitation or elimination of "due process" granted to the citizens of the state would be an extraordinary act and involves significant political implications. We are preparing to outline these alternatives to the Joint Interim Committee on Land Use in response to their request. However, the Department is not proposing to suggest any specific legislative changes to the Committee or to the Legislature.

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Fred Hansen

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Attachments
Robert L. Brown:b
229-5157
May 31, 1984
SB3476

DEPARTMENT OF ENVIRONMENTAL QUALITY

Statement on Chapter 773 Oregon Laws 1979 (SB 925)
Before Interim Land Use Committee
January 30, 1984

Background

During the 1979 Legislative session it became apparent to many legislators that there was a need for intervention by state government in the landfill siting process. County commissioners attempting to site landfills were subject to political "heat" with widespread threats. In Marion County commissioners were actually threatened with recall over a site selection process. In addition most areas suitable for landfills and available at a reasonable price were located in Exclusive Farm Use zones (EFU). Landfilling was not a permitted use in the EFU.

A bill was passed (SB 925) which raised landfill siting to a statewide concern and provides for two special siting processes to back up local government. Section 3 (459.047) allows local governments statewide to request the Department of Environmental Quality (DEQ) to assist them in siting a landfill. It also provides a request procedure for DEQ to actually take over the siting process. Section 4 (459.049) allows the Environmental Quality Commission (EQC) to order a landfill sited in Marion, Polk, Clackamas, Washington or Multnomah County. If the affected local government does not comply, the EQC may request DEQ to do the siting (so-called "supersiting").

Conditions placed on the siting authority consisted of requiring the affected local governments to prepare a waste reduction program (recycling) if the landfill was sited under either Section 3 or Section 4, or if it was sited as a conditional use in an EFU zone. Waste reduction programs were also required in those cases where local governments requested assistance from the Department including aid from the Pollution Control Bond Fund. Another condition requires, under most circumstances, that waste be received through a transfer station if the landfill is established under Sections 3 or 4 or as a conditional use in an EFU zone in Marion, Polk, Clackamas, Washington or Multnomah County. This was included to cover concerns regarding heavy traffic and littering loads.

The Department's impression is it was the original intent that the perceived threat of state "supersiting" would reduce the political repercussions to local governments and thereby make it easier for local government to go ahead and site a landfill.

Present Status

To date, no requests have been received by the Department for Section 3 (459.047) siting, and the EQC has taken no action to require siting under Section 4 (459.049). Three waste reduction programs have been accepted by the Department, and four others are in various stages of preparation,

adoption or review, all as a result of requests to use the Pollution Control Bond Fund. There has been no siting in an EFU zone.

Two areas could eventually require action related to supersiting. Marion County needs a replacement site for the Browns Island Landfill (Salem) by mid-1986. A site has been identified but is presently tied up in land use litigation. The Metropolitan Service District (Metro) has been seeking a new landfill since 1980 to replace the only disposal site serving the Metro area. An apparently suitable site has been located (Wildwood-Multnomah County), but it is in extended land use litigation.

Process

Department staff has analyzed the procedures needed for landfill siting both under ORS 459.047 (Section 3) and ORS 459.049 (Section 4). Under Section 3, a city or county responsible for plan implementation must request Department assistance in siting or that the Department actually site.

Metro is not included in this section, however, Metro is the agency designated for plan implementation in the tri-county area. Even if Metro were able to request, under the law the Department could not site Wildwood as it is not within the Metro boundary as required by Section 3. It is believed that Metro could file a joint request with a county or have the local government site on Metro's behalf by written agreement.

For other areas of the state, it appears that the present Section 3 process is workable and can be implemented within a reasonable time-frame.

Under Section 4, the EQC orders establishment of a landfill by the responsible local government after making findings of need. If the local government fails to site, then DEQ is directed to establish the landfill. Under .049, the EQC, before ordering DEQ to site, must make findings under 459.049(3)(a) that, " The action is consistent with the statewide planning goals relating to solid waste management adopted under ORS 197.005 to 197.430 and any applicable provisions of a comprehensive plan or plans."

The Department believes that this statement subjects the EQC to the same land use challenges as the local government which was unable to site because of these land use challenges.

ORS 459.049 (Section 4) siting assumes that local government is not attempting to site a landfill. It is more likely that the local government is trying to site but is substantially slowed because of land use appeals and other resistance. The Department is in the process of preparing a staff report to the EQC regarding this point, with discussion centered on shortening the projected time-frame for siting under .049. Time could be saved by integrating the early EQC findings and directives actions with the local siting activity.

The Department has outlined siting actions under three options: local government siting, siting under Section 3, and siting under Section 4. It is estimated that local government may spend from 15 to 64 months in siting. Should they request siting under Section 3, the time could range

from 6 to 30 months. Under Section 4, times vary from 19 to 58 months. The estimated longer time periods all presume extensive court challenges either to local government or the Department.

Respectfully submitted,

Michael J. Downs, Acting Director

Ernest A. Schmidt, Administrator,
Solid Waste Division

Robert L. Brown, Supervisor,
Solid Waste Management Operations

Tel. 229-5913

RLB:b
SB2927
Attachments:
1. SB 925 Siting Summary
2. Local Government or Private Siting
3. .047 Siting
4. .049 Siting

ATTACHMENT 1

SB 925 SITING SUMMARY

SECTION 3 (549.Ø47)

- REQUEST BY CITY OR COUNTY RESPONSIBLE FOR IMPLEMENTING. METROPOLITAN SERVICE DISTRICT IS EXCLUDED.

- DEQ SITE & ISSUE PERMIT FOR LAND DISPOSAL SITE WITHIN BOUNDARIES OF LOCAL GOVERNMENT - PERMIT AUTHORIZED BY EQC BINDS ALL OTHER STATE & LOCAL PERMITS TO ONLY CONDITIONS IN DEQ PERMIT. SITING IN EXCLUSIVE FARM USE (EFU) ZONES IS SUBJECT TO LOCAL GOVERNMENT APPROVAL.

SECTION 4 (549.Ø49)

EQC DETERMINES SITE MUST BE ESTABLISHED IN MARION, POLK, CLACKAMAS, WASHINGTON OR MULTNOMAH COUNTY.

1. LOCAL SW PLAN IDENTIFIES NEED

2. EQC DETERMINES NEED (REQUIRES PUBLIC HEARING)
   - A. POLICY OF COOPERATION WITH LOCAL GOVT.
   - B. PROVISIONS OF SOLID WASTE PLAN
   - C. LOCAL GOVT. ORDINANCES, RULES, REGULATIONS & PLANS
   - D. STATEWIDE PLANNING GOALS
   - E. NEED FOR SITE
   - F. ALTERNATIVE SYSTEMS AVAILABLE
   - G. TIME TO ESTABLISH SITE
   - H. INFORMATION FROM PUBLIC COMMENT & HEARINGS
   - I. ANY OTHER RELEVANT FACTORS.

3. IF NEED DETERMINED BY EQC - ORDER ADOPTED DIRECTING LOCAL GOVERNMENT TO SITE WITHIN SPECIFIED TIMEFRAME. MAY SPECIFY A TIME SCHEDULE FOR MAJOR ELEMENTS.

4. LOCAL GOVERNMENT MAY REQUEST ASSISTANCE FROM DEQ IN SITING UNDER SECTION 3.

5. IF EQC DETERMINES SITE IS NOT BEING ESTABLISHED ON SCHEDULE - EQC MAY DIRECT DEQ TO ESTABLISH MUST FIND:

   A. ACTION CONSISTENT WITH STATEWIDE PLANNING GOALS RELATING TO SW MGT. AND ANY APPLICABLE PROVISIONS OF A COMPREHENSIVE PLAN.

   B. LOCAL GOVERNMENT UNIT WAS UNABLE TO ESTABLISH.

6. IF EQC DIRECTS DEQ TO ESTABLISH THEN DEQ MAY ESTABLISH SUBJECT ONLY TO EQC APPROVAL AND PROVISIONS OF LOCAL SW PLAN AND CONSULTATION WITH ALL AFFECTED LOCAL GOVTS.

   DEQ MAY ESTABLISH SITE WITHOUT OBTAINING ANY OTHER PERMITS ETC. FROM LOCAL GOVTS.

SECTION 6 (459.Ø53)

ALLOWS DEQ TO OBTAIN LAND INCLUDING CONDEMNATION & ESTABLISH SITE - MAY USE MONEY FROM BOND FUND.

SECTION 8 (459.Ø55)

EFU ZONE

1. DEQ DETERMINES SITE RETURNABLE TO USES IN EFU.

2. ASSURE REHABILITATION TO CONDITION COMPARABLE TO ORIGINAL USE AT TERMINATION OF LANDFILLING.

3. LOCAL GOVT. MUST PREPARE A WASTE REDUCTION PROGRAM.

4. WASTE TO BE TRANSPORTED FROM TRANSFER STATION OR RESOURCE RECOVERY FACILITY.

SECTION 10 (215.213)

EFU PERMITTED USES

1. LANDFILL SITED UNDER SECTION 4.

2. LANDFILL SITED UNDER SECTION 3 WITH LOCAL GOVT. APPROVAL.

RLB:L
SL3033
1/19/84

ATTACHMENT 2

LOCAL GOVERNMENT OR PRIVATE SITING

PROCESS	MONTHS BEST CASE	MONTHS WORST CASE
SITE SELECTION	6	18
FEASIBILITY STUDY	2	4
DEQ PRELIMINARY APPROVAL	1	2
LOCAL LAND USE	2	4
LUBA APPEAL	-	4
COURT APPEAL	-	9
FINAL PLAN PREPARATION	1	2
DEQ PLAN REVIEW & PERMIT DRAFT	1	2
ISSUE DRAFT PERMIT	Ø.5	1
ISSUE PERMIT	-	-
COURT APPEAL	-	6-12
CONSTRUCTION	2	6
TOTAL:	15.5	58-64

SL3Ø34 (1/26/84)

ATTACHMENT 3

459.Ø47 SITING

Process	Months	
	Best Case	Worst Case
Receive & Review Local Govt. Request	1	1
Locate Site	-	6
Draft Permit (Assuming site has been identified)	1	1
Staff Report & EQC Hearing on Permit	1.5	1.5
Draft Permit Review Period	Ø.5	Ø.5
Issue Permit	-	-
Permit Appeal to Circuit Court	-	6-12
Construction	2	6
Total:	6	22-3Ø

SL3Ø34 (1/26/84)

ATTACHMENT 4

459.Ø49 SITING

PROCESS	MONTHS BEST CASE	MONTHS WORST CASE
INFORMATIONAL STAFF REPORT TO EQC	1	1
REQUEST HEARING TO DETERMINE NEED	2	2
PUBLIC HEARING - STAFF REPORT TO EQC ON ORDER TO LOCAL GOVERNMENT. EQC MAKES FINDING AND ORDERS SITING	2	2
TIME FOR LOCAL GOVERNMENT TO SITE	6	12
EQC ACTION ORDERING DEPT. TO SITE	2	2
SITE SELECTION (BEST CASE IS THAT LOCAL GOVERNMENT HAS IDENTIFIED A SITE).	-	6
PROPERTY CONDEMNATION	-	6
FEASIBILITY STUDY	-	2
FINAL PLANS	2	4
DRAFT & FINAL PERMIT	2	2
LUBA APPEAL	-	4
COURT APPEAL	-	9
CONSTRUCTION	2	6
TOTAL:	19	58

SB2927.1 (1/84)

Attachment 2
Agenda Item No. L
June 29, 1984, EQC Meeting

Statement on Chapter 773 Oregon Laws 1979 (SB 925)
Before Interim Land Use Committee
March 6, 1984

Background

The Department of Environmental Quality (DEQ) presented testimony to the Interim Land Use Committee on January 30, 1984, regarding siting of landfills under SB 925 (Chapter 773 O.L. 1979). The following estimated time schedules were presented:

a. Cities or counties request DEQ siting (ORS 459.047), 6 to 30 months.

b. Environmental Quality Commission (EQC) initiate needed siting or "Supersiting" (ORS 459.047), 19 to 58 months.

c. Local government or private siting without special EQC or DEQ assistance, 15 to 64 months.

As a result of DEQ and Metro testimony, several legal questions regarding the Act were developed regarding 459.047 in particular, and presented to legislative counsel. In addition, DEQ developed questions on 459.049 siting which were presented to DEQ's legal counsel (questions and answers are attached). DEQ received responses March 2 from both counsel offices.

Analysis of Answers to Legal Questions

An initial "reading" of the legal responses tends to confirm the potentially lengthy time periods estimated for landfill siting, if all available appeals are pursued. An additional opportunity for delay is suggested in legislative counsel's answer 5. If a land use appeal can be made to siting under 459.047, then nine months are potentially added to the process. Furthermore, counsel's answer to question 7 means that the DEQ cannot offer any special remedy to a local government which has lost a land use decision because DEQ is subject to the same criteria as local government.

What Should Be Possible

Based on environmental quality concerns and the need for replacement landfills, it is the opinion of the Department that landfill siting should be accomplished in from two to three years from recognition of need. It is apparent that the present time frame to site exceeds the three-year limit.

At present the only plan where the time schedule can be shortened by EQC/DEQ is in 459.049 siting in the order of the EQC giving time for local government to site. According to the legal opinion (question 1, DEQ memo), some form of order must be made but it may not require the six months projected in the original staff time estimate. A "friendly" order process could save up to four months.

Ernest A. Schmidt, Administrator, Solid Waste Division, 229-5356
Robert L. Brown, Supervisor, Solid Waste Operations, 229-5157

SB3091
Attachments

THOMAS G. CLIFFORD
LEGISLATIVE COUNSEL

S101 STATE CAPITOL
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STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

February 28, 1984

Honorable Glenn Otto
23680 NE Shannon Ct.
Troutdale, OR 97060

Dear Mr. Otto:

At its last meeting, the Joint Legislative Committee on Land Use asked this office to answer several questions concerning the establishment of landfill disposal sites under ORS 459.047 and 459.049. The following discussion responds to each of those questions.

1. Which local government in the Portland metropolitan region may request DEQ siting of a landfill under ORS 459.047?

ORS 459.047 states:

> 459.047. Upon request by a city or county responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site, and subject to policy direction by the commission, the Department of Environmental Quality shall:
>
> (1) Assist the local government unit in the establishment of the landfill including assisting in planning, location, acquisition, development and operation of the site.
>
> (2) Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.245, 459.255 and 459.265 for a landfill disposal site within the boundaries of the requesting local government unit....

The question arises because Metro is not a city or county, but Metro, rather than any cities or counties, is the local government unit with the responsibility for implementing the solid waste management plan for the Portland metropolitan region. As a result, a literal interpretation of the statute would mean no local government in the metropolitan region could make a request under ORS 459.047.

A fundamental principle of statutory construction states that "...it is the duty of the court in construing a statute to ascertain the intention of the Legislature and to refuse to give literal application to language when to do so would produce 'an absurd or unreasonable result,' but rather, 'to construe the act, if possible, so that it is a reasonable and workable law and not

inconsistent with the general policy of the Legislature...'" Pacific P. & L. v. Tax Comm., 249 Or 103, 110, 437 P2d 473 (1968).

It would be an absurd result to construe the statute to not allow any government unit in the Portland metropolitan region to make a request for DEQ assistance or siting. The legislative history of the statute indicates problems in establishing a new landfill site for that region were a significant motivation for passage of the bill which included ORS 459.047 and 459.049. Therefore, it is necessary to review the legislative intent behind the language of the bill.

The record of amendments to the bill indicates the legislature intended to allow only a city or county to make the request and to specifically exclude special districts such as Metro from being able to do so. The origional version of Senate Bill 925 introduced in the 1979 Regular Session by the Committee on Environment and Energy authorized any local government unit to make a request to DEQ:

> Section 3. Upon request by a local government unit that has adopted a solid waste management plan identifying a need for a landfill disposal site....

For the purposes of that section, local government unit is defined to include 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." ORS 459.005 (11).

The Senate amended the bill, deleting reference to a local government unit and inserting the language that became part of ORS 459.047. "A city or county responsible for implementing a department approved solid waste management plan...." See Senate Amendments to Senate Bill 925, May 28, 1979, and A-Engrossed Senate Bill 925.

In testimony before the Senate Environment and Energy Committee on May 24, 1979, Gordon Fultz of the Association of Oregon Counties explained that the change in language was intended to authorize only cities and counties to make a request to DEQ. Clearly the change indicates an intent to exclude special districts such as Metro.

The amendment also changed the modifying language. Instead of a local government unit "that has adopted a solid waste management plan identifying a need for a landfill disposal site...," the A-engrossed version of SB 925 authorized a request by a city or county "responsible for implementing a department approved solid waste management plan which identifies a need for a landfill disposal site...." Although the substituted language has created some ambiquity, it was apparently assumed local government units such as Metro "adopt" a plan and cities and counties "implement"

the plan. In light of the intentional change in language from "local government unit" to only "cities and counties" that is the only interpretation that makes sense. In conclusion, the apparent intent of the legislature was to allow only cities and counties to make the request under ORS 459.047, thus specifically excluding Metro.

You also ask whether a joint request by Metro and Multnomah County would be a valid request. Adding Metro to the request would be superfluous, but I see no reason why it would invalidate the request.

2. Where within the Portland metropolitan region may DEQ site a landfill under ORS 459.047?

A. If Metro alone makes the request?

If a request by Metro were deemed to be a valid request DEQ could site anywhere within the Metro boundary. The statute says in subsection (2): "Site and issue a solid waste disposal permit pursuant to ORS 459.205 to 459.265 for a landfill disposal site within the boundaries of the requesting local government unit." There are no limitations on where within those boundaries the landfill may be sited.

B. If Multnomah County and Metro submit a joint request?

The statute states that the site must be within the boundaries of the "requesting local government unit." Only a city or county can be a requesting local government unit. Subsection (2) has to be read with the beginning phrase of the statute so it is a single sentence; with "the requesting local government unit" in subsection (2) referring back to the requesters authorized in the first sentence. The first sentence allows only a city or county to make a request; they are the only local government units authorized to initiate the process. Thus, even if Metro is on the application, it is not a "requesting local government unit" and DEQ would not be restricted to siting in an area over which Metro also has jurisdiction. Multnomah County would be the "requesting local government unit" so DEQ could establish a site any where within the county.

3. Does DEQ have authority under ORS 459.047 to expand the St. Johns Landfill beyond the limits set out in ORS 541.622?

Subsection (2) of ORS 459.047 continues on beyond the sentence quoted under question 1 of this memo, and prohibits state agencies and political subdivisions from imposing any conditions on the landfill that are not in the DEQ permit.

> Subject to the conditions set forth therein, any permit for a landfill disposal site authorized by the Environmental Quality Commission under this subsection shall bind the state and all counties and cities and political subdivisions in this state as to the approval of the site and the construction and operation of the

> proposed facility. Affected state agencies, counties, cities and political subdivisions shall issue the appropriate permits, licenses and certificates necessary to construction and operation of the landfill disposal site, subject only to condition of the site certificate. Each state or local government agency that issues a permit, license or certificate shall continue to exercise enforcement authority over such permit, license or certificate.

ORS 541.622 prohibits the Director of the Division of State Lands from issuing a permit to fill Smith and Bybee Lakes below a certain level.

> Notwithstanding any provision of ORS 541.605 to 541.665 to the contrary, after October 4, 1977, the Director of the Division of State Lands shall not issue any permit to fill Smith Lake or Bybee Lake, located in Multnomah County, below the contour line which lies 11 feet above mean sea level as determined by the 1947 adjusted United States Coastal Geodetic Survey Datum.

Evidently to expand the St. Johns Landfill would require additional filling of Smith and ByBee Lakes. The question is whether the Director of the Division of State Lands would be forced to issue a permit without the condition in ORS 541.622, if DEQ issued a permit without the limitation.

ORS 174.020 states:

> In the construction of a statute the intention of the legislature is to be pursued if possible; and when a general and particular provision are inconsistent, the latter is paramount to the former. So a particular intent shall control a general one that is inconsistent with it.

This is a general rule of statutory construction originally created by the courts. It applies even if the general act was enacted later. Thompson v. IDS Life Ins. Co., 274 Or 649, 549 P2d 510 (1976). In that case, at page 656, the court said:

> Absent a plain indication of intent to repeal the special act, the special act will continue to have effect and the general act will be modified by construction so the two can stand together; one as the general law of the state and the other as the law of the particular case or as an exception to the general rule.

In this case, ORS 541.622 is the specific statute. It imposes a condition on a particular landfill, while ORS 459.047 establishes a general procedure for developing new landfill sites. There is no indication in the language of ORS 459.047 that the legislature intended to override that statute when it gave DEQ the final authority over the conditions imposed on a landfill sited under ORS 459.047. Without some indication of an intent to override ORS 541.622, the courts would most likely read ORS 541.622 as an

exception to the general procedure in ORS 459.047. As a result, ORS 541.622 would prohibit DEQ from expanding the St. John's Landfill beyond the limitations set out in that statute.

4. What hearings are required by the procedure for issuing a permit by the EQC and DEQ under ORS 459.047?

ORS 459.047 does not require any hearings. Nor do the administrative rules promulgated by the department require any hearings. OAR 340-61-021(3) does require the department to give reasonable public notice of each request for assistance or siting. The notice must be published in the Secretary of State's Bulletin. However, publication of notice does not mean there must be a hearing.

5. What rights of appeal exist under ORS 459.047?

There would be no right of appeal under ORS 459.047 (1) where the department only assists the local government unit in siting the landfill. However, under ORS 459.047 (2) the issuance of the permit by DEQ would be appealable. Issuance of a permit by DEQ is usually not considered a contested case proceeding, so appeal would be to the circuit court under ORS 183.484. However, if the decision to issue the permit could be characterized as a "land use decision" as defined in ORS 197.015 (10), the appeal would be to the Land Use Board of Appeals. Whether the initial appeal is to the Circuit Court or LUBA, those decisions could then be appealed to the Court of Appeals. ORS 2.516 and 197.850. A party could then petition the Supreme Court for review of the decision of the Court of Appeals. However, it is within the discretion of the Court to accept or deny the petition. ORS 2.520.

6. What standards must EQC and DEQ follow in issuing a permit under ORS 459.047?

The statute itself does not set out any standards that must be followed in issuing a permit. The rule adopted by DEQ that specifically deals with ORS 459.047 also does not provide standards for making the decision. It does require certain exhibits and information be submitted with the request for siting of the landfill. See OAR 340-61-021, attached.

DEQ has promulgated rules setting out standards that must be met by an applicant for a permit from DEQ. See OAR 340-61-040, attached. Although there is no specific requirement that DEQ follow these standards when siting a landfill itself, it seems logical the department would do so.

7. Do DEQ and EQC have to comply with local comprehensive plans and land use regulations in establishing a landfill site under ORS 459.047?

Nothing in ORS 459.047 requires the commission and department to comply with local land use plans and ordinances or with the statewide planning goals. However, ORS 197.180 (1) requires state agencies to comply with the statewide planning goals and local

comprehensive plans and land use regulations when taking actions affecting land use.

> (1) Except as provided in ORS 527.722, state agencies shall carry out their planning duties, powers and responsibilities and take actions that are authorized by law with respect to programs affecting land use:
>
> (a) In compliance with goals adopted or amended pursuant to ORS 197.005 to 197.430 and 197.610 to 197.850; and
>
> (b) Except when a finding is made under ORS 197.640 (3)(c), in a manner compatible with:
>
> (A) Comprehensive plans and land use regulations initially acknowledged under ORS 197.251; and
>
> (B) Amendments to acknowledged comprehensive plans or land use regulations or new land use regulations acknowledged under ORS 197.625....

Under that statute, if the LCDC has certified the agency's rules and programs as being in compliance with the goals and compatible with the comprehensive plans and land use regulations the agency will not have to make findings of compliances with the goals, plans and regulations, but the action of the agency will have to be in compliance with those certified plans and programs. ORS 197.180 (6):

> (6) Until state agency rules and programs are certified as being in compliance with the goals and compatible with applicable city and county comprehensive plans and land use regulations, the agency shall make findings when adopting or amending its rules and programs as to the applicability and application of the goals or acknowledged comprehensive plans, as appropriate.

Since the establishment of a landfill disposal site would very likely be an action "affecting land use," the commission and department would have to comply with their certified plans and programs or directly with the goals and local comprehensive plan and land use regulations.

8. What hearings are required in the procedure for establishing a landfill site under ORS 459.049?

ORS 459.049 allows EQC and DEQ to establish a landfill site on motion by the commission or upon recommendation of the department, without a request by a local government unit. ORS 459.051 requires the commission:

> (2) To establish a procedure for obtaining public comment on determinations of need for landfill sites made by the commission under ORS 459.049.

(3) To provide for public hearings in the area affected by a proposed landfill disposal site to be established by the department under ORS 459.049.

Administrative rules require EQC to give notice and hold a public information hearing before making the determination of need and before establishing a site. OAR 340-61-022 and 340-61-023.

A public informational hearing is not a contested case hearing or a rulemaking hearing as those terms are defined by the APA. A public information hearing consists of a presentation of the issues and the relevant facts in possession of the Presiding Officer. Followed by testimony by members of the general public. Within a reasonable time after the hearing the director or commission must take action upon the subject matter of the hearing. In taking such action the commission or director must address separately each substantial distinct issue raised in the hearings record. See OAR 340-11-007.

9. What opportunities for appeal exist under ORS 459.049?

Under ORS 468.110 and 183.550, any person adversely affected or aggrieved by a final order of the DEQ or the EQC may appeal the order in accordance with the provisions of the Administrative Procedures Act.

A final order is defined as: "Final agency action expressed in writing." ORS 183.310 (5)(b). That statute goes on to say that final order does not include:

...any tentative or preliminary agency declaration or statement that:

(A) Precedes final agency action; or

(B) Does not preclude further agency consideration of the subject matter of the statement or declaration.

Under this definition of "final order," the final action taken by DEQ or EQC under ORS 459.049 would be appealable. Because the process has not been used yet, it is not clear what the final action would be. The determination of need made after a public information hearing according to ORS 459.049 (1) would probably not constitute final action. It would be only a preliminary agency statement with no legal effect in itself. According to case law which preceded and precipitated the creation of the statutory definition of "final order," such action would not constitute a final order. City of Hermiston v. ERB, 280 Or 291, 570 P2d 663 (1977) and Lane Council Gov'ts. v. Emp. Assn., 277 Or 631, 561 P2d 1012 (1977).

The same could be said of the determination establishing the site which must be made after a public information hearing if there will be further action by DEQ or EQC. However, if that decision is the end result of the whole process, and neither DEQ or EQC have anything more to do, that order would be the final action.

Since the proceedings under ORS 459.049 are not contested case proceedings, appeal of the final order would follow the same route explained in the discussion on ORS 459.047. ORS 459.049 specifically requires the commission, in more than one instance, to apply the statewide land use goals. Consequently, it is very likely the final order would be appealed to LUBA first.

In accordance with the functions of the Legislative Counsel office, the opinions written by this office are intended only for the information and guidance of members of the Legislative Assembly and are not intended as guides for public officials in their administration of the law. For this reason, whenever an opinion written by the Attorney General, a district attorney, a county counsel or a city attorney is within the scope of that attorney's specific authority to provide opinions for the guidance of public officials, that opinion, insofar as it conflicts with an opinion rendered by this office, will control.

Very truly yours,

THOMAS G. CLIFFORD
Legislative Counsel

By Elizabeth A. Normand
Elizabeth A. Normand
Deputy

TGC:EAN:ct

DAVE FROHNMAYER
ATTORNEY GENERAL

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DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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March 1, 1984

Mr. Robert Brown
Solid Waste Division
Department of Environmental Quality
522 S. W. Fifth Avenue
Portland, OR 97207

HAND DELIVERED

Re: Super-siting - ORS 459.049

Dear Bob:

You asked that I research four questions concerning the siting of solid waste disposal sites under the "super-siting" law, ORS 459.049. Specifically, you asked: (1) whether EQC may bypass the ORS 459.049(2) procedures based on local government concurrence; (2) whether ORS 459.049(3)(a) subjects the EQC land use decision to an appeal to LUBA or an appellate court, or both; (3) whether DEQ's estimates of probable best case and worst case time frames are realistic; and (4) whether the ORS 459.049 process is of any real value.

As I understand your first question, you want to know whether EQC could totally omit the procedures set forth in ORS 459.049(2) and directly move on to issuing an order, under ORS 459.049(3), requiring DEQ to establish a landfill if local government agreed? The ORS 459.049(2) procedures allow EQC to issue an order requiring local government to establish a land disposal site on a certain schedule. EQC cannot issue an order requiring DEQ action under ORS 459.049(3) unless, and until, it has first issued an order under ORS 459.049(2) requiring local government action and the order is not timely accomplished. ORS 459.049(3). In other words, the following of the ORS 459.049(2) procedures is a condition precedent to issuing an ORS 459.049(3) order. That is the result, regardless whether the local government unit agrees or disagress. Of course, the proceedings would tend to move quicker if they were based upon agreed facts and stipulations rather than contested facts.

2

The legislature, in passing ORS 459.049, sought to ensure that local governments would exhaust all remedies before DEQ stepped in. See, e.g., testimony of Senator Powell, Senate Committee on Environment and Energy, May 15, 1979, tape 27, side 2, p. 4. See also, testimony of Senator Hanlon, Id., p. 5. Therefore, before EQC can issue an order under ORS 459.049(3) requiring DEQ to establish a site, the act requires the local government to be given a chance to fail, ORS 459.049(2), and further requires EQC to make a finding that the "local government unit is unable to establish" the ordered site. ORS 459.049(3)(b) (Emphasis added).

Turning to your second question, ORS 459.049(3)(a) clearly subjects EQC to LUBA appeal on its land use decision. ORS 197.825(1) provides that LUBA has exclusive jurisdiction to review state agency land use decisions. ORS 197.015(10) defines "land use decision" to include "[a] final decision or determination of a state agency * * * with respect to which the agency is required to apply [the statewide planning] goals." Under ORS 459.049(3)(a), EQC must determine that the establishment of the landfill site "is consistent with the statewide planning goals relating to solid waste management * * * ." Accordingly, this determination is a land use decision and is appealable only to LUBA. Further, under ORS 197.850, LUBA decisions are subject to review by the Court of Appeals. Non-land use aspects of EQC's final order would be appealable to a court separately and concurrently under the Administrative Procedures Act. ORS 183.480. Kalmiopsis Audubon Society v. Div. of State Lands, ___ Or App ___, ___ P2d ___ (February 8, 1984).

As to DEQ's estimate of probable best case and worst case time frames, I can be helpful only with respect to the LUBA and appellate court appeals. ORS 197.830(7) provides that a notice of intent to appeal a land use decision must be filed with LUBA within 21 days of the date the decision sought to be reviewed becomes final. Under subsection (9), within 21 more days the EQC must transmit the record of the proceeding to be reviewed. Finally, subsection (12) requires LUBA to issue a final order within 77 days of transmittal of the record. Thus, assuming no extensions, a worst case time frame for LUBA appeal would total 119 days, which is very close to DEQ's estimate of four months. However, extensions are available in appropriate circumstances, which could extend the schedule. ORS 197.840.

DEQ's worst case estimate relating to subsequent court appeal of a LUBA decision was nine months. However, ORS 197.850(3) provides that notice of intent to appeal must be filed with the Court of Appeals within 21 days of LUBA's final order. Under subsection (5), the record of the LUBA proceeding must be submitted to the court within 7 days, after service of the notice. Subsection (7) provides that the court must hear oral argument within 42 days of the date of transmittal of the record. Finally, the recently enacted section 35a, chapter 827, Oregon Laws 1983, which expires July 1, 1985, provides that the Court of Appeals generally shall issue a final order within 91 days after oral argument on the petition. Thus, assuming no extensions, the entire appellate process generally must be completed within 161 days, or just over 5 months. However, extensions are available in appropriate circumstances, which could extend the schedule. Oregon Laws 1983, ch 827, § 35a(2).

Appeals to the courts of non-land use issues are not subject to any similar time limits and therefore could extend the schedules. Non-land use decisions, in other than contested cases, are first judicially reviewable in circuit courts, the decisions of which are then reviewable in the Court of Appeals. ORS 183.480, .482, .484. All Court of Appeals' final decisions would be subject to discretionary review in the Oregon Supreme Court.

Regarding your fourth question relating to the value of ORS 459.049, I see that it provides a means of siting a necessary land disposal site when local government is unable, therefore it is a potentially valuable tool.

I hope that my research has been helpful to you. If you have any questions, please feel free to call me.

Sincerely,

Robert L. Haskins
Assistant Attorney General

aa

VICTOR ATIYEH
GOVERNOR

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 Borden, Manager
Willamette Valley Region

Subject: Agenda Item No. M, June 29, 1984, EQC Meeting

SIGNIFICANT WILLAMETTE VALLEY REGION ACTIVITIES IN LINCOLN COUNTY

Attached is a summary of significant environmental activities in Lincoln County in the Willamette Valley Region. I would be glad to discuss these or other items of interest to you.

Municipal Solid Waste

Lincoln County was transferred into the Willamette Valley Region in July, 1983. Along with that transfer, the region was charged to place a high priority on phasing out all "open dumps," and to stimulate countywide involvement in addressing solid waste needs and issues.

This has been a busy year. However, thanks to the cooperative efforts of Lincoln County, the County Solid Waste Committee, the Lincoln County solid waste collection industry, and the incorporated cities (especially Newport), the phase-out of "open dumps" in Lincoln County appears near.

After numerous meetings, work sessions and public hearings, Lincoln County elected to implement a proposal submitted by Disposal Industries, Inc. (one of five proposals submitted) to upgrade their county program to meet both state and federal standards.

This proposal calls for the closure of the existing Agate Beach Open Dump (Newport) and the renovation of the site into a centralized regional bale-fill operation that will serve the majority of Lincoln County. The former North Lincoln Open Burning Dump/Demolition Site (Lincoln City) will be converted to a strictly non-burning demolition landfill. The Waldport Open Dump will be converted to a small sanitary landfill serving only the south county area (40 to 50 cubic yards per day).

In partial satisfaction of the new statewide recycling laws, public transfer/recycling stations are proposed for Lincoln City, Newport, Waldport and possibly Logsdon so disposal/recycling facilities will be conveniently available countywide.

In regard to phase out of the "open dumps," geotechnical feasibility studies have been submitted and approved, aerial surveys have been made, and final construction plans for all sites are currently being completed by Russ Fetrow Engineering of Salem. The technical and land use issues are for the most part resolved, and the only remaining item is completion of contract and franchise agreements.

The target date for implementation of this program is July 31, 1984. Lincoln County has tentatively indicated they will attend the Environmental Quality Commission meeting to give the Commission a more current update than was available at the time of drafting of this report.

Georgia Pacific, Toledo, Pulp and Paper Mill

Water Quality

The NPDES permit was signed by the Director after a public hearing was held. The hearing drew extremely little public response. The new permit reflects new EPA effluent guidelines, permitting approximately a 5% increase in BOD and TSS discharged to the ocean.

The permit does include a requirement for Georgia-Pacific to design a study of the impact of their discharge on the marine environment by June 1, 1985, and complete the study and final report by June 1, 1987. This was also supported by the Oregon Shores Coalition.

Air Quality

No significant changes have occurred with air discharges. Emission limits have been in compliance.

Hazardous and Solid Wastes

The mill has filed two registrations for Superfund sites. The preliminary assessment on the "old burning ground" site is complete and no further work is presently anticipated there. The other site, known as the Butler Bridge Road landfill, is currently used as the mill's industrial waste landfill. A Superfund preliminary assessment should be completed by mid-summer. The solid waste permit is up for renewal and a draft permit is now undergoing Department review.

Georgia Pacific, Toledo, Plywood Division

The Department has been working with Georgia Pacific to resolve problems with fugitive veneer dryer emissions. Georgia Pacific has taken several steps to resolve the fugitive problems and is in the process of evaluating the results of those steps. Region staff will inspect the mill and review the corrective actions to determine if more work is needed. Additional work will likely be of a long-term nature and will be addressed in the renewal Air Contaminant Discharge Permit being drafted.

Yaquina Bay Shellfish Contamination

A recent power outage at the City of Toledo sewage treatment plant has intensified concerns of shellfish contamination from discharge of raw or inadequately treated sewage to the estuary. Region staff have met with the City and State Health Division, Shellfish Section staff to work on ways to minimize such discharges and to implement proper notification procedures when discharges are unavoidable. This will allow the Health Division to monitor shellfish harvesting and take precautionary action, if necessary.

Additionally, the Department, in conjunction with the State Health Division and Federal Food and Drug Administration, recently conducted a two-week survey of the bay. The purpose of the survey was, among other things, to gain a better understanding of the effects of municipal and industrial discharges on the ecology of the bay. Results of the survey are not yet available.

Septage and Sludge Disposal

Lincoln County is unique in that septage pumping and disposal is franchised. Two septic tank pumping companies hold exclusive franchises in the county. The southern half of the county is franchised to Lincoln County Septic Service and the northern half to T & L Septic Tank Service.

The majority of the septage is land applied rather than disposed at municipal sewage treatment plants. The reason is that most of the local sewage treatment plants do not have the special facilities necessary to store and treat septage pumpings.

In December 1983, the Department approved a septage disposal site on timberland off Eckmann Creek Road near the City of Waldport for disposal of septage from southern Lincoln County. Because the site consists of well drained soils, is isolated from the public, and is void of surface waters, the Department considers this to be an excellent location and expects that it will be used for several years.

T & L Septic Service in northern Lincoln County has not been successful in locating and/or obtaining approval for an environmentally sound septage disposal site. The existing site consists of an earthen storage lagoon and disposal is by land irrigation. Because of the proximity to residences and problems with septage discharges to surface waters, the Department has ordered the site to be closed this summer. Department staff are currently working with T & L to find an environmentally sound disposal site. If this is not successful, one option is to install appropriate facilities at the Lincoln City sewage treatment plant to accommodate the septage pumpings.

Willamette Valley Region has had limited dealings with municipal sludge disposal in Lincoln County since the county became a portion of the region on July 1, 1983. We expect this to change if the EQC adopts the proposed statewide municipal sludge and septage rules. As proposed, the rules require submission and approval of sludge management plans 120 days after adoption.

John Borden:b
378-8240
June 7, 1984
GB3503

VICTOR ATIYEH
GOVERNOR

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: June 22, 1984

From: Fred Hansen, Director

Subject: Request for Commission to Institute Proceedings Pursuant to Oregon Revised Statutes (ORS) 459.276(2) and ORS 468.100 Against Hal C. Blanchard of Florence, Oregon to Enforce Compliance with or Restrain Violations of ORS Chapter 459, 468 and the Commission's Rules

Attached is a memorandum from Gary Messer, of the Department's Willamette Valley Region, summarizing his observations and findings during a June 6, 1984 inspection of an illegal solid waste disposal site. Other documents from Lane County staff are enclosed which summarize the history of this problem.

The property owner and operator of the site, Mr. Hal C. Blanchard, has refused to stop the disposal of additional solid waste at the site and to clean up the illegally deposited materials. The dumping site is in a ravine through which a creek flows to Woahink Lake, a source of domestic water supplies.

The Department is issuing a Notice of Violation and Intent to Assess Civil Penalty to encourage Mr. Blanchard's cooperation in ceasing any further dumping and by removing the solid waste from the ravine. That action alone may not be sufficient to encourage compliance. Therefore, the Department requests that the Commission institute proceedings to restrain Mr. Blanchard from dumping additional solid waste into the ravine and requiring him to remove the existing solid waste.

The Commission may wish to act on this request at its June 29, 1984 breakfast meeting. Thank you for your consideration.

Fred Hansen

Van A. Kollias:b
229-6232
June 21, 1984
GB3567

STATE OF OREGON

INTEROFFICE MEMO

TO: Van Kollias cc: Fred Bolton cc: Bruce Mower cc: Ben Masengil

DATE: June 11, 1984

FROM: Gary Messer

SUBJECT: SW-WQ-Enforcement Referral Memo
Hal Blanchard Property
85059 Hwy. 101S; Florence

Background

On June 6, 1984, I met with Bruce Mower, (Lane County/Florence Sanitarian) and Ben Masengil (Lane County Solid Waste Manager) in response to a Lane County request for assistance submitted to Fred Hansen regarding an illegal dumping situation south of Florence.

Apparently, the problem has been ongoing for over two years whereby Lane County and DEQ requests for termination of illegal dumping activities have been ignored.

DEQ was originally involved back in January, 1982, when Mr. Mower and former DEQ employee, Daryl Johnson, responded to a complaint that a Mr. Hal Blanchard was illegally filling in a ravine on his property at 85059 Highway 101S, Florence, with garbage and trash. Mr. Johnson sent Mr. Blanchard a letter on January 26, 1982, informing him this activity was illegal and requesting him to immediately remove all accumulations of waste to the Florence Landfill. Mr. Mower stated he received no further complaints on this matter after Mr. Johnson's letter, and assumed the matter had been resolved until he received another complaint this past winter. He investigated the complaint and found Mr. Blanchard had filled in and across the ravine with garbage and trash. He became concerned in that the bottom of the ravine has flowing surface waters that drain through the filled refuse and ultimately flow into Woahink Lake, which is commonly used as a source of domestic water supplies.

Mr. Mower states that he has met with Mr. Blanchard on several occasions during the past few months and has made several requests for Mr. Blanchard to terminate his illegal dumping. Mr. Blanchard has ignored these requests; hence Lane County's request for DEQ assistance.

At 11:00 a.m. on June 6, 1984, I drove onto the property with Mr. Mower and Mr. Masengil. The property fronts (and is located on) the east side of Highway 101. Mr. Blanchard has a small commercial business building and mobile home on the property. Mr. Mower introduced Mr. Masengil and me to Mr. Blanchard. I informed Mr. Blanchard I was there to investigate a County referral to DEQ regarding alleged dumping violations. Mr. Blanchard's response was, "You people with college educations think you know everything---well, maybe someone here has some sense." I told

Mr. Blanchard I'd like to see what the problem was and asked if he would accompany me and show me what activities he was doing. He agreed.

Along the north side of Mr. Blanchard's commercial business building is a compacted gravel drive that terminates on the edge of a steep ravine approximately 25 feet behind an outbuilding behind the commercial business building. The outbuilding has a mail slot and sign that solicits monetary donations for the privilege of dumping. The end of the drive is being used as a dumping pad for unloading wastes into the ravine. Mr. Blanchard stated he owned the property across the ravine and is attempting to build an access road across to the other side. The ravine has currently been filled across to the other side with compacted refuse to an estimated height of approximately 35 feet. The refuse span across the ravine is in excess of 100 feet. The base of the refuse span has an estimated width of approximately 50 feet across the ravine bottom, and the top of the refuse span has an estimated width of approximately 25 feet.

Mr. Blanchard stated his intent was to continue filling until he had reached a level span across the ravine (approximately another 15 to 20 feet in elevation). I asked Mr. Blanchard if he had any methods to screen wastes so he knew what had been disposed at his site. He replied he didn't use garbage. This was contradicted by Mr. Mower. I asked Mr. Blanchard if we could walk down and more closely examine the fill. He agreed, and we all went down on the fill area. Garbage had been, and was currently being,disposed at the site. My estimate of the composition of the filled refuse is 45% landclearing debris, 35% appliances, white goods and other metal items, and 20% domestic refuse and garbage.

I asked Mr. Blanchard why he didn't limit his acceptance of wastes to inert materials such as dirt, rock, concrete, brick and similar items if his intent was to develop a road crossing. He stated he "could not afford" to fill in the ravine with only those items, and he could not understand anyone's concerns, since the creek waters were readily flowing through his fill and not damming off the flows.

I asked Mr. Mower to take pictures of the fill while I explained what DEQ's concerns and positions would be to Mr. Blanchard. I told Mr. Blanchard that our primary concern was that he had conducted an unregulated fill activity in a creek that drains into Woahink Lake. Since he had no method for screening loads, no one really knows what all has been disposed in his fill; however, it was evident that much of the material would degrade over time and the creek, and ultimately Woahink Lake, would be the recipient for any contaminants in the fill.

Mr. Blanchard then remarked that he didn't care much for our concerns or "you environmentalists". I then told Mr. Blanchard what actions I would be requesting. I verbally requested that he not accept any more materials. Mr. Blanchard stated he would continue to fill in his ravine and "you will have to have a sheriff here all the time if you want to stop me". I told Mr. Blanchard that I was not on his property to argue with him, but that if he would not voluntarily comply I would have to seek civil penalty assessments to obtain compliance.

Mr. Blanchard's response to this was quoting some figure regarding the assessed value of his property, the low equity he had in it, and he really didn't care if we placed any liens against him or his property, as he wouldn't pay. I again told Mr. Blanchard I wasn't there to threaten him or argue, and asked if he would stop receiving wastes. He indicated he would still accept wastes. I then told Mr. Blanchard I did not believe he was going to voluntarily cooperate, and rather than argue, it was time to leave. On walking past the mail slot and sign that seeks voluntary donations, Mr. Mower asked Mr. Blanchard if he made much money on the donations. Mr. Blanchard stated "things were slow", and the last time he collected, the amount "was around $40.00". He then indicated that when enough funds are collected, he calls in and pays for Cat work to spread and compact in the accumulated wastes. Upon arriving at my car, I told Mr. Blanchard I was sorry we could not reach any agreements and we would be sending him a formal notice of violation shortly.. He replied, "Don't go sending me any certified letters." Since I had not mentioned anything about "certified mailings", Mr. Blanchard apparently has prior experience with matters of this kind. Mr. Mower then went over and had some brief conversations with Mr. Blanchard and then returned to the car. We left the property at approximately 11:45 a.m.

We then stopped to discuss what options were available and how to proceed. Mr. Mower and Mr. Masengil believe we have no option but to order a physical removal of all materials. Their reasoning is that the materials disposed were unregulated and not screened. As such, no one really knows if any potentially hazardous or toxic materials may be contained in the fill. Since the creek drains to Woahink Lake, and the Lake is used for domestic water supplies, this appears to be the only responsible action. Of course, there are also concerns regarding environmental impacts to the aquatic life of the creek and Lake. I agree a physical removal is the most responsible course of action.

The obstacles are two-fold. First, we have an uncooperative land owner. I do not expect voluntary compliance based on my meeting with Mr. Blanchard. Second, the removal of the filled wastes will be very costly. The banks on both sides of the ravine are very steep (estimate 60% to 70% slopes) and covered with dense vegetation. In addition, an active creek is flowing through the bottom of the ravine. At first analysis, it seems a dragline/crane operation may be the only option. Besides being an uncooperative land owner, Mr. Blanchard does not give the impression he has large cash reserves available to abate the problem.

This memo and the cover Enforcement Referral are only partially complete. Mr. Mower agreed to prepare the following and submit it to you as soon as possible to complete the referral:

1. A chronology of his involvement that summarizes dates, discussions, and all correspondence he and/or Lane County has had with Mr. Blanchard on this matter.

2. Deed of record showing ownership and legal description of the property.

3. A parcel map of the property.

4. Pictures taken of the violations with dates, brief narrative, and locations correlated on the parcel map.

Normally, I'd have this for you in a referral, but I'm leaving on vacation next week and don't want to delay this until I return.

Recommendations

On receipt of the information from Mr. Mower, I recommend the following joint DEQ/Lane County actions:

1. An injunction should be filed against Mr. Blanchard as soon as possible that will prohibit any acceptance of additional refuse or additional filling activities on his property.

2. Lane County and the DEQ Enforcement Section should each place Mr. Blanchard under formal notice requiring him to physically remove all filled wastes and properly dispose the removed wastes at the Florence Sanitary Landfill by August 1, 1984.

3. In the event Mr. Blanchard does not comply, contingencies should be made for the Lane County Commissioners to order a physical abatement of the problem. This would include obtaining the necessary County legal authority to send in a County work crew and equipment to abate the problem, and billing Mr. Blanchard as appropriate.

I'm returning from vacation on July 2, 1984, and will be available for followup. In the interim, either Bruce Mower or Ben Masengil from Lane County can be contacted for additional information or questions. I'll also try to get something going with the County DA prior to leaving on vacation.

Cathy Mercer

wr

lane county

June 11, 1984

Fred Bolton, Administrator
Regional Operations, D.E.Q.
522 S. W. 5th Ave.
P. O. Box 1760
Portland, Oregon 97204

RE: Illegal Dumping
Hal Blanchard Property
85059 Hwy. 101 So.
Florence, Lane County

Pursuant to my June 6, 1984 conversation with Gary Messer I am forwarding chronology, deed of record, parcel map and photographs concerning the Blanchard property.

It is the opinion of the Lane County Health Division that total removal of all trash, garbage, and solid waste material should be accomplished as soon as possible.

If you have any questions please contact our offices at 687-4051 or 997-8217.

Sincerely,

Bruce Mower

Bruce K. Mower, R. S.
Sanitarian

BKM/pf
cc: Gary Messer
Encl.

lane county

Actions and Activities taken by the Lane County Health Division reguarding the Illegal Dumping at 85059 Highway 101 South, Florence, Oregon-prepared by: Bruce Mower, Sanitarian Lane County Health Division

11/17/81 Anonymous complaint received about dumping of boxes paper, etc. in gully at Blanchard residence.

On site inspection by Bruce Mower revealed that solid waste material was being deposited into ravine behind Mr. Blanchard's print shop. Mr. Blanchard was advised that such activities were illegal. Copy of complaint form dated 11/17/81. enclosed.
The matter was subsequently referred to the Eugene D.E.Q. office for resolution.

2/3/84 Lane County receives a copy of D.E.Q. letter dated 1/26/82 to Mr. Blanchard. NOTE: Health Division assumes that D.E.Q. will resolve matter and closed it's investigation.

Early April 1984 Florence Health Division office receives an anonymous telephone call reporting dumping of garbage at Blanchard property.

April 18, 1984 Letter is sent to Mr. Blanchard advising of complaint and setting time for inspection. Copy of letter enclosed.

April 25, 1984 Bruce Mower conducts an on-site inspection and discusses the matter with Mr. Blanchard. Mr. Blanchard states that D.E.Q. never revisited as per their 1/25/81 letter, Dumping has continued for past two years. Mr. Blanchard states that all types of material including building wastes, burned out trailer, televisions, tires have been dumped into ravine. Monies are being solicited to cover cost of caterpillar work at the site. Photograph taken copy enclosed.

April 27, 1984 Letter sent to Fred Hansen, Director, D.E.Q. advising of situation and requesting assistance in resolving the matter. Copy of letter enclosed.

May 8, 1984 Certified letter sent to Mr. Blanchard advising of legal actions by Lane County if dumping continues. Copy of letter enclosed.

May 25, 1984 (Approximate) Letter received from Fred Hansen acknowledging problem and requesting that John Borden, D.E.Q. be contacted.

John Borden requests that Gary Messer, D.E.Q. be contacted and date set for inspection.

Gary Messer is contacted and inspection date of June 6, 1984 is set.

June 6, 1984 On site inspection of area by Bruce Mower and Ben Masengil, Lane County, Gary Messer, D.E.Q. and Hal Blanchard, Mr. Messer discussed the fill problems with Mr. Blanchard and all persons made a tour of the fill site. Mr. Blanchard gave no indication that he intended to stop allowing dumping or coooperate in any removal activities. I again advised Mr. Blanchard that if dumping continues the Health Division would site him into court. Five photos were taken of the fill site, copies enclosed.

Mr. Messer requested that a chronology of all Lane County involvement, a copy of the deed of record and parcel map be sent to Fred Bolton, D.E.Q.

June 7, 1984 Gary Messer called Bruce Mower about possibility of obtaining an injunction to assure that no further dumping is done. Cindy Phillips, Lane County Counsel's Office advised that "D.E.Q. Lawyers" should seek injunction and that the county continue issuing citations. Mr. Messer is advised of Ms. Phillips advice.

VICTOR ATIYEH
GOVERNOR

Department of Environmental Quality

522 S.W. 5th AVENUE, BOX 1760, PORTLAND, OREGON 97207

May 23, 1984

Mr. Bruce Mower, R.S.
Lane County Sanitarian
Lane County Courthouse
125 East 8th Avenue
Eugene, Oregon 97401

Re: SW-Illegal Dumping
Hal Blanchard Property
85059 Hwy. 101S
Florence, Lane County

Dear Mr. Mower:

Thanks for the alert regarding illegal dumping. Based on wha you relay, this situation appears to go beyond routine promiscuous dumping complaints that require sole resolution via your County ordinances.

I have notified John Borden of our Willamette Valley Regional Office about this problem. Please contact him at 378-8240 in Salem in order to coordinate compliance actions between our departments.

Sincerely,

Fred Hansen
Director

FJH:cs

cc: John Borden,
Willamette Valley Region, DEQ
Ernest Schmidt,
Solid Waste Division, DEQ
Fred Bolton,
Regional Operations, DEQ

lane county

May 9, 1984

Mr. Hal Blanchard
85095 Highway 101
Florence, Oregon 97439

Dear Mr. Blanchard:

This letter is a follow up to my inspection of April 25, 1984 concerning the disposal of solid waste material behind your residence. We have reviewed the State and County Statutes governing solid waste disposal and find that the following statutes are being violated.

OREGON REVISED STATUTE	459.205
OREGON ADMINISTRATIVE RULES	340-61-020
LANE COUNTY CODE CHAPTERS	9.030, 9.040 & 5.800

Please be advised that disposal of all material must cease immediately. Failure to discontinue the disposal of solid waste material on your property will result in the matter being refered to the District Court.

If you have any questions please contact our office at 997-8217.

Sincerely,

Bruce Mower

Bruce K. Mower, R. S.
Sanitarian

cc: Oregon Dept. of Environmental Quality
BKM/pf

PS Form 3811, Dec. 1980

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● **SENDER:** Complete items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
   - ☒ Show to whom and date delivered ..... ¢
   - ☐ Show to whom, date, and address of delivery.. ¢
2. ☐ RESTRICTED DELIVERY ¢
   (The restricted delivery fee is charged in addition to the return receipt fee.)

TOTAL $

3. ARTICLE ADDRESSED TO:
Mr. Hal Blanchard
85059 HWY 101
Florence, OR 97439

4. TYPE OF SERVICE:
- ☐ REGISTERED ☐ INSURED
- ☒ CERTIFIED ☐ COD
- ☐ EXPRESS MAIL

ARTICLE NUMBER: 623937

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. M. Blanchard

DATE OF DELIVERY: 5/11/84

POSTMARK: FLORENCE, OR MAY 11 1984

6. ADDRESSEE'S ADDRESS *(Only if requested)*

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S INITIALS

lane county

April 27, 1984

Fred Hansen, Director
Department of Environmental Quality
P. O. Box 1760
Portland, Oregon 97207

RE: Illegal Garbage and Trash Dumping, Hal Blanchard Property, 85059 Hwy 101 S, Florence, Oregon

Dear Mr. Hansen:

The Lane County Health Division recently received an anonymous complaint concerning the dumping of trash behind a residence/business south of Florence. A primary review of our records yielded a letter written by the D.E.Q. in 1982 addressing this problem. A copy of the letter is enclosed.

On April 25, 1984, I and Mr. Hal Blanchard conducted an inspection of the area in question. I observed that not only had Mr. Blanchard failed to clean up the area as directed by the D.E.Q., additional material has been deposited into the ravine. Mr. Blanchard was in fact, soliciting money through "donations" for allowing construction contractors and individuals to dump at the site.

Mr. Blanchard has "succeeded" in filling the ravine to a depth of approximately fifty feet encompassing an area 150-200 feet square. The area was recently graded with a caterpillar. I observed the following types of materials in the "fill": construction debris, household items, metal scrap, paper waste and tires. It should be noted that a small stream flows beneath the waste material. Maps of this area indicate that this stream flows into Woahink Lake. Woahink Lake is used as a domestic water source for numerous individuals and a public water system that serves, among others, a state park.

I could only conclude from my discussions with Mr. Blanchard that he has no intention of halting dumping or of cleaning up the site.

As Mr. Blanchard's activities violate numerous D.E.Q. and county statutes, and given the magnitude the problem has reached, the Lane County Health Division is requesting a formal meeting with your office in order to outline a means of resolving the situation.

We look forward to hearing from you in the near future.

Sincerely,

Bruce K. Mower, R.S.
Sanitarian

cc: Jeannette Bobst, Administrator, Lane County Health Division
Roy Burns, Lane County Land Management

BM:gb

lane county

April 18, 1984

Mr. and Mrs. Hal Blanchard
85059 Highway 101
Florence, Oregon 97439

RE: Illegal Garbage and Trash Dumping

Dear Mr. and Mrs. Blanchard:

Our office has received a complaint alleging that you are allowing the disposal of trash, junk and other solid waste material on your property.

In reviewing our past records,I find that you were notified by the Oregon Department of Environmental Quality on January 26, 1982, that such activities are not permitted and all wast material must be removed.

Our office will conduct an inspection of the area on April 25, 1984. Your cooperation in the resolution of this matter would be greatly appreciated. If you have any questions, please contact our office at 997-8217.

Sincerely,

Bruce Mower, R.S.
Sanitarian

cc: D.E.Q.

BM:gb

VICTOR ATIYEH
GOVERNOR

Department of Environmental Quality

1244 WALNUT STREET, EUGENE, OREGON 97403 PHONE (503) 686-7601

January 26, 1982

Mr. & Mrs. H.C. Blanchard
85059 Highway 101
Florence, Oregon

RE: Illegal Garbage and Trash Dumping
85059 Highway 101, Florence
Lane County

Dear Mr. & Mrs. Blanchard:

On January 25, 1982, I met with you on your property to discuss your project of filling the ravine at the back end of your property with garbage and trash. As I indicated to you, such an endeavor cannot be permitted.

Oregon Administrative Rules 340-61-020 require a permit to establish, operate, or maintain a solid waste disposal site. However, the nature of your proposed, and existing operation, cannot be permitted. Therefore, you are requested to immediately remove all accumulated waste material to an approved landfill site (Florence Landfill).

A follow-up inspection will be made in the near future. Your cooperation in this matter will be greatly appreciated.

If you have any questions please contact me in Eugene at 686-7601.

Sincerely,

Daryl S. Johnson
Environmental Specialist

DSJ/jnf
cc: DEQ/Solid Waste Division
Lane County Environmental Health
Lane County Environmental Management
Lane County Solid Waste

DEQ-61

ENVIRONMENTAL HEALTH DIVISION

REQUEST FOR INVESTIGATION

aken by:__________ Date: 11-17-81 Routed to: Mower

ME OF OWNER OR RESPONSIBLE PARTY	ADDRESS AND/OR LOCATION	TELEPHONE NUMBER
H.C. Blachard	85059 Hyw. 101 Florence, Or	

SCRIPTION OF REQUEST

desposing of letters, boxs, trash, in gully

ME OF PERSON MAKING REQUEST	ADDRESS AND/OR LOCATION	TELEPHONE NUMBER
?		

Date	Disposition	Sanitarian
11-17	Discussion with Mr Blachardc concerning debris being pushed into gully behind his print shop/mobilehome. He is attempting to fill a gully approx. 100' deep and 300' across in order to reach the back portion of his property. He is having builders (Jack Leasure const. drywall contractors etc.) dump their waste material in the gully. Mr. Blachard has desposited boxs, paper, and wood scraps into gully.	
	I informed Mr. Blachard that it was against County Ordiance to place trash etc. into the gully. Also advised Mr. Blachard that he could be finded if he continued the practice. Mr Blachard's response was that "it was his property and he could do with it what he wanted" and that "he would throw any letter the County might send into the gully and would not pay any fines".	
	As any futher conversation seemed to be fruitless I left the property.	B.M.

Pink Copy to Coordinator
White Copy to Sanitarian

C55-77
6/74

* *

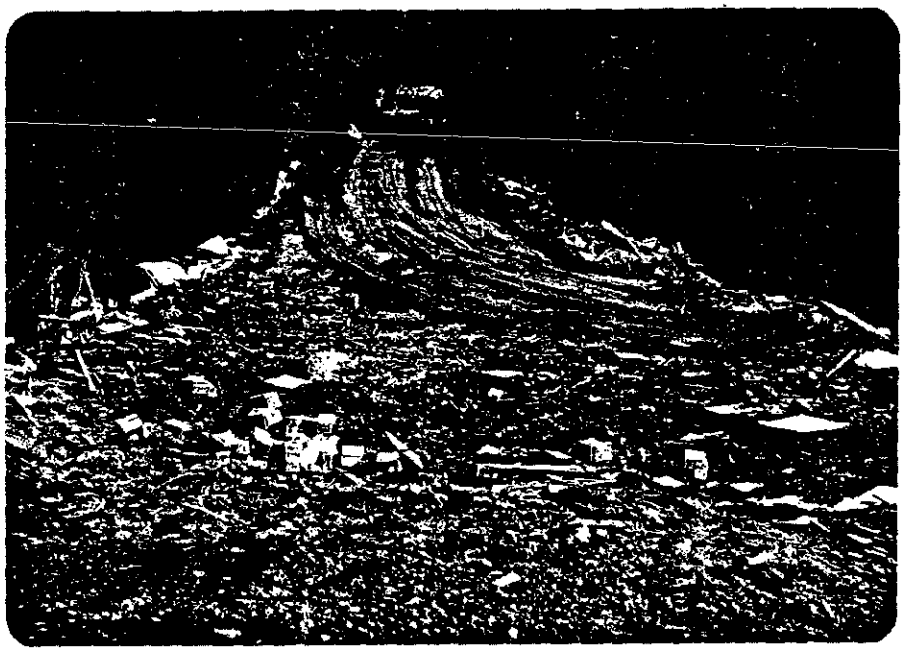


PHOTO #1

April 25, 1984

PHOTO # 2

June 6, 1984

PHOTO # 3

June 6, 1984

PHOTO # 4

June 6, 1984

PHOTO # 5

June 6, 1984

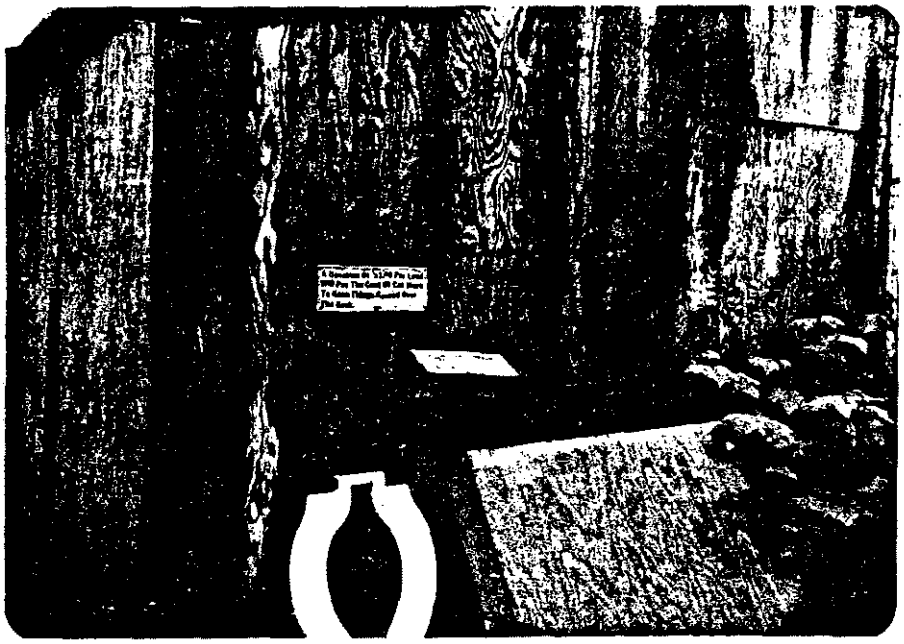


PHOTO # 6

June 6, 1984

Photo # 1 looking east across fill

Photo # 2 looking north at base of embankment

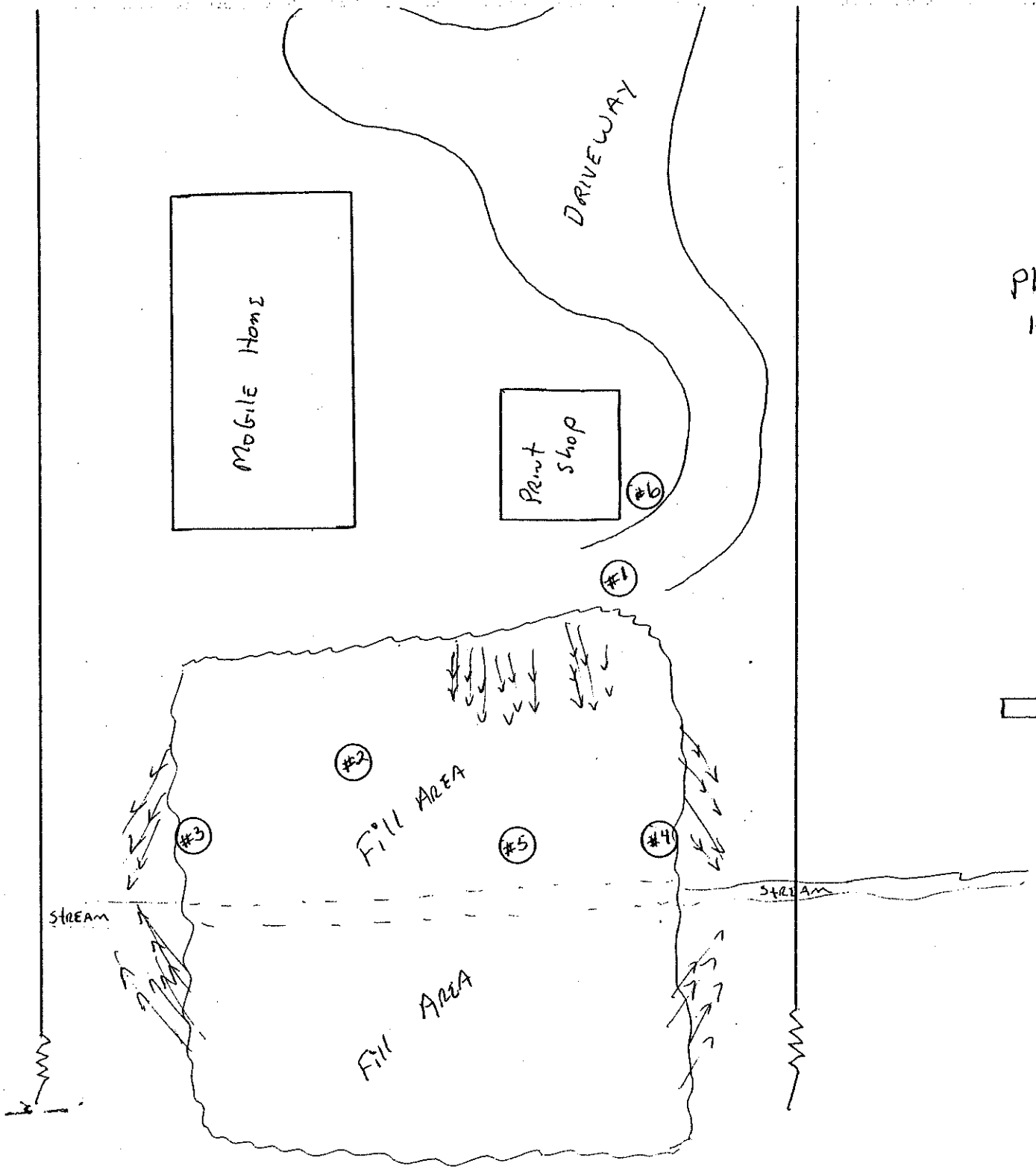
Photo # 3 looking down to stream, south side

Photo # 4 looking down to stream, north side

Photo # 5 Looking west at base of embankment

Photo # 6 sign on north side of print shop

see parcel map for location each photo was taken from



Photograph locations
HAL BLANCHARD property
19-12-02-3-3 TL 502
85059 HWY 101 So
FLORENCE OREGON

BY BRUCE MOWER
LANE CO HEALTH DIV.

North
(Not to scale)

WARRANTY DEED (Individual or Corporate) 202357 **7969002** WPT Co. 56431

19-12-02-3-3 TL 4502

Wesley L. Edwards and Gloria C. Edwards, hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by H. C. Blanchard and M. L. Blanchard, husband and wife, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Lane and State of Oregon, described as follows, to-wit:

Beginning at a point on the West Section line of Section 2 in Township 19 South, Range 12 West of the Willamette Meridian, which bears North2° 12' East, 352 feet from the Southwest corner of said Section 2; thence North 2° 12' East, 100 feet; thence East 642.7 feet parallel to the South line of Section 2 to the East line of the Southwest quarter of the Southwest quarter of the Southwest quarter of said Section; thence South 2° 12' West along the East line of said Southwest quarter of the Southwest quarter, 100 feet; thence West 642.7 feet to the Point if Beginning, all located in Lane County, Oregon.
ALSO: Beginning at a point on the West Section line of Section 2 in Township 19 South, Range 12 West of the Willamette Meridian, which bears North 2° 12' East 352 feet from the Southwest corner of said Section 2; thence North 2° 12' East, 100 feet; thence West to the Easterly right-of-way line of the Oregon Coast Highway; thence Southerly along the Easterly right of way line of said Highway to a point West of the Point of Beginning; thence East to the Point of Beginning, in Lane County, Oregon.

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances except rights of the public in streets, roads and highways.

D C • NOV 1979 0003 2

and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances

The true and actual consideration paid for this transfer, stated in terms of dollars, is $ 20,000.00

~~However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which)~~

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 16th day of November, 19 79; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

Wesley L. Edwards

Gloria C. Edwards

(If executed by a corporation, affix corporate seal)

STATE OF OREGON, County of Lane) ss.

November 16, 19 79.

Personally appeared the above named Wesley L. Edwards and Gloria C. Edwards and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Notary Public for Oregon

My commission expires 11-2-82

(OFFICIAL SEAL) NOTARY PUBLIC

STATE OF OREGON, County of) ss.

, 19

Personally appeared and who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and acknowledged said instrument to be its voluntary act and deed.

Before me: Notary Public for Oregon

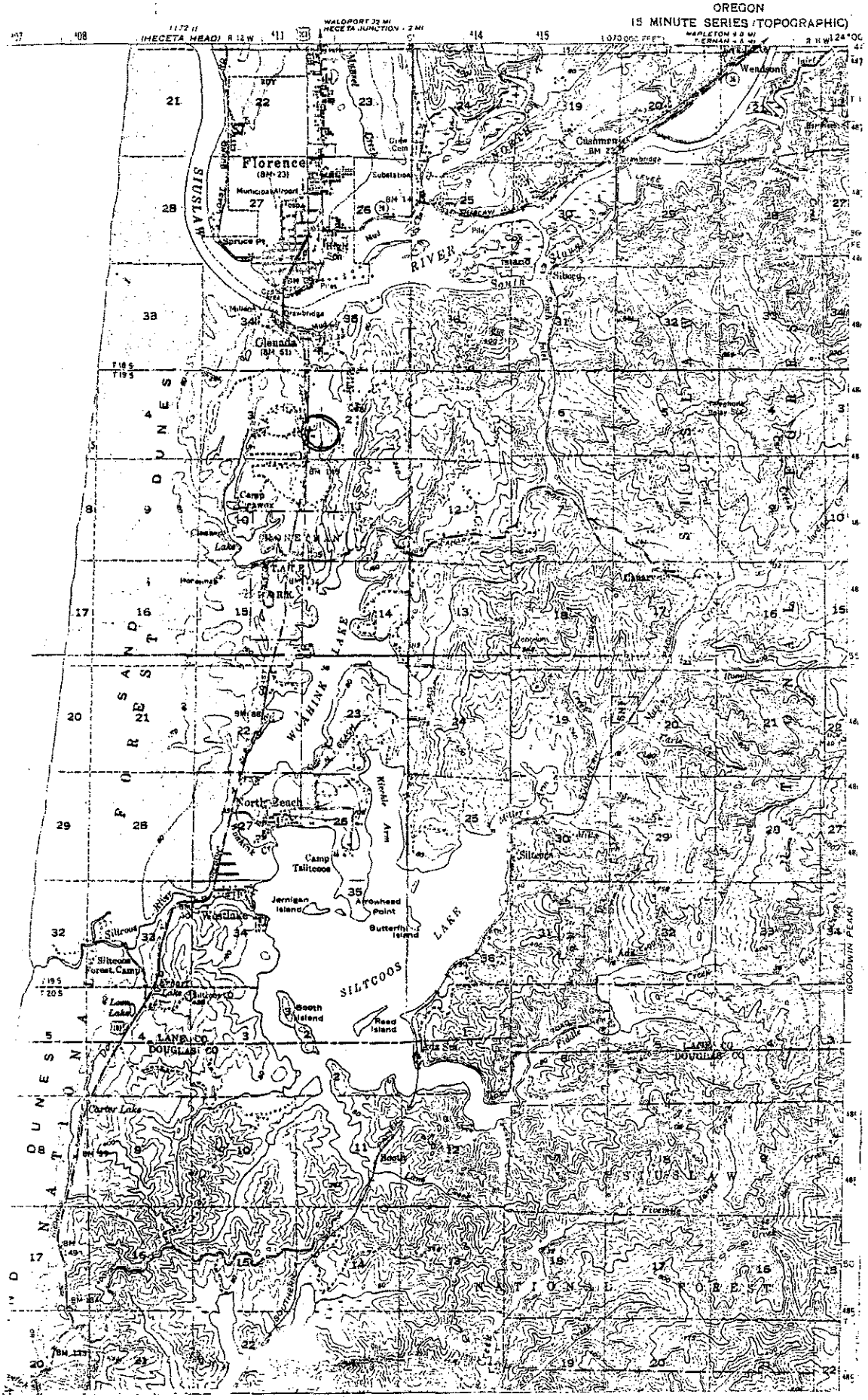
My commission expires

(OFFICIAL SEAL) NOTARY PUBLIC

Grantee's Address P.O. Box 1135 Florence, Oregon 97439

WESTERN PIONEER TITLE CO., of Lane County

SILTCOOS LAKE QUADRANGLE
OREGON
15 MINUTE SERIES (TOPOGRAPHIC)



lane county

TO: Van A. Kollias
Environmental Quality Commission
P.O. Box 1760
Portland, Oregon 97207

DATE: June 25, 1984

FROM: Benjamin A. Masengil (Oregon Registered Sanitarian #192-1967)
Lane County Program Supervisor Benjamin A. Masengil

SUBJECT: Illegal dumping situation south of Florence, Oregon.

On June 6, 1984 I accompanied Gary Messer of DEQ and Bruce Mower of Lane County's Health Division on an inspection of a refuse disposal dumping area. The area was on property of a Mr. Hal Blanchard, 85059 Highway 101 South, near Florence, Oregon.

We met Mr. Blanchard in the front driveway, introduced ourselves and Gary and Bruce discussed the landfill disposal site.

Mr. Blanchard gave us permission to look over the fill site and led the way past his building to the dumping area.

I did not enter into the exchange of information between Gary, Bruce and Mr. Blanchard but could listen and observe. I saw many kinds of refuse in the landfill. Items such as T.V. sets, kitchen appliances, hot water tanks, vehicle tires, brush stumps and some domestic waste (catsup bottle, tin cans, food cartons, etc.) dumped on top of the other refuse. The fill had partially covered paint cans, bottles and other items that indicated to me the presence of other residential and commercial waste deeper within the fill.

The landfill is located in a steep ravine with a small stream flowing underneath and apparently into Woahinx Lake which reportedly is a water supply for Honeyman State Park and local residents.

Gary Messer discussed the fill problems and attempted to get some indication from Mr. Blanchard that he would correct the problems and stop the fill but, to my opinion, did not receive any cooperation. Gary advised Mr. Blanchard that he would be reporting his findings to the DEQ offices for further action and they would be notifying Mr. Blanchard of what he must do to correct the situation.

BAM:kr

PUBLIC SERVICES DIVISION PUBLIC WORKS DEPARTMENT 125 EAST 8TH AVENUE EUGENE, OREGON 97401

SOLID WASTE MANAGEMENT PROGRAM (503) 687-4119
PARKS & OPEN SPACE PROGRAM (503) 687-4231

lane county

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OREGON)
) ss.
County of Lane)

A F F I F A V I T

I, BRUCE K. MOWER, being first duly sworn, depose and say to wit:

1. I have been a sanitarian employed by the Lane County Health Division, 135 East 6th Ave., Eugene, Oregon, since March 1977. My major job responsibilities include restaurant, motel, swimming pool inspections, complaint investigations and epidemiological surveys. I have a B.S. Degree from Utah State University in Bacteriology.

2. On November 17, 1981 I received an anonymous complaint concerning the disposal of boxs, letters and trash into a gully at 85059 Hwy 101 Florence, Oregon. I investigated the complaint on November 17, 1981 and discussed the matter with H. C. Blanchard, owner of the property. Mr. Blanchard stated that he was attempting to fill a gully approximately 100' deep and 300' across in order to reach the back portion of his property. Mr. Blanchard stated that he was having builders such as Jack Leasure Construction and dry wall contractors deposit their waste material into the gully. Mr. Blanchard stated that he had disposed boxs of paper and wood scrap into the gully. I advised Mr. Blanchard that such activities were against Lane County Ordiances and he risked a fine if he continued to allow debris to be disposed of in the gully. Mr. Blanchard's response was " it was his property and he could do with it what he wanted" and that "he would throw any letter the County might send into the gully and would not pay any fines".

   I advised my supervisor, Richard Kirby of the situation. Mr. Kirby subsequently advised me that he had referred the matter to the D.E.Q..

On February 3, 1984 the Lane County Health Division received a copy of a letter written to Mr. Blanchard by Daryl Johnson of the D.E.Q. Mr. Johnson advised Mr. Blanchard to remove all waste material.

3. In early April, 1984 I received an anonymous telephone call reporting the dumping of garbage and junk behind Hal Blanchard's business, HALMARGE, 85059 Highway 101 South, Florence, Oregon. I reviewed the complaint files and located the November 17, 1981 complaint and the letter written by D.E.Q. dated 1/26/82.

4. On April 18, 1984 I sent Mr. and Mrs. Hal Blanchard a letter advising them of the complaint and setting a date for inspection of their property.

5. On April 25, 1984 I inspected the property accompanied by Hal Blanchard. I asked Mr. Blanchard if a D.E.Q. representative ever made a follow up visit to his property. Mr. Blanchard stated that no follow up visits were made by D.E.Q. I observed that the ravine behind Mr. Blanchard's business had been filled with scrap wood, building debris, dirt, brush, tree clippings, tires, rubbish, metal scrap, paper, garbage, household items and other solid waste material. I estimated the fill area to be about 150'-200' feet square and 50' deep. Mr. Blanchard stated the fill area had been graded by a caterpillar prior to my inspection. I observed a small stream which flowed directly under the fill area. I asked Mr. Blanchard if he knew where this stream emptied. Mr. Blanchard indicated that he did not know where the stream went. I asked Mr. Blanchard what types of items were in the fill. Mr. Blanchard responded that various types of materials had gone into the fill including even a burned out trailer house. Mr. Blanchard stated that he did not allow household garbage but sometimes garbage was "snuck" into the fill. Mr. Blanchard states that the items in the fill would not harm anyone or do damage to the stream. I observed a small sign on the side of Mr. Blanchard's business asking for money to "help keep things pushed over the bank". I advised Mr. Blanchard that his activities were against the law. Mr. Blanchard responded that his filling the ravine was no different than the Florence Garbage Dump. I asked permission to photograph the site and stated that we would contact him at a latter date.

6. On April 27, 1984 I sent a letter to Fred Hansen, Director; D.E.Q. advising him of the situation and requesting assistance in resolving the matter.

7. On May 8, 1984 I sent Mr. Blanchard a certified letter advising that the disposal of solid waste was against State and County codes and that if it was not discontinued we would cite Mr. Blanchard into District Court.

8. On May 25, 1984 I received a letter from Fred Hansen acknowledging the problems at the Blanchard property and requesting that I contact John Borden of the D.E.Q. to coordinate compliance activities.

John Borden requested that I contact Gary Messer and arrange a date for a joint inspection.

I contacted Gary Messer and arranged for an inspection on June 6, 1984.

9. An on-site inspection was made by myself, Gary Messer, Ben Masengil, and Hal Blanchard. I introduced Mr. Masengil (Lane County Solid Waste Division) and Gary Messer, (D.E.Q.), to Mr. Blanchard. After some inital discussion all parties went from Mr. Blanchard's business to the landing above the fill site. Mr. Blanchard stated that he was filling the ravine to gain acess to the back portion of his property. Mr. Messer asked Mr. Blanchard why he did not limit dumping to sand, rock, concrete etc. Mr. Blanchard stated that this was too expensive. Mr. Messer asked if Mr. Blanchard screened the material going into the fill. Mr. Blanchard stated that no garbage was allowed. I stated that I had observed household garbage on my April 25, 1984 inspection. All persons then went down onto the fill area. I took four photographs while Mr, Messer, Mr. Masengil and Mr. Blanchard walked around the fill area. All persons returned to the landing area. Mr. Messer asked Mr. Blanchard if he would voluntarily stop accepting waste into the site. Mr. Blanchard stated that he would not stop unless the police were there at all times. Mr. Messer stated that they might impose a fine if dumping did not stop. Mr. Blanchard stated in effect that because of the equity and value of his property if would not do any good to fine him. All persons proceeded to leave the landing. I asked Mr. Blanchard as we pased the sign asking for money, how much money he made. Mr. Blanchard stated that the money received was low and did not cover the cost of the cat work at the site. I asked if I could take a photograph of the sign on the building. Mr. Blanchard stated that he did not care. Mr. Messer stated that he was sorry we could not reach an agreement on discontinuing dumping and would send him a violation notice. Mr. Messer and Mr. Masengil got into the car while I again advised Mr. Blanchard that if I saw any dumping at the site I would cite him into court. Mr. Blanchard who was enraged stated that he did not give a dam what I did. I proceeded to the car and left the property.

At lunch Mr. Messer requested that I submit a chronology of my involvement, deed of record, parcel map and pictures to Fred Bolton with a copy to Mr. Messer. We also discussed the removal of the waste material and the problems involved.

10. On June 7, 1984 Gary Messer telephoned and inquired about the possibility of obtaining an injunction to prevent further dumping. I contacted Cindy Phillips at the Lane County Councils office about the possibility of an injunction. Ms Phillips advised that D.E.Q. should seek the injunction and Lane County should limit it's activities to issuing citations. I advised Mr. Messer of my discussion with Ms. Phillips.

11. By letter dated June 11, 1984 I sent a chronology, Deed of Record, parcel map, and pictures to Mr. Fred Bolton. Copy of the same items was sent to Gary Messer.

12. On June 21, 1984 at 3:30 p.m. I observed a yellow pickup truck Oregon license FNZ 106 backing behind Mr. Blanchard's print shop. I stoped and asked Mr. Blanchard if the truck was dumping and if I could inspect the vehicle. Mr. Blanchard's responsed by stating " don't hassle the man". I walked behind the print shop and observed a man and child unloading brush and tree clippings over the edge of the landing. I observed that two green garbage bags, a broken television, wood shelving and paper cards down on the landing and the fill area. I picked up one of the paper cards which appeared to be an inventory card for Toshiba Televisions. I estimated that there were 30 similar cards on the ground. Mr. Blanchard, who came out to the landing told me not to take any of the cards. Mr. Blanchard stated that he does not have to let me on his property. I dropped the inventory card and proceeded to my car.

    At 5:30 p.m. on June 21 I returned to Mr. Blanchard's property and served him with two Lane County Summons and complaint forms.

13. On June 22, 1984 I received a telephone call from a Mr. Van Rollias, D.E.Q., Mr. Rollias requested that I furnish an affidavit on my involvement with the Blanchard property. The affidavit is to be presented the D.E.Q. Commission in a request for enforcement action. I advised Mr. Rollias of the citations issued on June 21, 1984.

Bruce K. Mower

Bruce K. Mower

Being subscribed and sworn to before me this 26th day of June 1984

Teresa M. Wilson

NOTARY PUBLIC FOR OREGON
My Commission Expires: 12-18-85

VICTOR ATIYEH
Governor

Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

HAND DELIVERY

Hal C. Blanchard
85059 Hwy 101 South
Florence, OR 97439

JUN 2 2 1984

Re: Notice of Violation and Intent
to Assess Civil Penalty
SW/WQ-WVR-84-57
Lane County

On April 25, 1984, an inspector from Lane County responded to a complaint that an illegal solid waste landfill had been established on your property north of Woahink Lake in western Lane County. The inspector observed garbage and other domestic waste, tires, scrap metal, and land clearing debris deposited on your property.

On June 6, 1984, the site was reinspected by Lane County and an inspector from this Department. Similar conditions were observed.

I understand that you solicit donations from people who wish to dump their waste on your property. Oregon law and the rules of this Department prohibit the establishment, operation, or maintenance of a solid waste disposal site unless the person owning or controlling the site first obtains a solid waste disposal permit from this Department. Oregon law also prohibits anyone from placing decaying or polluting waste into public waters (including groundwater) or onto any land. The only materials which may used for fill are relatively inert materials such as uncontaminated soil, rock, concrete, brick and building block.

Because you have operated and maintained an unpermitted solid waste disposal site, and have caused or allowed decaying and polluting waste to be placed at that site and into public waters, I am sending you the enclosed notice which warns you of this Department's intent to assess civil penalties against you if your violations continue. Your civil penalty liability ranges up to $500 per day for each solid waste violation, and up to $10,000 per day if surface water or groundwater has been contaminated.

The illegally deposited waste poses an ongoing threat to the stream that runs beneath a portion of the waste pile, and which discharges to Woahink Lake. Therefore, the waste must be removed and transported to an approved solid waste disposal site such as the City of Florence Landfill.

I sincerely hope that this matter may be resolved in a cooperative manner. In order to avoid receiving a civil penalty, you must immediately stop receiving any new waste at the site; must post the site with "No Dumping" signs and/or otherwise restrict public access into the site; and must

submit a letter to this Department within five days stating your willingness to cooperate with the Department, and a reasonable proposal for when you will have all of the waste removed from the site. All waste must be transported to an approved disposal site in a manner that prevents waste from blowing or leaking onto public highways.

If you fail to take the corrective actions directed above, the Department will assess civil penalties against you and/or institute other legal procedings to force correction of your violations.

Copies of some referenced regulations are enclosed for your review. If you have any questions, please call Mr. Larry M. Schurr of the Department's Enforcement Section in Portland, toll-free at 1-800-452-4011.

Sincerely,

Dan A. Kollias For:

Fred M. Bolton
Administrator
Regional Operations Division

LMS:c
GS4057.L
Enclosures
cc: Willamette Valley Region, DEQ
Solid Waste Division, DEQ
Water Quality Division, DEQ
Oregon Department of Justice, Robert L. Haskins
Environmental Protection Agency, Oregon Operations
Lane County Health Division
Bruce Mower, Lane County Department of Community Health and Social Services
Ben Masengil, Lane County Public Services Division

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY, OF THE STATE OF OREGON, Department, v. HAL C. BLANCHARD, Respondent.	)	NOTICE OF VIOLATION AND INTENT TO ASSESS CIVIL PENALTY No. SW/WQ-WVR-84-57 LANE COUNTY

I

This notice is being sent to Respondent, Hal C. Blanchard, pursuant to Oregon Revised Statutes (ORS) 459.995, 468.125(1) and Oregon Administrative Rules (OAR) Section 340-12-040(1) and (2).

II

A. On or before June 6, 1984, but after July 1, 1972, Respondent violated ORS 164.785(2) in that Respondent placed, or caused or allowed to be placed, decaying and polluting waste substances, including but not limited to garbage, onto Respondent's lot located north of Woahink Lake, and described as Tax Lot 502, Section 2, Township 19 South, Range 12 West, Willamette Meridian, Lane County, Oregon.

B. On or before June 6, 1984, but after July 1, 1972, Respondent violated ORS 468.720(1)(a) in that Respondent placed or caused to be placed the wastes described in Paragraph IIA in such a manner and location that the wastes were and are likely to escape and be carried into waters of the state, thereby causing pollution of those waters.

C. On or before June 6, 1984, but after July 1, 1972, Respondent violated ORS 459.205 and OAR 340-61-020(1) in that without first obtaining

a solid waste disposal site permit from this Department pursuant to ORS 459.235, Respondent established, operated, and/or maintained a solid waste disposal site at the location described in Paragraph IIA.

III

If five (5) or more days after Respondent receives this notice, the one or more violations cited in Paragraph II of this notice continue, or any similar violation occurs, the Department will impose upon Respondent a civil penalty pursuant to Oregon statutes and OAR, Chapter 340, Divisions 11 and 12. In the event that a civil penalty is imposed upon Respondent, it will be assessed by a subsequent written notice, pursuant to ORS 459.995, 468.135(1) and (2), ORS 183.415(1) and (2), and OAR, 340-11-100 and 340-12-070. Respondent will be given an opportunity for a contested case hearing to contest the allegations and penalty assessed in that notice, pursuant to ORS 459.995, 468.135(2) and (3), ORS Chapter 183, and OAR Chapter 340, Division 11. Respondent is not entitled to a contested case hearing at this time.

June 22, 1984
Date

Van A. Kollias for:
Fred M. Bolton, Administrator
Regional Operations, DEQ

HAND DELIVERY

VICTOR ATIYEH
GOVERNOR

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: Special Agenda Item, June 29, 1984, EQC Meeting

Proposal for EQC to Declare a Threat to Drinking Water in a Specifically Defined Area in Mid-Multnomah County Pursuant to the Provisions of ORS 454.275 et.seq.

On June 27, 1984, the governing bodies of Multnomah County Central County Service District No. 3, the City of Gresham, and the City of Portland, filed with the Environmental Quality Commission resolutions which, for each jurisdiction:

1. Adopt a sewerage facilities plan for providing sewer service to the areas presently served by cesspools within their ultimate sewer service boundary (as designated in the METRO master sewerage plan) and submit the plan to the EQC as directed by the EQC in OAR 340-71-335(2)(b): and

2. Adopt pursuant to ORS 454.285, preliminary findings of a threat to drinking water, adopt boundaries of the affected area, and submit these to the Environmental Quality Commission for review and investigation, and to hold a public hearing to determine whether a threat to drinking water exists in the affected area.

Attachment I contains copies of the three resolutions together with a copy of a report entitled Threat to Drinking Water Findings which is referenced in each resolution as Exhibit A or Appendix A. Attachment II entitled Providing Sewer Service to Mid-Multnomah County: Framework Plan, presents a summary of the facility plans of the three jurisdictions.

Attachment III contains the section of Statute regarding the declaration of a threat to drinking water (ORS 454.275 et.seq.). ORS 454.295 requires the Commission, upon receipt of the resolution(s), to review and investigate the conditions in the affected area. If substantial evidence reveals the existence of a threat to drinking water, the Commission is required to hold a public hearing within or near the affected area. The hearing is to be held not less than 50 days after the Commission completes its review and investigation. The purpose of the hearing is to determine whether a threat to drinking water exists in the affected area, whether the conditions could be eliminated or alleviated by the sewage treatment works proposed in the submitted plans, and whether the proposed treatment works are the most economical method to alleviate the conditions.

Summary of Actions to Date Regarding Groundwater Quality in Mid-Multnomah County

The Commission and Department have been concerned about the threat to groundwater resulting from the use of cesspools for sewage disposal in Mid-Multnomah County for more than 10 years.

Studies of water quality in Columbia Slough in 1971-1972 indicated that groundwater entering the slough contained higher than normal levels of Nitrate Nitrogen. With the assistance of the State Engineer, wells to the south of the slough were sampled in 1974-1975. These samples showed high levels of Nitrate.

The 1973 Legislature transferred responsibility for regulation of On-Site Sewage Disposal to the Department. Initial rules adopted by the Commission in 1974 prohibited the use of cesspools as a method of sewage disposal in all areas of the state except Mid-Multnomah County. This area was exempted because sewers were not available and no other alternative existed for the small lots in the area.

In February 1978, the Commission instructed the Department, in cooperation with Multnomah County, Columbia Region Association of Governments (now METRO), and other affected agencies, to develop a plan for protection of the groundwater aquifer. The plan was to be developed by September 1978, with EQC adoption by not later than December 31, 1978.

A Proposed Multnomah County Groundwater Protection Plan was submitted to the EQC for approval at its August 25, 1978, meeting. The Director was authorized to enter into a consent order with the County incorporating the provisions of the plan. Modifications of the plan were undertaken and an order was not entered.

On April 18, 1980, the EQC approved the Multnomah County East County Groundwater Plan. The plan had been formally adopted by the County on October 22, 1979. In addition, the groundwater plan was incorporated in the County Land Use Plan on December 20, 1979. This plan called for providing sewer service to 90 percent of the Central County Service District by 1990.

In August 1981, the EQC adopted a Groundwater Protection Policy (OAR 340-41-029).

Present rules regarding cesspools were adopted by the EQC on April 16, 1982. The rule was initially adopted in March 1981, and prohibited cesspools to serve new structures after October 1, 1981, but allowed seepage pit systems until January 1, 1985. At the request of Multnomah County, the Commission by temporary rule, delayed the cesspool prohibition date until March 1, 1982. On March 5, 1982, the Commission again by temporary rule, delayed implementation until April 16, 1982,--this time at the request of the Home Builders Association of Metropolitan Portand.

The final rule, adopted April 16, 1982, allowed cesspools to be installed for new structures until January 1985, if by October 1, 1982, jurisdictions had adopted a system to collect funds for each cesspool installation with such funds to be used for planning, designing, and constructing of sewers. The rule also required the appropriate jurisdictions to submit to the Department by July 1, 1984, detailed plans, scheduling, priorities, phasing, and financial mechanisms for sewering the entire cesspool area. The Cesspool Rule, OAR 340-71-335, is included as Attachment IV. The present rule prohibits the installation of Cesspool or Seepage Pit disposal systems for new structures after January 1, 1985.

Further groundwater quality data was collected in the period from 1978-1981. In mid-1983, the Department resumed monthly sampling of groundwater in the area.

In January 1983, the Department prepared a handout for distribution to interested citizens in the Mid-Multnomah County area. This handout (Attachment V), presents answers to commonly asked questions regarding cesspools and groundwater pollution.

Evaluation of THREAT TO DRINKING WATER FINDINGS

The Department has preliminarily reviewed the report entitled Threat to Drinking Water Findings. The conclusions of that review follow.

The affected area appears to include all areas reported to DEQ by the Multnomah County Health Department to be served by cesspools except for a small number of isolated houses in Portland where houses are situated at an elevation lower than the nearby sewer.

Review of available soil type maps for the area prepared by the Soil Conservation Service indicate that soils are what are generally referred to as "rapidly draining." It is also noted that for cesspools to reasonably function, the soils must be "rapidly draining."

Water quality data for wells in the affected area indicates high levels of Nitrate Nitrogen. For example, Parkrose Water District has two wells which have been sampled. During the 1974-75 sampling period, the mean Nitrate Nitrogen value for well number 3 was 6.0 milligrams per liter (mg/l). For the period 1978-81, the mean value was 6.9 mg/l. The EPA Drinking Water Standard for Nitrate Nitrogen is 10.0 mg/l. For well number 2, mean Nitrate Nitrogen levels for the same two sampling period were 6.3 mg/l and 6.7 mg/l respectively.

Data collected since mid-1983 continues to show high levels of Nitrate in wells in the area. The Department has also analyzed samples for a series of organic compounds. Trace levels of several organic solvents (degreasers) have been detected in some wells. While EPA has not established standards for such compounds, their presence is of concern since they are considered to be potential cancer-causing compounds. Attachment VI contains the data

collected by the Department since July 1, 1983. Attachment VII contains data for Nitrate Nitrogen collected between 1974 and 1984.

The Department concludes that the preliminary findings presented in the report entitled Threat to Drinking Water Findings are based on the best information known by the Department to be available. These preliminary findings present substantial evidence leading to a reasonable conclusion that a threat to drinking water as defined in ORS 454.275, appears to exist in the area defined as the affected area. Staff will conduct a further review and evaluation of the findings and available data and provide additional information to the Commission as it is developed.

Summation

1. The governing bodies of Gresham, Portland, and the Multnomah County Central County Service District No. 3, have adopted resolutions which adopt sewerage facility plans to meet the requirements of OAR 340-71-335(2)(b) and which adopt, pursuant to ORS 454.295, preliminary findings that a threat to drinking water exists within a defined affected area in Mid-Multnomah County. The resolutions have been filed with the EQC together with supporting documents.

2. ORS 454.295 requires the EQC to review and investigate conditions in the affected area and schedule a hearing within or near the affected area not less than 50 days after it completes its investigation if substantial evidence reveals the existence of a threat to drinking water.

3. The Department and Commission have taken numerous actions to require the responsible jurisdictions to construct sewers so that cesspools in the Mid-Multnomah County area can be eliminated as a method of sewage disposal. These actions have been based on evidence indicating that sewage disposal practices in the area are causing pollution of the groundwater aquifer.

4. The Department has reviewed the preliminary findings presented in the report entitled Threat to Drinking Water Findings and concludes that the findings are based on the best information known by the Department to be available. These preliminary findings present substantial evidence leading to a reasonable conclusion that a threat to drinking water as defined in ORS 454.275 appears to exist in the area defined as the affected area.

Director's Recommendation

Based on the Summation, it is recommended that the Commission evaluate the information presented in this report and review and investigate the conditions in the affected area as defined in the report entitled Threat to Drinking Water Findings included in Attachment I.

It is further recommended that the Commission schedule a special meeting by conference call at the earliest practicable date to receive additional information from the Department, conclude its review and investigation, and schedule a hearing as required by ORS 454.295, if substantial evidence reveals a threat to drinking water in the affected area.

Fred Hansen

Attachments: 7

I Resolutions from Gresham, Portland, and Multnomah County Central County Service District No. 3
II Report entitled Providing Sewer Service to Mid-Multnomah County: Framework Plan
III Oregon Revised Statute 454.275, Construction of Sewage Treatment Works
IV Oregon Administrative Rule 340-71-335, Cesspools and Seepage Pits
V Information Handout
VI Recent Data on East Multnomah Groundwater Sampling
VII Past NO_3 Groundwater Data on East Multnomah County

Harold L. Sawyer:l
WL3479
(503) 229-5324
June 28, 1984

CHAPTER 454

1983 REPLACEMENT PART

Sewage Treatment Disposal Systems

CONSTRUCTION OF SEWAGE TREATMENT WORKS

454.275 Definitions for ORS 454.275 to 454.310. As used in ORS 454.275 to 454.350:

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

(2) "Governing body" means a board of commissioners, county court or other managing board of a municipality.

(3) "Municipality" means a city, county, county service district, sanitary district, metropolitan service district or other special district authorized to treat or dispose of sewage in any county with a population exceeding 400,000 according to the latest federal decennial census.

(4) "Subsurface sewage disposal system" has the meaning given that term in ORS 454.605.

(5) "Threat to drinking water" means the existence in any area of any three of the following conditions:

(a) More than 50 percent of the affected area consists of rapidly draining soils;

(b) The groundwater underlying the affected area is used or can be used for drinking water;

(c) More than 50 percent of the sewage in the affected area is discharged into cesspools, septic tanks or seepage pits and the sewage contains biological, chemical, physical or radiological agents that can make water unfit for human consumption; or

(d) Analysis of samples of groundwater from wells producing water that may be used for human consumption in the affected area contains levels of one or more biological, chemical, physical or radiological contaminants which, if allowed to increase at historical rates, would produce a risk to human health as determined by the local health officer. Such contaminant levels must be in excess of 50 percent of the maximum allowable limits set in accordance with the Federal Safe Drinking Water Act.

(6) "Treatment works" has the meaning given that term in ORS 454.010. [1981 c.358 §1; 1983 c.235 §7]

454.280 Construction of treatment works by municipality; financing. Notwithstanding the provisions of ORS chapters 450, 451 and 454, or any city or county charter, treatment works may be constructed by a municipality and financed by the sale of general obligation bonds, revenue bonds or assessments against the benefited property without a vote in the affected area or municipality or without being subject to a remonstration procedure, when the findings and order are filed in accordance with ORS 454.310. The provisions of ORS 223.205 to 223.295, 223.770 and 287.502 to 287.515 shall apply in so far as practicable to any assessment established as a result of proceedings under ORS 454.275 to 454.350. [1981 c.358 §2]

454.285 Resolution or ordinance. (1) The governing body may adopt by resolution or ordinance a proposal to construct sewage treatment works and to finance the construction by revenue bonds, general obligation bonds or by assessment against the benefited property.

(2) The resolution or ordinance shall:

(a) Describe the boundaries of the affected area which must be located within a single drainage basin as identified in regional treatment works plans; and

(b) Contain findings that there is a threat to drinking water.

(3) The proposal must be approved by a majority vote of the governing body and does not require the approval of the residents or landowners in the affected area or municipality.

(4) The governing body shall forward a certified copy of the resolution or ordinance to the commission. Preliminary plans and specifications for the proposed treatment works shall be submitted to the commission with the resolution or ordinance. [1981 c.358 §3; 1983 c.235 §8]

454.290 Study; preliminary plans. (1) The governing body shall order a study and the preparation of preliminary plans and specifications for the treatment works.

(2) The study shall include:

(a) Engineering plans demonstrating the feasibility of the treatment works and conform-

ance of the plan with regional treatment works plans.

(b) Possible methods for financing the treatment works.

(c) The effect of the treatment works on property in the affected area. [1981 c.358 §4]

454.295 Commission review; hearing; notice. (1) After receiving a certified copy of a resolution or ordinance adopted under ORS 454.285, the commission shall review and investigate conditions in the affected area. If substantial evidence reveals the existence of a threat to drinking water, the commission shall set a time and place for a hearing on the resolution or ordinance. The hearing shall be held within or near the affected area. The hearing shall be held not less than 50 days after the commission completes its investigation.

(2) The commission shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of adoption of the resolution or ordinance in a newspaper of general circulation within the affected area once each week for two successive weeks beginning not less than four weeks before the date of the hearing and by such other means as the commission deems appropriate in order to give actual notice of the hearing. [1981 c.358 §5]

454.300 Conduct of hearing; notice of issuance of findings; petition for argument. (1) At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a threat to drinking water exists in the affected area, whether the conditions could be eliminated or alleviated by treatment works and whether the proposed treatment works are the most economical method to alleviate the conditions. The hearing may be conducted by the commission or by a hearings officer designated by the commission. After the hearing the commission shall publish a notice of issuance of its findings and recommendations in the newspaper used for the notice of hearing under ORS 454.295 (2), advising of the opportunity for argument under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings any person or municipality that will be affected by the findings may petition the commission to present written or oral arguments on the proposal. If a petition is received, the commission shall set a time and place for argument. [1981 c.358 §6]

454.305 Effect of findings; exclusion of areas; filing of findings. (1) If the commission finds a threat to drinking water does exist but treatment works would not alleviate the conditions, the commission shall terminate the proceedings.

(2) If the commission finds a threat to drinking water exists within the territory and the conditions could be removed or alleviated by the construction of treatment works, the commission shall order the governing body to proceed with construction of the treatment works.

(3) If the commission finds that a threat to drinking water exists in only part of the affected area or that treatment works would remove or alleviate the conditions in only part of the affected area, the commission may reduce the affected area to the size in which the threat to drinking water could be removed or alleviated. The findings shall describe the boundaries of the affected area as reduced by the commission.

(4) In determining whether to exclude any area, the commission must consider whether or not exclusion would unduly interfere with the removal or alleviation of the threat to drinking water and whether the exclusion would result in an illogical boundary for the provision of services.

(5) If the commission determines that a threat to drinking water exists but that the proposed treatment works are not the most economical method of removing or alleviating the conditions, the commission may issue an order terminating the proceedings under ORS 454.275 to 454.350, or referring the resolution or ordinance to the municipality to prepare alternative plans, specifications and financing methods.

(6) At the request of the commission the municipality or a boundary commission shall aid in determining the findings made under subsections (3) and (4) of this section.

(7) The commission shall file its findings and order with the governing body of the municipality. [1981 c.358 §7]

454.310 Construction authorized upon commission approval; final plans. (1) When a certified copy of the findings and order approving the proposal is filed with the governing body, the governing body shall order construction of the treatment works and proceed with the financing plan as specified in the order.

(2) Within 12 months after receiving the commission's order the municipality shall prepare final plans and specifications for the treatment works and proceed in accordance with the

time schedule to construct the facility. [1981 c.358 §8]

454.315 [1973 c.424 §2; repealed by 1975 c.167 §13]

454.317 Resolution or ordinance authorizing levy and collection of seepage charge. (1) When a certified copy of the findings and order approving the proposal is filed with the governing body as provided in ORS 454.305, the governing body may adopt a resolution or ordinance authorizing the levy and collection of a seepage charge upon all real properties served by onsite subsurface sewage disposal systems, as defined in ORS 454.605, within the boundaries of the affected area.

(2) A resolution or ordinance adopted under this section shall authorize the levy and collection of a seepage charge only in an affected area located entirely within a single drainage basin as identified in regional treatment works plans.

(3) A resolution or ordinance adopted under this section shall:

(a) Describe the boundaries of the affected area; and

(b) Contain an estimate of the commencement and completion dates for the proposed treatment works and a proposed schedule for the extension of sewer service into the affected area. [1983 c.235 §2]

454.320 Hearing on resolution or ordinance; notice of levy. (1) The governing body shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of the intent to adopt the resolution or ordinance in a newspaper of general circulation within the affected area once each week for four successive weeks and by such other means as the governing body deems appropriate in order to give actual notice of the hearing. The hearing shall be held within or near the affected area described in the resolution or ordinance. At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a seepage charge should be levied and collected.

(2) After the hearing held under this section, the governing body shall publish a notice of the levy of the seepage charge and thereafter proceed to levy and collect the seepage charge in such amount as in the discretion of the governing body will provide revenues for the payment of the principal and interest, in whole or in part, due on general obligation bonds or on revenue bonds issued by the governing body to construct the treatment works or to provide capital funds for the construction of treatment works. [1983 c.235 §3]

454.325 [1973 c.424 §3; repealed by 1975 c.167 §13]

454.330 County to collect seepage charge for municipality. (1) The county in which a municipality is levying a seepage charge under ORS 454.317 to 454.350 shall collect the seepage charge for the municipality.

(2) The county shall establish a separate account for each ordinance or resolution adopted by a municipality and imposing a seepage charge within the county. The seepage charges collected under an ordinance or resolution shall be credited only to the account established for that ordinance or resolution.

(3) Moneys in an account established under this section shall be disbursed only to the municipality for which the account was established.

(4) In order to receive funds under this section, a municipality must notify the county that the commission has ordered the governing body to proceed with construction of treatment works as provided in ORS 454.305 (2). Upon such notification, the county shall release funds from the appropriate account to the municipality. [1983 c.235 §4]

454.335 [1973 c.424 §4; repealed by 1975 c.167 §13]

454.340 Use of seepage charge; credit for systems development charge; seepage charge to cease if user fee imposed. (1) Except as provided in this section, all seepage charges levied and collected by the governing body shall be dedicated and pledged to the payment of the principal of and interest due on general obligation bonds or on revenue bonds issued pursuant to ORS 454.285 for the construction of treatment works or to provide capital funds for the construction of treatment works.

(2) Systems development charges shall not be imposed by a municipality in any area in which seepage charges are imposed and collected under ORS 454.317 to 454.350. If an owner of real property against which seepage charges are imposed has already paid a systems development charge for that real property, the owner shall be allowed a credit against the seepage charge otherwise payable in an amount equal to the systems development charge.

(3) When a user fee for the use of treatment works is imposed upon real property, all seepage charges levied against that real property shall cease.

(4) The governing body, by ordinance, may allocate not less than 25 percent of the seepage

charges collected under ORS 454.317 to 454.350 for the purpose of allowing owners of real properties against which the seepage charges are imposed a credit against the future connection charges otherwise due when those real properties are connected to treatment works. [1983 c.235 §6]

454.345 [1973 c.424 §5; repealed by 1975 c.167 §13]

454.350 Effect of ORS 454.317 to 454.350 on contracts between municipalities. Nothing in ORS 454.317 to 454.350 prohibits contracts between municipalities under which a municipality may provide treatment facilities or services to another municipality. [1983 c.235 §5]

454.355 [1973 c.424 §6; repealed by 1975 c.167 §13]

340-71-335 CESSPOOLS AND SEEPAGE PITS. (Diagrams 16 and 17)

(1) For the purpose of these rules:

(a) "Cesspool" means a lined pit which receives raw sewage, allows separation of solids and liquids, retains the solids and allows liquids to seep into the surrounding soil through perforations in the lining.

(b) "Seepage Pit" means a "cesspool" which has a treatment facility such as a septic tank ahead of it.

(2) Prohibitions. Cesspools and seepage pits shall not be used except in areas specifically authorized in writing by the Director. After May 1, 1981, the Agent may not grant approvals or permits for cesspools or seepage pits to serve new structures without first receiving written authorization from the Director.

(a) Effective October 1, 1982, unless the provisions of paragraph (2)(a)(C) of this rule are met:

(A) Installation of new cesspools is prohibited. Cesspools may be used only to replace existing failing cesspools.

(B) Seepage pits may be used only on lots created prior to March 13, 1981, which are inadequate in size to accommodate a standard subsurface system, unless the land use plan for the area anticipates division of existing lots to provide for more dense development and a program and timetable for providing sewerage service to the area has been approved by the Department.

(C) The prohibitions contained in paragraphs (2)(a)(A) and (2)(a)(B) of this rule shall not become effective until January 1, 1985, provided that by October 1, 1982, the appropriate jurisdiction(s) have adopted a system whereby additional funds are collected for each cesspool installation, and the funds collected are used for planning, design and construction of sewers in the cesspool-seepage pit areas.

(b) The governmental entities responsible for providing sewer service to the seepage pit and cesspool areas within Multnomah and Clackamas Counties, as set forth in the METRO Master Plan, shall not later than July 1, 1983, submit to the Department an assessment of the feasibility of imposing user fees or area taxes on existing systems and appropriate exemptions from such fees or taxes, and by July 1, 1984, submit to the Department, detailed

plans, scheduling, priorities, phasing and financial mechanisms for sewering the entire cesspool area.

(c) Effective January 1, 1985, unless this rule is further modified in response to plans required in paragraph (2)(b) of this rule:

(A) Installation of cesspools is prohibited.

(B) Installation of new seepage pits is prohibited.

(C) Seepage pits may be used only to replace existing failing cesspools or seepage pits on lots that are inadequate in size to accommodate a standard subsurface system.

(3) Criteria for Approval. Except as provided for in Section 340-71-335(2) of this rule seepage pits and cesspools may be used for sewage disposal on sites that meet the following site criteria:

(a) The permanent water table is sixteen (16) feet or greater from the surface.

(b) Gravelly sand, gravelly loamy sand, or other equally porous material occurs in a continuous five (5) foot deep stratum within twelve (12) feet of the ground surface.

(c) A layer that limits effective soil depth does not overlay the gravel stratum.

(d) A community water supply is available.

(4) Construction Requirements.

(a) Each cesspool and seepage pit shall be installed in a location to facilitate future connection to a sewerage system when such facilities become available.

(b) Maximum depth of cesspools and seepage pits shall be thirty-five (35) feet below ground surface.

(c) The cesspool or seepage pit depth shall terminate at least four (4) feet above the water table.

(d) Construction of cesspools and seepage pits in limestone areas is prohibited.

(e) Other standards for cesspool and seepage pit construction are contained in Rule 340-73-080.

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL

NAME- CALCAGNO
LOCATION-6835 N.E.COLUMBIA BLVD

DATE SAMPLED-	7/21/83	8/30/83	9/27/83	10/24/83	11/28/83 (QA)	1/3/84	1/3/84 (QA) ORGANIC	1/30/84	1/30/84 DUPLICATE ORGANIC SAMPLE	2/27/84	2/27/84 DULPICATE ORGANIC SAMPLE	4/3/84	4/3/84 DULPICATE ORGANIC SAMPLE
WATER QUALITY PARAMETERS													
INORGANIC	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L		MG/L		MG/L	
NITRATE	N/A	6.8	6.5	6.5	5.8	6.3	6.3	6.7		6.6		6.2	
PHOSPHORUS	0.134	0.132	0.139	0.141	0.131	0.135	0.135	0.134		0.137		0.134	
TOTAL DISSOLVED SOLIDS	241	220	209	219	219	215	207	211		205		196	
LAB PH (PH UNITS)	6.8	7.0	6.8	6.8	6.8	6.8	6.7	6.8		7.0		7.0	
LAB ALKALINITY	62	63	63	63	61	62	61	60		61		60	
CHLORIDE	8.1	11	8.3	9	8.2	8.7	8.7	9.2		8.4		6.6	
SULFATE	16	17	16	17	18	16	16	16		16		16	
LAB CONDUCTIVITY	230	240	240	230	230	228	227	227		240		240	
DISSOLVED IRON	<0.05	<0.05	0.01	<0.05	<0.05	<0.05	<0.05	<0.05		<0.05		<0.05	
DISSOLVED CALCIUM	22	23	23	22	23	23	23	22		22		23	
MAGNESIUM	7.9	8.2	7.8	7.4	7.8	8.0	7.7	7.6		7.7		7.8	
HARDNESS	88	91	90	85	89	90	89	86		87		90	
AMMONIA	N/A	0.02	<0.02	0.02	<0.02	0.05	0.03	0.02		<0.02		<0.02	
ORGANIC													
BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	0.003	0.003
1,2-DICHLOROPROPANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
ETHYL BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
METHYLENE CHLORIDE				-------	-------	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TETRACHLOROETHENE				0.003	0.004	0.003	0.003	0.003	0.004	0.004	0.003	0.003	0.002
TOLUENE				<.001	0.012	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2-TRICHLORGETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLOROETHENE				0.003	0.002	0.001	0.001	0.001	0.002	0.002	0.002	0.002	0.002
TRICHLORFLUOROMETHANE				<.001	-------	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
VINYL CHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOTAL COLIFORM	2	N/A	N/A	N/A	4	N/A	N/A	N/A	N/A	N/A	N/A	<1.8	N/A
FECAL COLIFORM	<1.8	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	N/A	<1.8	N/A

ATTACHMENT VI

1

	A	B	C	D	E	F	G	H	I	J	K	L	M
1				EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL									
2													
3		NAME-	HOPWOOD										
4		LOCATION-	11031 N.E. BEECH										
5		DATE SAMPLED-		7/21/83	8/30/83	9/27/83	10/24/83	11/28/83	1/3/84	1/30/84	2/27/84	4/3/84	
6													
7	WATER QUALITY PARAMETERS												
8	INORGANIC			MG/L	MG/L	MG/L	MG/L	MG/L					
9	---												
10	NITRATE			6.8	6.8	6.7	6.7	6.5					
11	PHOSPHORUS			0.107	0.115	0.112	0.113	0.112					
12	TOTAL DISSOLVED SOLIDS			222	198	198	203	219					
13	LAB PH (PH UNITS)			6.8	6.8	6.8	6.8	6.8					
14	LAB ALKALINITY			53	51	51	50	51					
15	CHLORIDE			8.2	9.2	8.3	8.5	8.7					
16	SULFATE			12	12	13	13	13					
17	LAB CONDUCTIVITY			210	205	210	200	210	W	W	W	W	
18	DISSOLVED IRON			<0.05	<0.05	0.01	<0.05	<0.05	E	E	E	E	
19	DISSOLVED CALCIUM			19	18	18	18	19	L	L	L	L	
20	MAGNESIUM			7.4	7.8	7.2	6.7	7.3	L	L	L	L	
21	HARDNESS			77	77	74	73	77					
22	AMMONIA			N/A	0.03	<0.02	<0.02	<0.02	I	I	I	I	
23	---								S	S	S	S	
24	ORGANIC						UG/ML	UG/ML					
25	---								D	D	D	D	
26	BENZENE						<.001	<.001	I	I	I	I	
27	BROMODICHLOROMETHANE						<.001	<.001	S	S	S	S	
28	BROMOFORM						<.001	<.001	C	C	C	C	
29	BROMOMETHANE						<.001	<.001	O	O	O	O	
30	CARBON TETRACHLORIDE						<.001	<.001	N	N	N	N	
31	CHLOROBENZENE						<.001	<.001	N	N	N	N	
32	CHLOROETHANE						<.001	<.001	E	E	E	E	
33	2-CHLOROETHYLVINYL ETHER						<.001	<.001	C	C	C	C	
34	CHLOROFORM						<.001	<.001	T	T	T	T	
35	CHLOROMETHANE						<.001	<.001	E	E	E	E	
36	DIBROMOCHLOROMETHANE						<.001	<.001	D	D	D	D	
37	1,3-DICHLOROBENZENE						<.001	<.001					
38	1,2/1,4-DICHLOROBENZENE						<.001	<.001	D	D	D	D	
39	1,1-DICHLOROETHANE						<.001	<.001	U	U	U	U	
40	1,2-DICHLOROETHANE						<.001	<.001	R	R	R	R	
41	1,1-DICHLOROETHENE						<.001	<.001	I	I	I	I	
42	TRANS-1,2 DICHLOROETHENE						0.002	0.003	N	N	N	N	
43	1,2-DICHLOROPROPANE						<.001	<.001	G	G	G	G	
44	CIS-1,2-DICHLOROPROPENE						<.001	<.001					
45	TRANS-1,2-DICHLOROPROPENE						<.001	<.001	T	T	T	T	
46	ETHYL BENZENE						<.001	<.001	H	H	H	H	
47	METHYLENE CHLORIDE						<.001	-------	E	E	E	E	
48	1,1,2,2-TETRACHLOROETHANE						<.001	<.001					
49	TETRACHLOROETHENE						0.004	0.005	W	W	W	W	
50	TOLUENE						<.001	<.001	I	I	I	I	
51	1,1,1-TRICHLOROETHANE						<.001	<.001	N	N	N	N	
52	1,1,2-TRICHLOROETHANE						<.001	<.001	T	T	T	T	
53	TRICHLOROETHENE						0.001	<.001	E	E	E	E	
54	TRICHLORFLUOROMETHANE						<.001	-------	R	R	R	R	
55	VINYL CHLORIDE						<.001	<.001					
56	---												
57	TOTAL COLIFORM			<1.8	N/A	N/A	N/A	<1.8					
58	FECAL COLIFORM			<1.8	N/A	N/A	N/A	<1.8					

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL

NAME- PARKROSE WELL NO. 2
LOCATION- N.E.124TH AND COLUMBIA BLVD

DATE SAMPLED-	7/21/83	8/30/83	9/27/83	10/24/83	10/24/83 (QA)	11/28/83	11/28/83 DUPLICATE ORGANIC SAMPLE	1/3/84	1/3/84 DUPLICATE ORGANIC SAMPLE	1/30/84	1/30/84 DUPLICATE ORGANIC SAMPLE	2/27/84	4/3/84
WATER QUALITY PARAMETERS													
INORGANIC	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L		MG/L		MG/L		MG/L	MG/L
NITRATE	6.8	6.5	6.7	6.5	6.3	6.4		6.7		6.9		6.8	6.6
PHOSPHORUS	0.124	0.128	0.133	0.126	0.125	0.126		0.124		0.122		0.188	206
TOTAL DISSOLVED SOLIDS	215	192	186	210	200	201		187		198		199	186
LAB PH (PH UNITS)	6.8	6.8	6.7	6.6	6.6	6.6		6.7		6.9		6.8	6.8
LAB ALKALINITY	49	49	47	48	47	44		48		50		48	47
CHLORIDE	7.6	9	7.7	8.5	8	7.6		8.7		8.7		9.8	7.2
SULFATE	14	14	14	15	14	14		13		14		14	15
LAB CONDUCTIVITY	200	198	200	200	200	210		200		205		232	210
DISSOLVED IRON	<0.05	<0.05	0.01	<0.05	0.05	<0.05		<0.05		<0.05		<0.05	<0.05
DISSOLVED CALCIUM	18	18	17	17	18	18		19		18		18	19
MAGNESIUM	7.4	7.9	7.2	6.9	6.8	7.5		7.7		7.5		7.4	7.6
HARDNESS	75	77	72	71	73	76		79		76		75	78
AMMONIA	N/A	<0.02	<0.02	<0.02	<0.02	<0.02		0.02		<0.02		<0.02	<0.02
ORGANIC													
BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE				0.002	0.002	0.002	0.002	0.001	0.001	0.003	0.002	0.003	0.002
1,2-DICHLROPROPANEE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
ETHYL BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
METHYLENE CHLORIDE				------	------	------	------	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TETRACHLOROETHENE				0.003	0.003	0.003	0.003	0.003	0.003	0.002	0.003	0.002	0.002
TOLUENE				<.001	<.001	0.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2-TRICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLOROETHENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLORFLUOROMETHANE				0.013	0.003	------	------	0.001	0.001	0.002	0.003	<.001	<.001
VINYL CHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOTAL COLIFORM	1.8	N/A	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	N/A	<1.8
FECAL COLIFORM	1.8	N/A	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	N/A	<1.8

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL

NAME- PARKROSE WELL NO.3
LOCATION- N.E. 124TH AND COLUMBIA BLVD

DATE SAMPLED-	7/21/83	8/30/83	9/27/83	10/24/83	11/28/83	11/28/83 DUPLICATE ORGANIC SAMPLE	1/3/84	1/3/84 DUPLICATE ORGANIC SAMPLE	1/30/84	1/30/84 DUPLICATE ORGANIC SAMPLE	2/27/84	2/27/84 DUPLICATE ORGANIC SAMPLE	4/3/84	4/3/84 DUPLICATE ORGANIC SAMPLE
WATER QUALITY PARAMETERS														
INORGANIC	MG/L	MG/L	MG/L	MG/L	MG/L		MG/L		MG/L		MG/L			
NITRATE	7.5	7.2	6.8	6.8	6.6		6.8		7.0		6.7		6.3	
PHOSPHORUS	0.126	0.124	0.124	0.123	0.127		0.121		0.119		0.12		0.118	
TOTAL DISSOLVED SOLIDS	204	194	189	208	200		194		196		197		190	
LAB PH (PH UNITS)	6.9	7.0	6.9	6.8	6.8		6.8		6.9		6.7		6.8	
LAB ALKALINITY	48	61	46	49	49		48		50		48		48	
CHLORIDE	8.2	9	8.3	8.5	8.2		8.2		8.7		8.4		6.8	
SULFATE	14	14	15	14	14		13		14		14		13	
LAB CONDUCTIVITY	200	200	210	200	225		202		206		212		210	
DISSOLVED IRON	<0.05	<0.05	0.01	<0.05	<0.05		<0.05		<0.05		<0.05		<0.05	
DISSOLVED CALCIUM	18	18	18	18	18		19		18		18		19	
MAGNESIUM	7.3	7.7	7.3	6.8	7.5		7.7		7.5		7.4		7.4	
HARDNESS	75	77	74	73	77		79		76		75		78	
AMMONIA	N/A	<0.02	<0.02	0.02	<0.02		0.03		<0.02		<0.02		0.02	
ORGANIC														
BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROFORM				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE				0.002	0.003	0.002	0.002	0.002	0.002	0.002	0.001	0.002	0.004	0.002
1,2-DICHLOROPROPANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
ETHYL BENZENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
METHYLENE CHLORIDE				------	------	------	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TETRACHLOROETHENE				0.003	0.003	0.003	0.002	0.002	0.002	0.002	0.001	0.003	0.003	0.003
TOLUENE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2-TRICHLOROETHANE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLOROETHENE				0.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLORFLUOROMETHANE				<.001	------	------	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
VINYL CHLORIDE				<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOTAL COLIFORM	1.8	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	<1.8	N/A
FECAL COLIFORM	1.8	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	<1.8	N/A

1

	A	B	C	D	E	F	G	H	I	J	K	L	M
1				EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL									
2													
3			NAME-	CALDWELL									
4			LOCATION-14914 N.E. SANDY										
5			DATE SAMPLED-	7/21/83	8/30/83	9/27/83	10/24/83	11/28/83	1/3/84	1/30/84	2/27/84	2/27/84 (QA)	4/3/84
6													
7	WATER QUALITY PARAMETERS												
8	INORGANIC			MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L
9	---												
10	NITRATE			5.1	5.4	5.5	5.5	5.4	5.5	5.5	5.3	5.2	4.6
11	PHOSPHORUS			0.072	0.083	0.084	0.086	0.074	0.086	0.075	0.081	0.083	0.201
12	TOTAL DISSOLVED SOLIDS			195	173	171	185	192	172	175	165	173	165
13	LAB PH (PH UNITS)			7.0	6.8	6.8	6.9	6.9	6.8	6.9	6.8	6.8	6.8
14	LAB ALKALINITY			41	41	42	42	42	43	43	43	45	44
15	CHLORIDE			7.4	9.6	7.7	9	8.7	8.7	8.2	8.4	8.7	7.8
16	SULFATE			15	15	15	15	15	15	15	15	15	14
17	LAB CONDUCTIVITY			185	184	187	185	210	179	180	188	188	180
18	DISSOLVED IRON			<0.05	<0.05	0.02	0.05	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
19	DISSOLVED CALCIUM			15	14	15	15	16	15	15	14	14	15
20	MAGNESIUM			7.2	7.6	7.2	6.9	7.5	7.3	7.3	7.3	7.4	7.2
21	HARDNESS			66	66	67	66	70	67	67	65	65	67
22	AMMONIA			N/A	<0.02	<0.02	0.02	<0.02	0.02	0.02	0.05	<0.02	<0.02
23	---												
24	ORGANIC												
25	---												
26	BENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
27	BROMODICHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
28	BROMOFORM						<.001	<.001	<.001	<.001	<.001	<.001	<.001
29	BROMOMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
30	CARBON TETRACHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
31	CHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
32	CHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
33	2-CHLOROETHYLVINYL ETHER						<.001	<.001	<.001	<.001	<.001	<.001	<.001
34	CHLOROFORM						<.001	<.001	<.001	<.001	<.001	<.001	<.001
35	CHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
36	DIBROMOCHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
37	1,3-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
38	1,2/1,4-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
39	1,1-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
40	1,2-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
41	1,1-DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
42	TRANS-1,2 DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
43	1,2-DICHLOROPROPANE						<.001	0.001	<.001	<.001	0.002	0.002	0.002
44	CIS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
45	TRANS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
46	ETHYL BENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
47	METHYLENE CHLORIDE						---------	-------	<.001	<.001	<.001	<.001	<.001
48	1,1,2,2-TETRACHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
49	TETRACHLOROETHENE						<.001	<.001	0.003	<.001	<.001	<.001	<.001
50	TOLUENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
51	1,1,1-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
52	1,1,2-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
53	TRICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
54	TRICHLORFLUOROMETHANE						<.001	-------	0.002	<.001	<.001	<.001	<.001
55	VINYL CHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001	<.001
56	---												
57	TOTAL COLIFORM			<1.8	N/A	N/A	N/A	<0.02	N/A	N/A	N/A	N/A	2
58	FECAL COLIFORM			<1.8	N/A	N/A	N/A	<0.02	N/A	N/A	N/A	N/A	2

1

	A	B	C	D	E	F	G	H	I	J	K	L
1				EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL								
2												
3		NAME-	SMITH									
4		LOCATION-3039 N.E.181ST										
5		DATE SAMPLED-		7/21/83	8/30/83	9/27/83	10/24/83	11/28/83	1/3/84	1/30/84	2/27/84	4/3/84
6												
7	WATER QUALITY PARAMETERS											
8	INORGANIC			MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L
9	---											
10	NITRATE			4.9	5.2	5.1	4.8	4.8	5.0	5.00	4.9	4.7
11	PHOSPHORUS			0.102	0.102	0.106	0.102	0.101	0.094	0.097	0.087	0.093
12	TOTAL DISSOLVED SOLIDS			176	166	163	177	170	146	165	171	159
13	LAB PH (PH UNITS)			7.4	7.4	7.3	7.3	7.4	7.3	7.4	7.5	7.3
14	LAB ALKALINITY			60	63	62	62	61	62	62	66	60
15	CHLORIDE			5.8	5.4	5	5.3	5.4	5.4	5.4	4.7	5.2
16	SULFATE			12	11	12	12	12	12	11	12	11
17	LAB CONDUCTIVITY			196	193	194	192	200	186	189	209	190
18	DISSOLVED IRON			<0.05	<0.05	0.02	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
19	DISSOLVED CALCIUM			15	15	14	14	15	15	15	14	15
20	MAGNESIUM			9.5	10.6	9.1	8.8	9.2	9.8	9.1	9.7	9.4
21	HARDNESS			76	81	72	71	76	78	75	75	76
22	AMMONIA			N/A	<0.02	<0.02	<0.02	<0.02	<0.02	0.03	<0.02	<0.02
23	---											
24	ORGANIC											
25	---											
26	BENZENE						<.001	<.001	<.001	<.001	<.001	<.001
27	BROMODICHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
28	BROMOFORM						<.001	<.001	<.001	<.001	<.001	<.001
29	BROMOMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
30	CARBON TETRACHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001
31	CHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
32	CHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
33	2-CHLOROETHYLVINYL ETHER						<.001	<.001	<.001	<.001	<.001	<.001
34	CHLOROFORM						<.001	<.001	<.001	<.001	<.001	<.001
35	CHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
36	DIBROMOCHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
37	1,3-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
38	1,2/1,4-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
39	1,1-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
40	1,2-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
41	1,1-DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
42	TRANS-1,2 DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
43	1,2-DICHLOROPROPANE						<.001	<.001	<.001	<.001	<.001	<.001
44	CIS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001
45	TRANS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001
46	ETHYL BENZENE						<.001	<.001	<.001	<.001	<.001	<.001
47	METHYLENE CHLORIDE						--------	------	<.001	<.001	<.001	<.001
48	1,1,2,2-TETRACHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
49	TETRACHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
50	TOLUENE						<.001	<.001	<.001	<.001	<.001	<.001
51	1,1,1-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
52	1,1,2-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
53	TRICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
54	TRICHLORFLUOROMETHANE						<.001	-------	<.001	<.001	<.001	<.001
55	VINYL CHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001
56	---											
57	TOTAL COLIFORM			<1.8	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	<1.8
58	FECAL COLIFORM			<1.8	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	<1.8

1

	A	B	C	D	E	F	G	H	I	J	K	L
1				EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL								
2												
3			NAME-	STENSLAND								
4			LOCATION-	2550 N.W.BURNSIDE								
5			DATE SAMPLED-		8/30/83	9/27/83	10/24/83	11/28/83	1/3/84	1/30/84	2/27/84	4/3/84
6												
7	WATER QUALITY PARAMETERS											
8	INORGANIC				MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L
9	---											
10	NITRATE				4.0	4.1	4.1	4.0	4.2	3.8	3.7	3.6
11	PHOSPHORUS				0.076	0.078	0.072	0.081	0.068	0.060	0.058	0.060
12	TOTAL DISSOLVED SOLIDS				145	144	155	149	126	142	134	136
13	LAB PH (PH UNITS)				6.3	6.4	6.3	6.4	6.5	6.6	6.5	6.4
14	LAB ALKALINITY				40	41	42	43	43	44	41	38
15	CHLORIDE				5.1	3	5.3	3.8	3.3	4.9	4.3	4.6
16	SULFATE				13	14	14	13	12	12	13	12
17	LAB CONDUCTIVITY				158	161	165	160	153	152	156	146
18	DISSOLVED IRON				<0.05	0.01	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
19	DISSOLVED CALCIUM				14	13	14	14	14	14	13	14
20	MAGNESIUM				5.3	5	4.8	5.0	5.1	4.9	4.7	4.6
21	HARDNESS				57	53	55	57	56	55	52	54
22	AMMONIA				<0.02	<0.02	<0.02	<0.02	<0.02	0.02	<0.02	0.02
23	---											
24	ORGANIC											
25	---											
26	BENZENE						<.001	<.001	<.001	<.001	<.001	<.001
27	BROMODICHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
28	BROMOFORM						<.001	<.001	<.001	<.001	<.001	<.001
29	BROMOMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
30	CARBON TETRACHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001
31	CHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
32	CHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
33	2-CHLOROETHYLVINYL ETHER						<.001	<.001	<.001	<.001	<.001	<.001
34	CHLOROFORM						<.001	<.001	<.001	<.001	<.001	<.001
35	CHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
36	DIBROMOCHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001
37	1,3-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
38	1,2/1,4-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001
39	1,1-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
40	1,2-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
41	1,1-DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
42	TRANS-1,2 DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
43	1,2-DICHLOROPROPANE						<.001	<.001	<.001	<.001	<.001	<.001
44	CIS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001
45	TRANS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001
46	ETHYL BENZENE						<.001	<.001	<.001	<.001	<.001	<.001
47	METHYLENE CHLORIDE						---------	-------	<.001	<.001	<.001	<.001
48	1,1,2,2-TETRACHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
49	TETRACHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
50	TOLUENE						<.001	<.001	<.001	<.001	<.001	<.001
51	1,1,1-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
52	1,1,2-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001
53	TRICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001
54	TRICHLORFLUOROMETHANE						<.001	-------	<.001	<.001	<.001	<.001
55	VINYL CHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001
56	---											
57	TOTAL COLIFORM				N/A	N/A	N/A	<1.8	N/A	N/A	N/A	<1.8
58	FECAL COLIFORM				N/A	N/A	N/A	<1.8	N/A	N/A	N/A	<1.8

1

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	EAST MULTEAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL													
2														
3		NAME-	GILBERT WATER DISTRICT											
4		LOCATION-	5618 S.E. 135TH											
5		DATE SAMPLED-		7/21/83	8/30/83	9/27/83	10/24/83	11/28/83	11/28/83 DUPLICATE ORGANIC SAMPLE	1/3/84	1/3/84 DUPLICATE ORGANIC SAMPLE	1/30/84	2/27/84	4/3/84
6														
7	WATER QUALITY PARAMETERS													
8	INORGANIC			MG/L	MG/L	MG/L	MG/L	MG/L		MG/L		MG/L	MG/L	MG/L
9	---													
10	NITRATE			6.9	4.0	6.7	6.9	6.8	4.2	7.2	3.7	7.2	7.1	6.7
11	PHOSPHORUS			0.117	0.076	0.117	0.114	0.115	0.068	0.113	0.058	0.115	0.117	0.111
12	TOTAL DISSOLVED SOLIDS			196	145	169	186	174	126	207	134	182	182	178
13	LAB PH (PH UNIT(PH UNIT			6.7	6.3	6.9	6.6	6.8	6.5	6.6	6.5	6.8	6.7	6.6
14	LAB ALKALINITY			46	40	46	46	46	43	44	41	42	43	41
15	CHLORIDE			6.8	5.1	5.6	7.4	7.1	3.3	7.1	4.3	7.6	6.8	7.6
16	SULFATE			12	13	12	12	12	12	12	13	12	12	12
17	LAB CONDUCTIVITY			193	158	192	194	200	153	186	156	185	197	183
18	DISSOLVED IRON			<0.05	<0.05	0.01	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
19	DISSOLVED CALCIUM			16	14	14	16	16	14	17	13	16	15	16
20	MAGNESIUM			6.4	5.3	6.4	6.1	6.8	5.1	6.7	4.7	6.6	6.5	6.4
21	HARDNESS			66	57	61	65	69	56	70	52	67	64	66
22	AMMONIA			N/A	<0.02	<0.02	<0.02	<0.02	<0.02	0.02	<0.02	<0.02	<0.02	0.04
23	---													
24	ORGANIC													
25	---													
26	BENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
27	BROMODICHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
28	BROMOFORM						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
29	BROMOMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
30	CARBON TETRACHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
31	CHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
32	CHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
33	2-CHLOROETHYLVINYL ETHER						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
34	CHLOROFORM						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
35	CHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
36	DIBROMOCHLOROMETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
37	1,3-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
38	1,2/1,4-DICHLOROBENZENE						<.001	<.001	<.001	<.001	<.001	<.001	0.002	0.002
39	1,1-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
40	1,2-DICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
41	1,1-DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
42	TRANS-1,2 DICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
43	1,2-DICHLOROPROPANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
44	CIS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
45	TRANS-1,2-DICHLOROPROPENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
46	ETHYL BENZENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
47	METHYLENE CHLORIDE						-------	-------	-------	<.001	<.001	<.001	<.001	<.001
48	1,1,2,2-TETRACHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
49	TETRACHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
50	TOLUENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
51	1,1,1-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
52	1,1,2-TRICHLOROETHANE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
53	TRICHLOROETHENE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
54	TRICHLORFLUOROMETHANE						<.001	-------	-------	<.001	<.001	<.001	<.001	<.001
55	VINYL CHLORIDE						<.001	<.001	<.001	<.001	<.001	<.001	<.001	<.001
56	---													
57	TOTAL COLIFORM				N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	2
58	FECAL COLIFORM				N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	N/A	2

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL

NAME- F. V. WETTERN
LOCATION- 764 S.E.115TH

DATE SAMPLED-	7/21/83	8/30/83	8/30/83 (Q/A)	9/27/83	10/24/83	11/28/83	11/28/83 (Q/A)	1/3/84	1/30/84	2/27/84	4/3/84
WATER QUALITY PARAMETERS											
INORGANIC	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L
NITRATE	4.8	4.9	4.9	4.7	4.8	5.4	5.3	5.2	5.4	5.5	5.4
PHOSPHORUS	0.078	0.086	0.086	0.085	0.088	0.086	0.083	0.086	0.078	0.076	0.072
TOTAL DISSOLVED SOLIDS	147	150	143	141	157	148	145	154	155	157	151
LAB PH (PH UNITS)	6.6	6.5	6.6	6.8	6.5	6.6	6.6	6.6	6.7	6.6	6.5
LAB ALKALINITY	39	37	41	48	46	44	43	42	44	44	42
CHLORIDE	6.4	7.0	7.0	6.7	6.9	7.1	6.0	6	6.5	6.4	6.7
SULFATE	11	11	11	11	11	10	12	11	11	11	12
LAB CONDUCTIVITY	161	166	166	171	176	190	180	164	168	179	171
DISSOLVED IRON	<0.05	<0.05	<0.05	0.01	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
DISSOLVED CALCIUM	14	14	15	14	16	17	16	16	15	15	16
MAGNESIUM	4.1	4.2	4.3	4.3	4.3	4.7	4.6	4.7	4.6	4.7	4.6
HARDNESS	52	52	55	53	58	61	60	59	56	57	59
AMMONIA	N/A	0.02	<0.02	<0.02	<0.02	0.02	<0.02	<0.02	<0.02	<0.02	<0.02
ORGANIC											
BENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOFORM					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROFORM					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROPROPANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
ETHYL BENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
METHYLENE CHLORIDE					-------	-------	-------	<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TETRACHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOLUENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2-TRICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLORFLUOROMETHANE					<.001	-------	-------	<.001	<.001	<.001	<.001
VINYL CHLORIDE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOTAL COLIFORM		N/A	N/A	N/A	N/A	13	2	N/A	N/A	N/A	23
FECAL COLIFORM		N/A	N/A	N/A	N/A	<1.8	<1.8	N/A	N/A	N/A	<1.8

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT SAMPLING WELL

NAME- CABLER
LOCATION- 13915 S.E. RAMONA

DATE SAMPLED-	7/21/83	8/30/83	9/27/83	9/27/83 (Q/A)	10/24/83	11/28/83	1/3/84	1/30/84	1/30/84 (QA)	2/27/84	4/3/84
WATER QUALITY PARAMETERS											
INORGANIC	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L	MG/L
NITRATE	0.62	0.6	0.6	0.58	0.57	0.58	0.57	0.60	0.57	0.59	0.55
PHOSPHORUS	0.058	0.056	0.058	0.052	0.049	0.043	0.045	0.044	0.044	0.048	0.050
TOTAL DISSOLVED SOLIDS	135	132	126	128	133	133	134	130	133	121	129
LAB PH (PH UNITS)	7.3	7.2	7.2	7.2	7.1	7.2	7.1	7.2	7.3	7.2	7.3
LAB ALKALINITY	75	76	75	76	77	75	75	75	76	76	75
CHLORIDE	2.8	3.3	2.8	2.2	2.1	2.2	2.7	3.3	3.3	2.8	3.0
SULFATE	1.6	0.6	1.8	1.6	1.2	2.1	1.9	1.3	1.1	1.7	1.4
LAB CONDUCTIVITY	158	155	155	154	155	160	147	150	150	156	151
DISSOLVED IRON	<0.05	<0.05	0.01	0.01	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05	<0.05
DISSOLVED CALCIUM	14	14	13	13	14	15	14	14	14	13	15
MAGNESIUM	6.8	7.2	6.7	6.7	6.3	6.6	6.8	6.9	6.7	6.7	6.9
HARDNESS	63	65	60	60	61	64	63	63	63	60	66
AMMONIA	N/A	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02	0.003	<0.02	0.02
ORGANIC											
BENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOFORM					<.001	<.001	<.001	<.001	<.001	<.001	<.001
BROMOMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROFORM					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,2-DICHLOROPROPANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
ETHYL BENZENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
METHYLENE CHLORIDE					----------	-------	<.001	<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TETRACHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOLUENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
1,1,2-TRICHLOROETHANE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLOROETHENE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TRICHLORFLUOROMETHANE					<.001	-------	<.001	<.001	<.001	<.001	<.001
VINYL CHLORIDE					<.001	<.001	<.001	<.001	<.001	<.001	<.001
TOTAL COLIFORM	<1.8	N/A	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	<1.8
FECAL COLIFORM	<1.8	N/A	N/A	N/A	N/A	<1.8	N/A	N/A	N/A	N/A	<1.8

EAST MULTNOMAH COUNTY GROUNDWATER QUALITY MONITORING PROJECT

NAME- PARKROSE WATER DISTRICT "FINISHED WATER" SAMPLE
LOCATION- N.E. 124TH AND COLUMBIA BLVD

	DATE SAMPLED-	1/3/84	1/30/84	2/27/84	4/3/84
WATER QUALITY PARAMETERS					
INORGANIC		MG/L	MG/L	MG/L	MG/L
NITRATE		6.8	6.9	6.8	
PHOSPHORUS		0.123	0.120	0.124	
TOTAL DISSOLVED SOLIDS		184	187	188	
LAB PH	(PH UNITS)	7.4	7.5	7.5	
LAB ALKALINITY		48	49	48	
CHLORIDE		9.8	9.8	9.4	
SULFATE		13	14	14	
LAB CONDUCTIVITY		194	208	212	
DISSOLVED IRON		<0.05	<0.05	<0.05	
DISSOLVED CALCIUM		13	12	11	
MAGNESIUM		4.4	5.6	4.5	
HARDNESS		51	53	46	
AMMONIA		<0.02	<0.02	<0.02	
ORGANIC					
BENZENE		<.001	<.001	<.001	<.001
BROMODICHLOROMETHANE		<.001	<.001	<.001	<.001
BROMOFORM		<.001	<.001	<.001	<.001
BROMOMETHANE		<.001	<.001	<.001	<.001
CARBON TETRACHLORIDE		<.001	<.001	<.001	<.001
CHLOROBENZENE		<.001	<.001	<.001	<.001
CHLOROETHANE		<.001	<.001	<.001	<.001
2-CHLOROETHYLVINYL ETHER		<.001	<.001	<.001	<.001
CHLOROFORM		<.001	<.001	<.001	<.001
CHLOROMETHANE		<.001	<.001	<.001	<.001
DIBROMOCHLOROMETHANE		<.001	<.001	<.001	<.001
1,3-DICHLOROBENZENE		<.001	<.001	<.001	<.001
1,2/1,4-DICHLOROBENZENE		<.001	<.001	<.001	<.001
1,1-DICHLOROETHANE		<.001	<.001	<.001	<.001
1,2-DICHLOROETHANE		<.001	<.001	<.001	<.001
1,1-DICHLOROETHENE		<.001	<.001	<.001	<.001
TRANS-1,2 DICHLOROETHENE		<.001	<.001	<.001	<.001
1,2-DICHLOROPROPANE		<.001	<.001	<.001	<.001
CIS-1,2-DICHLOROPROPENE		<.001	<.001	<.001	<.001
TRANS-1,2-DICHLOROPROPENE		<.001	<.001	<.001	<.001
ETHYL BENZENE		<.001	<.001	<.001	<.001
METHYLENE CHLORIDE		<.001	<.001	<.001	<.001
1,1,2,2-TETRACHLOROETHANE		<.001	<.001	<.001	<.001
TETRACHLOROETHENE		<.001	<.001	<.001	<.001
TOLUENE		<.001	<.001	<.001	<.001
1,1,1-TRICHLOROETHANE		<.001	<.001	<.001	<.001
1,1,2-TRICHLOROETHANE		<.001	<.001	<.001	<.001
TRICHLOROETHENE		<.001	<.001	<.001	<.001
TRICHLORFLUOROMETHANE		<.001	<.001	<.001	<.001
VINYL CHLORIDE		<.001	<.001	<.001	<.001
TOTAL COLIFORM		N/A	N/A	N/A	N/A

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Bernie Calcagno 6835 N.E. Columbia Blvd.	1974	--	--	--	--	--	--	11.9	3.8	5.4	5.3	8.0	7.3
	1975	5.0	--	6.6	7.5	--	--	4.7	7.5	--	--	--	--
	1976	--	--	--	--	--	--	--	--	--	--	--	--
	1978	--	--	--	7.1	6.0	7.4	7.4	7.0	--	7.9; (8.3)	--	--
	1979	--	--	--	--	6.1	--	5.7	--	--	--	--	--
	1980	7.1	--	6.7	7.6	--	7.2	7.3	--	7.1	7.9	--	6.8
	1981	--	6.7	6.7	7.3	7.3	7.2	7.6	--	7.1	--	7.3	--
	1983	--	--	--	--	--	--	--	6.8	6.5	6.5	5.8	--
	1984	6.3(6.9)											
Rose City Golf Course 2200 N.E. 71st	1974	--	--	--	--	--	--	8.4	4.3	7.3	4.9	--	--
Rose City Sand and Gravel S.E. 82nd	1975	--	--	--	--	--	--	--	--	--	7.0(a)	--	3.8(a)
	1976	--	--	7.6(a)	--	--	6.5(a)	--	--	--	--	--	--
Parkrose Well No. 1 102nd and Fremont St.	1974	--	--	--	--	--	--	--	7.7	7.3	Standby	--	--

ATTACHMENT VII

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Parkrose Well No. 2 N.E. 124th and Columbia Blvd.	1974	--	--	--	--	--	--	7.4	7.1	7.3	5.5	5.4	6.3
	1975	4.8	5.8	5.9	6.1	--	--	6.7	6.8	--	5.7; 6.2(a)	--	4.9(a)
	1976	--	--	7.1(a)	--	--	6.1(a)	--	--	--	--	--	--
	1978	--	--	--	6.6	5.7	--	6.6	6.6	--	6.7; (6.9)	6.2	--
	1979	--	--	--	--	6.5	6.6	8.9	--	--	--	--	7.1
	1980	6.2	--	6.5	7.1	--	6.4	7.0	--	7.0	6.8	--	7.0
	1981	7.2	6.7	6.4	6.8	6.8	6.7	6.8	--	6.9	--	6.7	--
	1983	--	--	--	--	--	--	6.8	6.5	6.7	6.5	6.4	--
	1984	6.7(6.9)											
Parkrose Well No. 3 N.E. 122nd and Columbia Blvd.	1974	--	--	--	--	--	--	5.1	6.3	6.8	5.4	5.1	6.9
	1975	4.7	6.5	6.0	6.0	--	--	6.0	6.6	--	5.5	--	--
	1978	--	--	--	6.8	6.0	7.0	6.7	6.6	--	6.9; (7.4)	6.4	--
	1979	--	--	--	--	6.4	6.8	7.7	--	--	--	--	7.2
	1980	6.9	--	6.7	7.4	--	6.5	7.2	--	6.9	--	--	7.1
	1981	7.3	6.8	6.6	7.0	6.8	6.8	7.1	--	7.1	--	7.0	--
	1983	--	--	--	--	--	--	7.5	7.2	6.8	6.8	6.6	--
	1984	6.8(7.0)											

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Hazelwood Well No. 1 N.E. 100th and Glisan	1974	--	--	--	--	--	--	9.1	7.2	4.7	6.9	5.1	6.8
	1975	4.2	7.2	6.4	4.6	--	--	5.8	6.7	--	6.0; 5.7(a)	--	3.7(a)
	1976	--	--	7.4(a)	--	--	5.3(a)	--	--	--	--	--	--
	1978	--	--	--	6.7	5.5	7.7	7.3	6.7	--	7.0; 7.5	6.8	--
	1979	--	--	--	--	6.1	6.8	7.1	--	--	--	--	--
	1983	--	--	--	--	--	--	6.7	6.8	6.6	--	--	--
Hazelwood Well No. 2 N.E. 100th and Glisan	1974	--	--	--	--	--	--	8.0	6.0	4.7	5.6	5.3	6.3
	1975	6.2	7.6	6.0	5.4	--	--	6.7	6.4	--	6.1; 6.9(a)	--	3.5(a)
	1976	--	--	7.4(a)	--	--	6.2(a)	--	--	--	--	--	--
	1978	--	--	--	--	--	--	--	--	--	--	--	--
	1979	--	--	--	--	5.8	6.6	--	--	--	--	--	--
	1983	--	--	--	--	--	--	6.0	6.1	6.7	--	--	--
Mr. & Mrs. Hopwood 11031 N.E. Beech	1974	--	--	--	--	--	--	9.3	4.8	8.0	10.3	6.5	--
	1975	--	--	--	5.9	--	--	5.7	7.2	--	--	--	--
	1983	--	--	--	--	--	--	6.8	6.8	6.7	6.7	6.5	--

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Freemont Jr. High School	1974	--	--	--	--	--	--	8.6	5.0	5.5	--	--	--
(Now Parkrose Middle School) 11800 N.E. Sandy Blvd	1978	--	--	--	7.0(b)	--	--	--	--	--	--	--	--
Robert Caldwell 14914 N.E. Sandy	1983	--	--	--	--	--	--	5.1	5.4	5.5	5.5	5.4	--
Portland	1984	5.5(5.5)											
Steve Calcagno 15020 N.E.	1975	--	--	--	--	--	--	--	--	2.2(a)	--	--	1.6(a)
Sandy Blvd.	1976	--	2.2(a)	--	--	2.5(a)	--	--	--	--	--	--	--
Mr. Stensland 2550 N.W. Burnside	1983	--	--	--	--	--	--	--	4.0	4.1	4.1	4.0	--
Gresham	1984	4.2(3.8)											
George Smith 3039 N.E. 181st	1975	--	--	4.4	4.3	--	--	4.6	--	--	--	--	--
Portland	1978	--	--	--	4.9	3.1	4.6	5.9	4.7	--	5.4	4.9	--
	1979	--	--	--	--	--	5.4	4.9	--	--	5.3	--	5.3
	1980	4.7	--	4.5	5.5	--	4.5	4.7	--	4.9	5.0	--	4.9
	1981	4.9	4.6	--	4.9	4.8	--	4.9	--	5.1	--	4.9	--
	1983	--	--	--	--	--	--	4.9	5.2	5.1	4.8	4.8	--
	1984	5.0(5.0)											

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Richard Bottaro, Nursery at Corner of N.E. 181st and Sandy Blvd.	1975	--	--	--	--	--	--	--	--	--	4.9(a)	--	4.7(a)
	1976	--	--	2.8(a)	--	--	3.4(a)	--	--	--	--	--	--
Guy Bryant 1444 S.E. 199th Portland	1975	--	2.6	2.0	2.3	--	--	2.3	2.4	--	2.1(a)	--	1.4(a)
	1976	--	--	2.1(a)	--	--	1.8(a)	--	--	--	--	--	--
	1978	--	--	--	1.5	1.5	0.4	2.2	1.8	--	1.9; 1.8	--	--
	1979	--	--	--	--	1.7	1.9	2.0	--	--	0.1	--	0.2
	1980	0.1	--	0.1	0.1	--	0.1	--	--	--	--	--	--
Robert Pierce Route 2, Box 792 Troutdale	1975	--	6.9	5.4	6.1	--	--	5.4	--	--	--	--	--
Alfred Campau 11911 S.E. Boise	1975	3.8	--	4.5	--	--	--	--	--	--	--	--	--
F. V. Wettern 764 S.E. 115th Portland	1983	--	--	--	--	--	--	4.8	4.9	4.7	4.8	5.4	--
	1984	5.2(5.4)											

Nitrate-Nitrogen Content in Private and Community Wells Developing Groundwater from the Water Table Aquifer in East Multnomah County.

Location	Year	Jan.	Feb.	Mar.	April	May	June	July	August	Sept.	Oct.	Nov.	Dec.
Gilbert Water District Well No. 1 5618 S.E. 135th	1975	--	--	--	--	--	--	--	--	--	6.4	--	4.7
	1976	--	--	7.9(a)	--	--	7.2(a)	--	--	--	--	--	--
	1983	--	--	--	--	--	--	6.9	--	6.7	6.9	6.8	--
	1984	7.2(7.2)											
Eugene Gabler 13915 S.E. Ramona Portland	1983	--	--	--	--	--	--	0.6	0.6	0.6	0.6	0.6	--
	1984	0.6(0.6)											

(a) U. S. Geological Survey

(b) Portland Water Bureau

NJM:g
TG2162
2-27-84

DAVE FROHNMAYER
ATTORNEY GENERAL

WILLIAM F. GARY
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

PORTLAND OFFICE
500 Pacific Building
520 S.W. Yamhill
Portland, Oregon 97204
Telephone: (503) 229-5725

June 21, 1984

William H. Dana
Department of Environmental Quality
522 S. W. Fifth Avenue
Portland, Oregon 97201

Re: Recycling Depots

Deear Mr. Dana:

In response to your memorandum of June 4, 1984, I am preparing a thorough analysis of the solid waste definitions in ORS 459.005, as amended by Oregon Laws 1983, ch 724. That analysis will consider the effect on state and local solid waste management authority of different definitions of "source separate," "recyclable material," and "disposal site." The following preliminary analysis addresses the specific questions raised by your memorandum.

QUESTION ONE: Is source separated recyclable material now considered to be something different than solid waste?

ANSWER: No.

QUESTION TWO: Are facilities that receive only source separated recyclable materials still considered to be "disposal sites?"

ANSWER: Yes

QUESTION THREE: Are facilities that receive only source separated recyclable materials now exempt by definition, from the Department's solid waste management rules?

ANSWER: No.

42 Op Atty Gen 132 (1981), applied the definitions of "solid waste" and "disposal site" to facilities for collecting and sorting cardbord, newspaper, glass, and metal cans. That opinion concluded that such materials are "solid waste" and that such facilities are "disposal sites" which must apply for a permit pursuant to ORS 459.205.

The Oregon Recycling Opportunity Act, Oregon Laws 1983, ch 729, effected major changes to the solid waste laws, ORS ch 459. The Act declared the development of recycling programs to be of statewide concern, and directs the EQC to amend the state Solid Waste Management Plan to facilitate the reduction of solid waste and the reuse and recycling of materials where practicable.

The overall policy of the Act, the expressed concerns of individual legislators, and the specific language of particular sections all indicate that the Legislative Assembly intended that "recyclable material" continue to be a sub-category of "solid waste," and that facilities for collecting and sorting recyclable materials continue to be regulated as "disposal sites."

We are not unmindful of inconsistencies of definitions within the Act itself and in relation to other provisions of ORS ch 459. However, it appears to be the intent that DEQ continue to have power to regulate materials which meet the definition of "solid waste," whether such materials are recyclable or not.

Sincerely,

Robert L. Haskins
Assistant Attorney General

aa

CITY OF
PORTLAND, OREGON
BUREAU OF BUILDINGS

Margaret M. Mahoney, Director
1120 S.W. 5th Avenue
Portland, Oregon 97204-1992
(503) 796-7300

The Noise Review Board
City of Portland, Oregon
1120 S. W. Fifth Avenue
Room 930
Portland, OR 97204-1992

June 27, 1984

The Environmental Quality Commission
State of Oregon
Post Office Box 1760
Portland, Oregon 97204

Dear Commissioners:

In April, 1984, the Noise Review Board acted as a co-petitioner in requesting the EQC to revise vehicular emissions rules to include mandatory noise inspection of motor vehicles.

The Board wishes today to encourage the continuation of the process of revision by requesting the Commission to proceed forthwith to a public hearing on this matter.

While the Board has certain comments on the staff report relative to this matter, it will defer them until the time of public hearing.

Thank you for your considerations.

Paul Herman
Noise Control Officer
for the Noise Review Board

PH/p