

9/14/1984

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS**



**State of Oregon
Department of
Environmental
Quality**

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

September 14, 1984

Room 314
Bend School District Building
520 N.W. Wall Street
Bend, Oregon

TENTATIVE AGENDA

9:00 a.m. CONSENT ITEMS

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

APPROVED

A. Minutes of August 10, 1984, EQC meeting.

APPROVED

B. Monthly Activity Report for July 1984.

APPROVED

C. Tax Credits.

9:10 a.m. PUBLIC FORUM

People
appeared
see minutes
for details

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

APPROVED

D. Request for authorization to conduct a public hearing on proposed procedural rules for granting water quality standards compliance certifications pursuant to Section 401 of the Federal Clean Water Act.

APPROVED

E. Request for authorization to conduct a public hearing on the modification of Hazardous Waste Rules, OAR 340-100-010 and 340-105-010.

APPROVED

F. Request for authorization to conduct a public hearing on proposed new rules relating to the "Opportunity to Recycle" (OAR 340-60-005 through -085).

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.

Mod. Dir. Rec. to up parking space limit

APPROVED

APPROVED

Granted 1 yr variance

ACCEPTED

APPROVED

ACCEPTED

- * G. Proposed adoption of changes to the Indirect Source Rules in the Medford Area (Amendment to OAR 340-20-100 to -135).
- * H. Proposed adoption of 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 in Class I areas.
- I. Request for language amendments to Administrative Rule 340-53-027, Development and Management of the Statewide Sewerage Works Construction Grants Priority List.
- J. Request for a variance from OAR 340-21-027(2) for the Brookings Energy Facility, Curry County.
- K. Information Report: Status of Open Burning Solid Waste Disposal Sites.
- L. Request by Clatsop County for extension of variance from rules prohibiting open burning of solid waste at Seaside and Cannon Beach Disposal Sites (OAR 340-61-040(2)).
- M. Central Region Manager's report.

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 9:00 am to avoid missing any item of interest.

The Commission will breakfast (7:30 am) at The Riverhouse, 3075 N. Highway 97. Agenda items may be discussed at breakfast. The Commission will lunch with local officials, also at The Riverhouse.

The next Commission meeting will be November 2, 1984 in Portland.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, P. O. Box 1760, Portland, Oregon 97207, phone 229-5395, or toll free 1-800-452-4011. Please specify the agenda item letter when requesting.

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THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-NINTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

September 14, 1984

On Friday, September 14, 1984, the one hundred fifty-ninth meeting of the Oregon Environmental Quality Commission convened in room 314 of the Bend School District Building, 520 NW Wall Street, Bend, Oregon. Present were Commission Chairman James Petersen, and Commission members Arno Denecke, Wallace Brill and Mary Bishop. Commissioner Sonia Buist 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

The Commission held a breakfast meeting at the Riverhouse restaurant in Bend. Commission members present were James Petersen, Arno Denecke, Wallace Brill and Mary Bishop. Also present were the Department's Director, Fred Hansen, and several members of the Department staff.

Budget Review:

Lydia Taylor, the Department's Budget Officer, reviewed the agency's budget request with the Commission with the assistance of the Director and Division Administrators, Mike Downs, Tom Bispham, Harold Sawyer, Ernest Schmidt, and Fred Bolton.

Crook County Landfill:

Gregg Hendricks, Crook County, reported to the Commission on the status of their variance condition. Mr. Hendricks is an attorney for Crook County. He said they had separated the penta-contaminated pallets from the rest of the material and were still pursuing the interests of senior citizens groups and using labor from correctional institutions to assist in their efforts.

Dates and Locations of Future EQC Meetings:

The following meeting dates were approved by the Commission. Tentatively these meetings are all set to be held in Portland. November 2, 1984; December 14, 1984; January 25, 1985; March 8, 1985; April 19, 1985; June 7, 1985; and July 19, 1985.

FORMAL MEETING

AGENDA ITEM A: Minutes of the August 10, 1984 EQC meeting.

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

AGENDA ITEM B: Monthly Activity Report for July 1984.

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

AGENDA ITEM C: Tax Credit Applications.

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

PUBLIC FORUM:

At this time, Chairman Petersen wanted to recognize three people from the Portland vehicle inspection staff who were involved in a recent incident. Chairman Petersen said that he thought they behaved admirably and heroically and needed to be recognized publicly.

On the morning of August 7, 1984 as the Milwaukie Vehicle Emission Inspection Station opened, a man waiting in line to get his car inspected slumped over in the car seat. The inspectors noticed and went to check on him. He had no pulse and was not breathing, so they removed him from the car, took him to the lunch room, laid him on a table and began administering CPR and called the emergency 911 number. By the time the paramedics arrived the man, by the name of Frank Carlo, was breathing but had an erratic heartbeat. The three inspectors who administered CPR were Tim Jackson, Dave Wall and Kevin McCrann.

Tim Jackson began as an inspector on March 23, 1982; he received his first aid training when he worked as a floor manager at the Everett Street Service Center. Dave Wall has been with the inspection program since February 26, 1980; he has worked at three different testing locations since he began with the Department. Kevin McCrann is the lead inspector for the Milwaukie station; he has been working in the program as an inspector since January 19, 1982 and was promoted to

Senior Vehicle Inspector in September of 1983. Both Mr. Wall and Mr. McCrann attended a CPR first aid training class in October of 1983. This class was sponsored by the Vehicle Inspection Program and was taught by the American Red Cross.

It was reported that the last word the Department had on Mr. Carlo was from his daughter about two weeks ago. Mr. Carlo has, since August 7, undergone triple by-pass surgery and is doing very well. He is up and around but, according to his daughter, has absolutely no memory from the time he went to bed on August 6 until he woke up in the hospital following the heart attack at the Milwaukie Inspection Station.

Chairman Petersen asked the three inspectors to come forward and they received the congratulations of the Commission.

Representative Tom Throop of District 54 welcomed the Commission to Bend; expressed his concern about hydroelectric development on the Deschutes River. He said at this time there were approximately 15 sites proposed on the River and that local government had adopted ordinances to determine the cumulative impact of these proposed projects. The DEQ's major role relates to Section 401, Water Quality Permits.

Vince Genna asked the Commission about what he understood to be a tightening of the regulations on sludge application. The City of Bend will be applying sludge as they have in the past on some of their recreational areas, principally athletic fields and the 18-acre Skyline Park. He said the sludge was needed for maintaining the parks because of poor soil. Harold Sawyer of the Department's Water Quality Division responded that the rules the Commission had adopted at their last meeting were in response to legislation giving the Commission more control over sludge. The intent of these rules is to utilize sludge in a proper manner instead of disposal. There is some requirement for public notice and an opportunity to comment on where sludge is placed. The result being that there might be some delay in the permit process. Mr. Sawyer went on to say he did not expect there would be any significant delay in the case of Bend.

Bob Robinson, local merchant, told the Commission he was disturbed about the air quality in Central Oregon. He said many days in the summer in Bend there is heavy smog, and Bend needs to depend on tourism for their economy. Mr. Robinson was pleased to see the recent woodstove legislation and believes DEQ can help by taking a leading role to resolve air quality problems. In the summer, haze comes in to Bend from the Willamette Valley through Santiam Pass and this haze seems to be coming from slash burning. Mr. Robinson asked why the DEQ was not in charge of regulating slash burning rather than the Forestry Department. He encouraged the DEQ to pay as much attention to complaints that come from Central Oregon about slash and field burning as they do to those complaints that come from the Valley.

Mr. Robinson also expressed concern about the hydroelectric projects on the Deschutes River. He was concerned that continuous development may cause permanent turbidity and water temperature problems. In closing, Mr. Robinson said that he believed DEQ's concerns were similar to those of the citizens in the area and he promised to help any way he could. He also said that he hopes the Commission would come to Bend more frequently.

Chairman Petersen replied that he was also concerned about the air quality in the Bend area and said this was a matter he would personally pursue. Commissioner Denecke remarked that he believed the Oregon Environmental Council will be introducing a bill to transfer slash burning smoke management from the Department of Forestry to DEQ.

This ended the public forum.

AGENDA ITEM D: Request for authorization to conduct a public hearing on proposed procedural rules for granting Water Quality Standards Compliance Certifications pursuant to Section 401 of the federal Clean Water Act.

Section 401 of the federal Clean Water Act requires any applicant for a federal license or permit to provide the licensing or permitting agency with a certification from that state that the project will comply with water quality protection requirements.

The Department has been implementing this section of the federal law without having adopted procedural rules regarding certification. Recently, numerous applications for certification of projects subject to licensing by the Federal Energy Regulatory Commission have demonstrated the need to clarify procedures for receiving applications and processing certifications.

In particular, the Department's agreement for coordination with the Land Conservation and Development Commission (LCDC) identifies Section 401 certifications as an activity affecting land use and thus requires a determination of land use consistency prior to issuance of certification. Procedures need to be clarified regarding this determination.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission authorize the Department to conduct a public hearing on proposed rules for certification of compliance with water quality requirements and standards pursuant to Section 401 of the Federal Clean Water Act.

It was MOVED by Commissioner Brill, 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 the modification of Hazardous Waste Rules (OAR 340-100-010 and 340-105-010).

"Interim Status" standards are facility standards that are self-implementing, that is, enforceable in the absence of a permit. They are designed to assure minimal regulation of hazardous waste facilities before a permit can be issued.

Past EPA comments have indicated the lack of specific interim status standards to be a deficiency in the Oregon program. The Department's initial response to these comments was to integrate selected standards into the Department's rules at Division 104. However, recent field experience has indicated that separate standards need to be adopted.

The Commission is now requested to authorize a public hearing on the adoption of interim status standards to clarify its authority to regulate hazardous waste facilities not yet under permit.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the EQC authorize a public hearing to take testimony on the proposed modifications of OAR 340-100-010 and 340-105-010.

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

AGENDA ITEM F: Request for authorization to conduct a public hearing on proposed new rules relating to the "Opportunity to Recycle" (OAR 340-60-005 through 340-60-085).

Prior to the 1983 Legislative Session the Commission asked that the Department prepare legislative concepts which would increase the level of recycling and make recycling service available to all Oregonians. Those concepts were incorporated into legislation and passed with strong support by the 1983 Legislature. The Department is requesting authorization for a public hearing on new rules relating to the Opportunity to Recycle Act (Senate Bill 405). The concepts of the law and the rules have been discussed at monthly advisory committee meetings, statewide special meetings with local government officials, and at public informational meetings.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Commission authorize a public hearing to take testimony on the proposed rules for OAR Chapter 340, Division 60.

Chairman Petersen asked if there was statutory authority to implement a wasteshed agent and why were the counties designated as wastesheds rather than cities. Bill Bree, of the Department's Solid Waste Division, responded that the concept of a wasteshed agent was not in the statute but the Department felt they needed a single contact person for coordination purposes of recycling reporting. Robert Haskins, Assistant Attorney General, said legislation requires reporting but does not define who will do it. He said it was appropriate to have a single contact but the Department needed to be careful about the role of such an agent. Mr. Bree stated that the Department intended the wasteshed agent to have no more authority than that granted by the local governments of the wasteshed. He further noted that the word "agent" may most appropriately be replaced with "representative."

In response to the question of why wastesheds followed county boundaries, Mr. Bree said the statute specified that wastesheds needed to be areas of the state with common disposal systems or areas designated by the Commission as being appropriate to offer an opportunity to recycle. Counties are statutorily designed as the parties responsible for solid waste management. Consequently, except where certain cities requested to be their own wastesheds, such as Salem-Kaiser, the county boundary seemed most appropriate.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's Recommendation be approved including some renumbering to correct typographical errors in Section 340-60-030.

AGENDA ITEM G: Proposed adoption of changes to the indirect source rules in the Medford area (amendment to OAR 340-20-100 to 340-20-135).

This item concerns the proposed adoption of permanent changes to the indirect source rules in the Medford area. The Commission adopted temporary changes to the indirect source regulations on August 6, 1984 which will expire on October 3, 1984. Those temporary changes need to be made permanent because the time frame for developing and adopting the new carbon monoxide standard attainment plan will go well beyond the expiration date of the temporary rules. Based on the recently completed air quality analysis, development of a new carbon monoxide attainment plan without an auto emission inspection program will be difficult and is now certain to extend into 1985. Adoption of the proposed permanent changes would maintain firm requirements for the City of Medford to follow through on a more aggressive core area parking and circulation plan. Also, permanent changes will help to 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's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the proposed amendments to OAR 340-20-100 to 340-20-135 as permanent rules for indirect sources in the Medford area.

Frank Pulver, Medford Chamber of Commerce President, testified they were concerned about the adverse impact of these rules. They asked for a postponement of the Commission's action and said that postponement was also supported by the state Economic Development Commission. He said they do not need another layer of regulation in an already economically depressed area. The Chamber supported an inspection and maintenance program but it failed at the polls. This proposed rule is counterproductive to achieving carbon monoxide compliance. A delay is also supported by the City of Medford and Jackson County. Mr. Pulver said that DEQ's credibility in the area is low because the Department said before the election that attainment could not be achieved in downtown Medford without an inspection and maintenance program but now it says it can. In lieu of a postponement of action, Mr. Pulver said the Chamber would recommend modifying the rule to 250 parking spaces in nonattainment areas, 500 parking spaces within the City of Medford, and 1,000 parking spaces outside the City; with a sunset provision requiring rejustification of the rule every six months and that the state provide funding for an independent consultant to study and offer alternatives and to find a politically acceptable solution. Mr. Pulver said they did not challenge the temporary rule because there was not time. But the proposed rule, which is along the lines of the temporary rule, is not acceptable.

Bob Gantenbein, professional engineer working for the Chamber of Commerce as a consultant, outlined some of the difficulties they saw with the proposed rule.

Stuart Foster, Medford attorney, said the major problem is the perceived lack of credibility of DEQ by City and County officials and by the public in the area. He said the high carbon monoxide levels were recorded only near a few intersections and not any reasonable distance from those intersections. He suggested leaded gasoline should be banned in the County, anti-tampering should be enforced, and traffic around the shopping center should be studied again. Mr. Foster said that if left on a local level, an inspection and maintenance program would not be passed and there needs to be a legislative mandate.

Merlyn Hough, of the Department's Air Quality Division, said a 1982 plan recognized that the north Medford intersections and downtown Medford would be the most difficult to bring into attainment. He said that something as effective as an inspection/maintenance program is still required in north Medford. Chairman Petersen asked what alternative the Commission would have other than inspection/maintenance according to EPA. Mr. Hough replied that a plan must be submitted on how to attain compliance or EPA will impose

sanctions. The Department is aware of no strategy, other than an I/M program which will achieve the required reduction in CO levels necessary to meet the federal health standard.

Chairman Petersen commended the City, County and Chamber of Commerce on their work. He said he was frustrated because the federal law needs to be implemented but he does not like to impose unpleasant rules. The Medford area cannot help its meteorological conditions. Chairman Petersen said he wanted to avoid sanctions which he believed would be worse on the economy than the indirect source program. The Chairman was not persuaded that these rules should be adopted, and he said he did not feel the Commission needed to take more steps than were necessary.

It was MOVED by Commissioner Brill that the indirect source rules be adopted with the modifications made by the Medford Chamber of Commerce, that is, 250 parking spaces in nonattainment areas, 500 parking spaces in the rest of the City of Medford, and 1,000 parking spaces outside of the City of Medford. The motion was seconded by Commissioner Denecke and passed unanimously.

Commissioner Bishop said she wanted to make clear that the Commission was not ducking out of the problem but that Medford needs an inspection and maintenance program.

Representative Tom Throop encouraged the Commission to come to the legislature with support for a mandatory inspection and maintenance program in the Medford area.

AGENDA ITEM H: Proposed adoption of 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 340-20-270) to add requirements to assess visibility impacts of new or modified sources in Class I areas.

This item proposed to amend the State Implementation Plan to incorporate a Phase I visibility protection plan required by EPA. Included is a monitoring commitment and the new source review rule modification to include visibility impairment analysis requirements for major, new or modified sources. A Phase II plan consisting of Best Available Retrofit Technology, Integral Vista Protection and long range control strategies, must be submitted to and approved by EPA by December 1986.

The proposed rule has been revised to eliminate the Integral Vista provisions because they are not required at this time. However, the Department firmly feels Integral Vista Protection is an essential element of a plan to protect against visibility impairment in Oregon Class I areas. The Department intends to propose Integral Vista Protection in their Phase II State Implementation Plan even if EPA relaxes their requirements in this area.

Director's Recommendation

Based upon the summation in the staff report, the Director recommends that the Commission adopt the revised proposed rule (OAR 340-20-220 through 340-20-275) and amendments to the State Implementation Plan (OAR 340-20-047, Section 5.2).

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

AGENDA ITEM I: Request for language amendments to Administrative Rule 340-53-027, Development and Management of the Statewide Sewerage Works Construction Grants Priority List.

This item revises the wording of OAR 340-53-027 that was adopted on August 10, 1984 by the Commission by adding the words "replacement or" before "major rehabilitation." The change is needed to make the rule identical to the federal statutes and consistent with staff action relative to the adopted FY 85 Priority List.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission readopt OAR 340-53-027 as revised.

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

AGENDA ITEM J: Request for a variance from OAR 340-21-027(2) for the Brookings Energy Facility, Curry County.

This agenda item concerns a variance request for the Brookings Energy Facility. This facility incinerates municipal solid waste from Curry County. The variance being requested would exempt the facility from the temperature recorder requirements of OAR 340-21-027(2) which the Commission adopted on January 6, 1984. The Commission simultaneously relaxed the particulate emission limit and established gas retention time and temperature requirements for coastal incinerators. The time and temperature restrictions are intended to ensure that the higher particulate emission rates do not result in increased emissions of toxic air pollutants. The Department feels that temperature recorders to ensure proper operation of the incinerators, are paramount in monitoring adequate destruction of toxic compounds. The cost of a temperature recorder is very low, particularly when compared to the cost of installing particulate control equipment or the cost of toxic air pollution. The Department does not feel that this cost is an undue economic burden on the Brookings Energy Facility.

Director's Recommendation

Based on the findings in the summation in the staff report, it is recommended that the Commission deny the variance request from OAR 340-21-027(2) for the Brookings Energy Facility.

Pete Smart, Brookings Energy Facility, testified that their facility had eliminated three open burning dumps on the coast. They now operate with three transfer stations and one incinerator which is very expensive to run. Mr. Smart said the expense had to stop somewhere and that pyrometers are very expensive and will not make any difference in the way they operate. He said that if they have to install these monitors or pay penalties for not installing them, they may have to go bankrupt. In response to a question from the Commission, Mr. Smart said they could work with manually recording the temperatures.

T. V. Skinner, Brookings Energy Facility, testified that they do not have air quality problems from the incinerator. It is located in an area with good winds which carry any emissions out to sea. They are not a large operation and do not make a profit. The pyrometers cost \$985, not installed. There is an estimated \$100 per hour installation charge, and a \$100 per hour maintenance charge. Open burning had been stopped at a tremendous cost to them. He asked for a variance for as long as possible and did say that they could manually record the temperatures.

It was MOVED by Commissioner Denecke that a one year variance be approved to allow manual recording and that the Department evaluate the effectiveness of this procedure. The motion also included the findings required in ORS Chapter 468.345(1)(b). The motion was seconded by Commissioner Brill and passed unanimously.

AGENDA ITEM K: Information Report: Status of Open Burning Solid Waste Disposal Sites.

At the August 10, 1984 Commission meeting, the EQC was informed that an informational report on open burning of solid waste at disposal sites would be prepared for the September meeting. This report outlines the history, present status and projected Department actions.

The Commission did not have any questions on this report and accepted it by unanimous consent.

AGENDA ITEM L: Request by Clatsop County for extension of variance from rules prohibiting open burning of solid waste at Seaside and Cannon Beach disposal sites (OAR 340-61-040(2)).

Seaside and Cannon Beach disposal sites have had a series of variances to allow for open burning of solid waste while the County developed an overall solid waste management plan. Over the last year progress has been made in planning for solid waste disposal. However, replacement facilities for the open burning sites are not in place. The staff report outlined progress and status of the present program.

Director's Recommendation

Based on the findings in the summation in the staff report, it is the Director's Recommendation that the variance request for Seaside and Cannon Beach be denied.

No one was present to testify on this item.

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

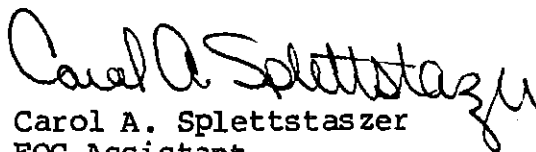
AGENDA ITEM M: Central Region Manager's Report.

The Commission discussed this report with the Central Region Manager, Richard Nichols, and thanked him for it.

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

The Commission then had lunch with various local officials at the Riverhouse restaurant in Bend.

Respectfully submitted,


Carol A. Splettstaszer
EQC Assistant

CAS:d

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED FIFTY-EIGHTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

August 10, 1984

On Friday, August 10, 1984, the one hundred fifty-eighth meeting of the Oregon Environmental Quality Commission convened in room 360 of the State Office Building, 700 SE Emigrant, Pendleton, Oregon. Present were Commission Chairman James Petersen, and Commission members Arno Denecke, Wallace Brill and Sonia Buist. Commissioner Mary Bishop 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

The Commission did not hold a breakfast meeting.

FORMAL MEETING

AGENDA ITEM A: Minutes of the June 8, 1984 special meeting, June 29, 1984 regular meeting, and July 10, 1984 conference call meeting.

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

AGENDA ITEM B: Monthly Activity Reports for May and June, 1984.

It was MOVED by Commissioner Denecke, seconded by Commissioner Brill and passed unanimously that the Monthly Activity Reports for May and June, 1984 be approved.

AGENDA ITEM C: Tax Credit Applications.

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

PUBLIC FORUM:

No one wished to appear.

AGENDA ITEM D: Request for authorization to conduct a public hearing on the revision of Oregon Administrative Rules, Chapter 340, Division 12, Civil Penalties and Revision to the State Clean Air Act Implementation Plan (SIP).

This item was a request to hold a public hearing on proposed revisions to the civil penalty rules and the State Clean Air Act Implementation Plan.

The civil penalty rules have not received a comprehensive review since they were first implemented in 1974. These proposed revisions will:

1. Allow the Department to assess a civil penalty without warning notice on persons disposing of hazardous wastes at an unauthorized location.
2. List the more frequently occurring violations in each program schedule.
3. Provide for consistent civil penalty amounts for similar violations among program schedules.
4. Give the Department the flexibility to assess the maximum penalty allowed by statute if necessary.
5. Update the State Implementation Plan to include civil penalty rule changes.
6. A summary of the changes in the minimum and maximum penalties for various violations is attached to the staff report.

Director's Recommendation

Based on the summation in the staff report, it is recommended the Commission authorize a public hearing to take testimony on the proposed revisions to the civil penalty rules, OAR Chapter 340, Division 12, and proposed revisions to the State Implementation Plan.

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

AGENDA ITEM E: Request for authorization to conduct public hearings on designation of Grants Pass carbon monoxide nonattainment area as a revision to the State Implementation Plan.

This item identifies a carbon monoxide problem area in Grants Pass and requests that the Commission authorize a public hearing to formally designate the area as a carbon monoxide nonattainment area. This designation would initiate the process of developing a carbon monoxide control plan for the area as required by the federal Clean Air Act. The Department is working with the City of Grants Pass, Josephine County, and the Oregon Department of Transportation to develop this control plan.

As a result of a meeting the Department had with the City of Grants Pass and Josephine County officials after the staff report was written, an amendment to the staff report summarizing the results of that meeting was submitted to the Commission. This amendment indicated that the group recognized the traffic congestion and carbon monoxide problems in downtown Grants Pass, and that past studies recommended improvements in the traffic signal system and construction of a third bridge over the Rogue River to reduce traffic congestion. There was also a preliminary consensus by those present that the City of Grants Pass would be the most appropriate lead agency. Unfortunately, the City of Grants Pass had to recently reduce its planning staff due to the failure of a levy election. The Department agreed to investigate possible Section 105 funds from EPA for lead agency planning activities.

This amendment to the staff report was added for information only and did not change the recommendation in the staff report.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the EQC authorize a public hearing on the designation of the Grants Pass carbon monoxide nonattainment area as a revision to the State Implementation Plan.

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

Director Hansen noted later in the meeting that it was unclear if the motion on this item included the amendment. Therefore, it was MOVED by Commissioner Denecke, seconded by Commissioner Brill and passed unanimously that the amendment to the staff report be accepted.

AGENDA ITEM F: Proposed adoption of rules amending standards of performance for new stationary sources, OAR 340-25-510 to -690, 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 the Environmental Protection Agency has promulgated five more New Source Performance Standards. The Department has committed to bring state rules up to date with EPA rules on a once a year basis. No comments were received at a hearing on the proposed rules.

The five new sources classes affected are: (1) metallic mineral processing plants, (2) tape and label surface coating, (3) volatile organic compound (VOC) leaks in the synthetic organic chemical industry, (4) beverage can surface coating, and (5) bulk gasoline terminals.

If any of the following existing sources in Oregon makes major modifications to their plants they will be subject to the proposed rules: (1) Hanna Nickel Smelting, Riddle; (2) tape and label (none known); (3) resin plants: (a) Reichhold, White City; (b) Borden, Springfield and LaGrande; and (c) Georgia-Pacific, Albany; (4) Continental Can, Portland; and Carnation, Hillsboro; and (5) Nine gasoline terminals in Portland; one terminal each in Albany, Eugene, Coos Bay, and several very small ones in northeast Oregon.

Director's Recommendation

It is recommended that the Commission adopt the proposed amendments to OAR 340-25-510 to 340-25-690, rules on standards of performance for new stationary sources, and authorize the Department to submit those rule changes to EPA as amendments to the State Implementation Plan.

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

AGENDA ITEM G: Proposed adoption of rules for land application and disposal of sewage treatment plant sludge and sludge derived products including septage (OAR Chapter 340, Division 50).

ORS 468.778 passed by the 1983 Legislature requires the Environmental Quality Commission to adopt rules for use of sludge on agricultural, horticultural and silvicultural land. On February 24, 1984 the Department requested authorization to hold public hearings on proposed rules. Those hearings have been held and a revised draft of the rules prepared for adoption by the Commission.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the rules for land application and disposal of sewage treatment plant sludge and sludge derived products including septage.

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

AGENDA ITEM H: Request for the Commission to adopt (1) proposed modifications to administrative rule OAR 340-53-027, for development and management of the statewide sewerage works construction grants priority list and (2) the draft FY 85 Construction Grants Priority List.

This item concerns the Construction Grants Priority List recommended for use during federal fiscal year 1985, and an administrative rule that authorizes the Director to use state discretion to fund several projects that would become ineligible after October 1, 1984 as a result of federal law. Although the uppermost limitation for state discretion is 20% of the state's annual funds, only about \$2 million of this amount is expected to be utilized for this over the next one to three years.

Director's Recommendation

Based upon the summation in the staff report, the Director recommends that the Commission adopt OAR 340-53-027 regarding the development and management of the priority list and the FY 85 Construction Grants Priority List.

Commissioner Brill brought with him a letter from the Bear Creek Valley Sanitary Authority requesting that their Whetstone Project be reevaluated and given "grandfather" status. Harold Sawyer, Administrator of the Department's Water Quality Division, replied that placing of this project on the DEQ "potential projects" list would not affect the EPA "grandfather" list as Bear Creek Valley Sanitary Authority fears.

Noting that representatives from the City of Portland were in the audience, Chairman Petersen asked that they be ready to explain during the Department's East Multnomah County groundwater hearings, at the end of August, how the federal construction grants program will affect the cost of Portland's sewerage facilities to the public.

It was MOVED by Commissioner Denecke that the Director's Recommendation be approved; noting that, in effect, this would deny the request of the Bear Creek Valley Sanitary Authority. He asked that the Department send a letter to Richard Miller, Manager of the Authority, urging them to pursue "grandfathering" with the Environmental Protection Agency. The motion was seconded by Commissioner Buist and passed unanimously.

AGENDA ITEM I: Proposed adoption of Hazardous Waste Management Rules, OAR Chapter 340, Division 100 to 110.

The Commission adopted the hazardous waste rules on April 20, 1984. However, since then the EPA has adopted a uniform hazardous waste manifest. The primary purpose of these rule modifications is to adopt the uniform manifest into the state program. Several other

modifications are also proposed in order to: (1) reflect changes made in the federal program subsequent to the last EQC action, (2) incorporate requirements clarifying the state's authority to regulate hazardous waste facilities not yet under permit, and (3) incorporate field staff suggestions developed in the early implementation of the program.

The Director presented an amendment to this agenda item with a revised Director's Recommendation explaining that "interim status" standards are facility standards that are self-implementing; that is, they are enforceable in the absence of the permit. They are an integral part of the federal hazardous waste program and are necessary to assure minimal regulation of hazardous waste facilities in the interim before a permit can be issued. Past EPA comments have indicated the lack of specific interim status standards to be a deficiency in the Oregon program. The deleted items were an attempt to adopt such standards by selectively integrating specific interim status standards into Division 104.

However, recent field experience has demonstrated this integration procedure to be impractical and that separate standards needed to be adopted. The Department will request a public hearing on this action at the Commission's September 14, 1984 meeting.

In view of the decision to adopt separate standards, the modifications in items (2) through (6) and (11) through (14) of Division 104 are proposed to be deleted as being redundant and unnecessary.

Director's Recommendation

Based on the summation in the staff report and its amendment, it is recommended that the Commission adopt the modifications to Divisions 100 to 110 excluding items (2) through (6) and (11) through (14) in the proposed Division 104 modifications (Attachment V, pages 29 through 35 of the staff report), but including the finding that modifying rule 340-102-010 to permit the Department to manage certain pesticide residues under Division 109 is 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.

Chairman Petersen said that he was uncomfortable in making the findings in the Director's Recommendation. He asked Robert Haskins, Assistant Attorney General, to advise the Commission on what evidence they were to rely on to make that finding. Mr. Haskins said that ORS 459.445(3) requires the Commission to make these proposed findings. He said the starting point, as found in the discussion in the staff report, was that most pesticide residues are poisonous and if allowed to discharge into the environment in an uncontrolled manner they could, under certain circumstances, pose a substantial

potential threat. Fred Bromfeld of the Department's Hazardous Waste Section, said when the Department talks about pesticide residues in these rules, they mean unused commercial pesticides, unused spray mixtures, wash water from spray tanks, wash water from the bottom of the spray airplane, container rinse water, etc. Under the federal program, Mr. Bromfeld continued, these pesticide residues including the unused commercial pesticides fresh out of the can, is not a hazardous waste. These pesticides are simply not recognized by the federal program. This would be a purely state action that would go beyond the requirements of the federal program. Mr. Bromfeld said the Department is proposing to require unused concentrated commercial pesticides to be handled as they are now, through the hazardous waste system which would most likely mean disposal at Arlington. However, the Department would like to handle the diluted spray mixture and washwater on a more local basis if there are local options available. What the Department is proposing is to require these diluted pesticide residues to be managed, but it is impractical to require containment of washwaters containing low quantities of pesticides for disposal at Arlington. In response to Chairman Petersen, Mr. Bromfeld said that under the current rules these pesticide residues would have to be transported to Arlington or contained somewhere under a hazardous waste permit, and it would be almost impossible to obtain cooperation from the users to do so.

Commissioner Buist asked how this system would be monitored to see that it was working and not being abused. Mr. Bromfeld replied it would be difficult, and the Department would have to rely on their field people to see that it was done properly, but admittedly it was not a high priority item and would be done on a random basis. The Department has one person working with the agricultural community to get the word out on these rules. The Department believes that if rules are reasonable and people can live with them the Department will get cooperation in implementing those rules.

In response to Chairman Petersen, the Commission indicated they did not have any further questions on whether or not they could make the required findings.

It was MOVED by Commissioner Denecke, seconded by Commissioner Buist and passed unanimously that the Director's Recommendation including the amendment to the staff report be approved.

In connection with this item, Commissioner Denecke commented that he was well satisfied with the report the Hazardous Waste Section had done on Nu Way Oil in northeast Portland.

AGENDA ITEM J: Eastern Regional Manager's Report.

Chairman Petersen said he sensed in this report the frustration of the Regional Manager with the large area he had to cover without enough resources. Steve Gardels, Eastern Region Manager, said the subsurface program was probably the hardest to manage, and he could use three additional people for the subsurface program. Chairman Petersen then

asked about the location of the office in Pendleton. Mr. Gardels replied that the location appeared to be sufficient because it was on the interstate highway where the population was centered. The only other choice in the region might be LaGrande.

Commissioner Denecke said he was surprised to read in the report that the feedlot problems had been solved. Mr. Gardels replied that what the Department could work on has been solved, but the Department was prohibited by statute from controlling odors from animal feeding operations. He said the J. R. Simplot feedlot has now installed a 100-acre pond to simply evaporate the liquid portion of the animal waste. He said that they do take out some solids to sell as fertilizer.

Commissioner Buist asked what the Army was storing at Umatilla. Mr. Gardels replied that, historically, munitions were stored there and nerve gas, most of which was attached to rockets. He said that the Army was proposing to build a nerve gas destruction unit, and under the new hazardous waste rules disposal will now be regulated.

Chairman Petersen thanked Mr. Gardels for his report.

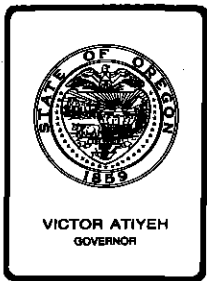
There being no further business, the formal meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
EQC Assistant

CAS:d



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, September 14, 1984, EQC Meeting
July 1984 Program Activity Report

Discussion

Attached is the July 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

KNPayne:d
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

July, 1984

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, SW Divisions
(Reporting Unit)

July 1984
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	
<u>Air</u>							
Direct Sources	9	9	2	2	-	-	38
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	9	9	2	2	-	-	38
<u>Water</u>							
Municipal	29	29	24	24	2	2	15
Industrial	13	13	10	10	-	-	16
Total	42	42	34	34	2	2	31
<u>Solid Waste</u>							
Gen. Refuse	6	6	2	2	-	-	16
Demolition	-	-	-	-	-	-	1
Industrial	2	2	3	3	-	-	7
Sludge	-	-	1	1	-	-	-
Total	8	8	6	6	-	-	24
<u>Hazardous Wastes</u>							
	-	-	-	-	-	-	-
<u>GRAND TOTAL</u>	59	59	42	42	2	2	93

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
	000	JOHNS-MANVILLE SALES CORP	UNLOADING SYSTEM INSTALLATN	07/13/84	APPROVED
JEFFERSON	001	RAJNEESH INTL COMMUNE	INCINERATOR	07/11/84	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			2		

20

2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

July, 1984
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	6	6	4	4	14		
Existing	2	2	9	9	14		
Renewals	14	14	11	11	104		
Modifications	<u>2</u>	<u>2</u>	<u>5</u>	<u>5</u>	<u>12</u>		
Total	24	24	29	29	144	1604	1632
<u>Indirect Sources</u>							
New	0	0	1	1	1		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>224</u>	<u>225</u>
<u>GRAND TOTALS</u>	24	24	30	30	145	1828	1857

Number of
Pending Permits

Comments

35	To be reviewed by Northwest Region
10	To be reviewed by Willamette Valley Region
6	To be reviewed by Southwest Region
9	To be reviewed by Central Region
7	To be reviewed by Eastern Region
12	To be reviewed by Program Operations Section
63	Awaiting Public Notice
<u>2</u>	Awaiting end of 30-day Public Notice Period
144	

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
	CONRAD INDUSTRIES INC	03	2694 04/05/84	PERMIT ISSUED	06/28/84	NEW
	TRI CITY READY MIX INC	10	0046 03/19/84	PERMIT ISSUED	06/28/84	RNW
CLACKAMAS	MOLALLA REDI MIX	03	2693 04/12/84	PERMIT ISSUED	07/02/84	EXT
COOS	SOUTHERN COOS GEN HOSP	06	0072 02/01/84	PERMIT ISSUED	07/02/84	RNW
HARNEY	FRENCHGLEN MILLWORKS	13	0013 03/09/84	PERMIT ISSUED	07/02/84	EXT
LINN	ALBANY TITANIUM INC	22	0236 04/10/84	PERMIT ISSUED	07/02/84	NEW
LINN	PERNAWOOD NORTHWEST CORP	22	0358 02/08/84	PERMIT ISSUED	07/02/84	NEW
LINN	OREGON STRAND BOARD CO	22	1037 06/18/84	PERMIT ISSUED	07/02/84	MOD
LINN	MID-WILLAMETTE PRECUT INC	22	6311 02/16/84	PERMIT ISSUED	07/02/84	EXT
	VALLEY OIL CO	24	4934 12/01/83	PERMIT ISSUED	07/02/84	EXT
MARION	PRATUM CO-OP WAREHOUSE	24	5868 04/27/84	PERMIT ISSUED	07/02/84	RNW
MULTNOMAH	COLUMBIA STEEL CASTING CO	26	1869 10/31/79	PERMIT ISSUED	07/02/84	RNW
MULTNOMAH	COLUMBIA STEEL CASTING CO	26	1869 08/23/83	PERMIT ISSUED	07/02/84	MOD
	CENEX AG. INC.	26	2181 05/10/84	PERMIT ISSUED	07/02/84	RNW
	LEWIS & CLARK COLLEGE	26	2778 02/17/84	PERMIT ISSUED	07/02/84	RNW
	PORTLAND COM COL-SYLVANIA	26	2971 01/24/84	PERMIT ISSUED	07/02/84	RNW
MULTNOMAH	HARBOR OIL INC	26	3021 10/31/83	PERMIT ISSUED	07/02/84	EXT
	PACIFIC FIREPLACE FRM INC	26	3031 06/03/81	PERMIT ISSUED	07/02/84	EXT
POLK	AGATE CRUSHING COMPANY	27	0185 02/09/84	PERMIT ISSUED	07/02/84	EXT
WASHINGTON	SUNRISE SEED CO	34	2510 05/21/84	PERMIT ISSUED	07/02/84	RNW
	KIEWIT PACIFIC CO.	37	0015 03/09/84	PERMIT ISSUED	07/02/84	RNW
PORT.SOURCE	JONES-SCOTT CO	37	0228 02/27/84	PERMIT ISSUED	07/03/84	RNW
PORT.SOURCE	ROSEBURG LUMBER COMPANY	37	0315 03/19/84	PERMIT ISSUED	07/03/84	NEW
	HOOD RVR SND & GRAVEL INC	37	0316 04/11/84	PERMIT ISSUED	07/03/84	EXT
PORT.SOURCE	YAQUINA QUARRIES	37	0193 06/29/84	PERMIT ISSUED	07/06/84	MOD
	PGE BOARDMAN	25	0016 00/00/00	PERMIT ISSUED	07/09/84	MOD
GRANT	OREGON PINE LUMBER, INC.	12	0004 00/00/00	PERMIT ISSUED	07/16/84	MOD
	AMCOAT	26	3036 06/29/81	PERMIT ISSUED	07/16/84	EXT
	MID-COLUMBIA ASPHALT CO	30	0003 04/02/84	PERMIT ISSUED	07/16/84	RNW
TOTAL NUMBER QUICK LOOK REPORT LINES				29		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

July, 1984
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Clackamas	E. Portland Highway	07/26/84	Final
	S.E. 82nd to Clackamas		Permit
	Highway, File No. 03-8407		Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PLAN ACTIONS COMPLETED - 34

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

MUNICIPAL WASTE SOURCES 24

Lane	Oakridge Sludge Disposal Project	6/26/84	P.A.
Linn	Mountain Rivers Estates Sanitary Sewer Improvement Plans	7/6/84	Rejected
Linn	Mountain Rivers Estates Sewage Treatment Facilities Plans	7/6/84	Rejected
Tillamook	Pacific Campground Recirculating Sand Filter	7/10/84	Comments to Engineer
Columbia	Rainier La Salle Dr. Sewer System	7/16/84	P.A.
Clackamas	Boring Collection and Treatment	7/25/84	Comments to Engineer
Clackamas	Sandy Ruben Road Sanitary Sewers	7/27/84	P.A.
Lane	Lynnbrook Phase 2 of Lynnbrook II	7/27/84	P.A.
Lincoln	Yachats 6th St. Sewer from Ocean View Drive	7/27/84	P.A.
Clackamas	Canby North Pine Addition	7/27/84	P.A.
Jackson	BCVSA Westwood Subdivision Project 83-6	7/27/84	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *
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MUNICIPAL WASTE SOURCES Continued

Klamath	SSSD Onyx Street Sewer	7/27/84	P.A.	
Lane	Junction City Sewer Extension off of East First Ave.	7/27/84	P.A.	
Josephine	Redwood City Phase I of Willow Estates Mobile Home Park	7/27/84	P.A.	
Clackamas	Lake Oswego Hollybrook Subdivision	7/27/84	P.A.	
Clackamas	Wilsonville 8" Sewer Line Relocation Wilsonville Road	7/27/84	P.A.	
Linn	Lebanon Wassan Street Sanitary Sewer Extension	7/27/84	P.A.	
Douglas	RUSA Lateral "F" Rifle Range Road	7/27/84	P.A.	
Coos	Bastendorff Park Sewer Report	7/31/84	Comments to Engineer	
Jackson	Eagle Point Waste Water Irrigation Agreement	7/31/84	Comments to Engineer	
Clatsop	Seaside Waste Water Treatment Plant Expansion	7/31/84	P.A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES Continued

Clatsop	Seaside Pump Station Rehabilitation	7/31/84	P.A.
Clatsop	Seaside Seaside Sewer Rehabilitation	7/31/84	P.A.
Klamath	Willamette Pass Ski Area Pre design data	7/31/84	Comments to Engineer

P.A. = Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PLAN ACTIONS COMPLETED - 34

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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INDUSTRIAL WASTE SOURCES 10

Washington	Planar Systems, Inc. Waste Solvent Storage Vault, Beaverton	6/6/84	Approved	
Yamhill	Golden Acres Dairy Manure Pump and Field Tile, Newberg	6/29/84	Approved	
Marion	Stayton Canning 3 Aeration Ponds Stayton	7/5/84	Approved	
Jackson	Pacific Power & Light Oil Spill Containment System, Eagle Point	7/6/84	Approved	
Klamath	Pacific Power & Light Oil Spill Containment System, Klamath Falls	7/6/84	Approved	
Klamath	Pacific Power & Light Oil Spill Containment System, Klamath Falls	7/6/84	Approved	
Douglas	Pacific Power & Light Oil Spill Containment System, Glide	7/6/84	Approved	
Coos	Pacific Power & Light Oil Spill Containment System, Coquille	7/6/84	Approved	
Polk	La Creole Fruit Co. Waste Water Irrigation System, Rickreall	7/18/84	Approved	
Yamhill	Vander Velde Manure Control System Amity	7/30/84	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 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.			
	* / **	* / **	* / **	* / **	* / **	* / **	* / **
<u>Municipal</u>							
New	0 / 0	0 / 0	0 / 1	0 / 1	3 / 3		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	5 / 2	5 / 2	6 / 0	6 / 0	34 / 12		
Modifications	0 / 0	0 / 0	0 / 1	0 / 1	6 / 0		
Total	5 / 2	5 / 2	6 / 2	6 / 2	43 / 15	236 / 138	239 / 141
<u>Industrial</u>							
New	0 / 1	0 / 1	0 / 0	0 / 0	3 / 7		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	2 / 4	2 / 4	5 / 2	5 / 2	25 / 12		
Modifications	2 / 0	2 / 0	3 / 0	3 / 0	3 / 0		
Total	4 / 5	4 / 5	8 / 2	8 / 2	31 / 19	182 / 160	185 / 167
<u>Agricultural (Hatcheries, Dairies, etc.)</u>							
New	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Modifications	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Total	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0	2 / 11	2 / 11
<u>GRAND TOTALS</u>	9 / 7	9 / 7	14 / 4	14 / 4	74 / 34	420 / 309	426 / 319

* NPDES Permits
** State Permits

2 General Permits Granted (one indicated in Ind. NPDES Modification)
1 Special Permit Issued
2 Permits Cancelled

Sources Under Permit Adjusted to Count Less 339 General Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES NPDES (11)

Yamhill	City of McMinnville STP	7/17/84	Permit Renewed
Wasco	City of Mosier STP	7/17/84	Permit Renewed
Columbia	City of St. Helens STP	7/17/84	Permit Renewed
Washington	Stimson Lumber Co. (Scoggins Valley) STP	7/17/84	Permit Renewed
Benton	US EPA-Western Fish Toxicology Station	7/25/84	Permit Renewed
Lincoln	City of Depoe Bay STP	7/26/84	Permit Renewed
Jackson	Husky Industries, Inc. White City	7/26/84	Permit Renewed
Multnomah	Port of Portland Swan Island Ship Repair Yard	7/26/84	Permit Renewed
Clackamas	Tri-City Service District Bolton STP	7/26/84	Permit Renewed
Clackamas	Tri-City Service District Willamette STP	7/26/84	Permit Renewed
Lake	Fremont Lumber Co. (Paisley Sawmill)	7/26/84	Permit Renewed

MAR.6 (5/79)

WL3566

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1984
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
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MUNICIPAL AND INDUSTRIAL SOURCES

WPCF (3)

Marion	Boise Cascade Salem	7/17/84	Permit Renewed
Clackamas	Apollo Metal Finishing, Inc., Portland	7 26/84	Permit Renewed
Umatilla	Franks Sewer Service Pendleton, Sewage Handling	7/26/84	Permit Issued

MUNICIPAL AND INDUSTRIAL SOURCES MODIFICATIONS (4)

Lane	Georgia Pacific Chemicals, Inc. Eugene and Millersburg Plants	7/3/84	Name Change
Lane	Georgia Pacific Chemicals, Inc. Eugene Plant	7/16/84	Modified Schedules A & B
Wasco	Rajneesh Neo Sannayas International Commune (Jesus Grove) Antelope	7/31/84	Addendum #1

MUNICIPAL AND INDUSTRIAL SOURCES

GENERAL PERMITS (2)

Log Ponds, Permit No. 0400-J (1)

Jackson	Medford Corporation Medford	7/12/84	Transferred to General Permit
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Suction Dredge, Permit No. 0700-J (1)

Josephine	Larry A. Schenk 8" Dredge Grants Pass	7/5/84	Granted General Permit
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MAR.6 (5/79)

WL3566

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

July 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			
<u>General Refuse</u>							
New	1	1	-	-	6		
Closures	1	1	1	1	14		
Renewals	4	4	-	-	20		
Modifications	-	-	-	-	1		
Total	6	6	1	1	41	164	164
<u>Demolition</u>							
New	-	-	-	-	-		
Closures	1	1	-	-	4		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	1	1	-	-	4	12	12
<u>Industrial</u>							
New	1	1	2	2	5		
Closures	-	-	1	1	8		
Renewals	1	1	2	2	12		
Modifications	1	1	1	1	-		
Total	3	3	6	6	25	100	100
<u>Sludge Disposal</u>							
New	-	-	-	-	1		
Closures	-	-	1	1	-		
Renewals	-	-	-	-	3		
Modifications	-	-	-	-	-		
Total	-	-	1	1	4	16	16
<u>Hazardous Waste</u>							
New	1	1	1	1	5		
Authorizations	191	191	191	191	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	192	192	192	192	6	14	19
<u>GRAND TOTALS</u>	202	202	200	200	80	306	311

SC1678.B
MAR.5S (4/79)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Solid Waste Division</u>		<u>July 1984</u>	
(Reporting Unit)		(Month and Year)	
<u>PERMIT ACTIONS COMPLETED</u>			
* County	* Name of Source/Project	* Date of	* Action
* /Site and Type of Same	* Action	*	*
*	*	*	*
Wallowa	Boise Cascade, Elgin Woodwaste landfill New facility	7/3/84	Letter authorization issued
Clackamas	Conrad Industries Small quantity hazardous waste facility New facility	7/6/84	Letter authorization issued
Lincoln	T & L Lagoon Sewage sludge site Existing facility	7/6/84	Closure permit issued
Coos	Weyerhaeuser, Scale Shack Woodwaste landfill New facility	7/9/84	Permit issued
Linn	Bohemia, Priceboro Woodwaste landfill Existing facility	7/9/84	Permit renewed
Lane	Weyerhaeuser, Rail Dike Woodwaste landfill Existing facility	7/13/84	Permit amended
Lane	Bohemia, Saginaw Woodwaste landfill Existing facility	7/19/84	Permit renewed
Lane	Dow Corning, Clearwater Industrial waste landfill Existing facility	7/19/84	Closure permit issued
Lane	Franklin Landfill Existing facility	7/19/84	Closure permit issued

SC1678.C
MAR.6 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

July 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 - 189

OREGON - 77

7/2	Potassium hydroxide-casting sand mixture	Foundry	18 cu.yd.	72 cu.yd.	
7/2	2,4-D-contaminated mud	Chemical co.	50 drums	0	
7/2	Bromoxynil octanoate/ 2,4-D-contaminated sludge	" "	0	25 drums	
7/5	Chemonite tank bottoms with arsenic	Wood treatment	1100 gal.	4400 gal.	
7/5	Dip tank bottoms with pentachlorophenol	Anti-stain operation	0	550 gal.	
7/5	Dip tank bottoms with pentachlorophenol	Anti-stain operation	0	22 drums	
7/6	Pentachlorophenol tank bottoms	Chemical co.	0	1700 gal.	
7/6	Spent mixed solvents: toluene, acetone, MEK, xylene, etc.	Wood products co.	0	3300 gal.	
7/6	Douglas fir tars/ pitches	" "	0	550 gal.	
7/6	Spent methyl isobutyl ketone	Plastic coating co.	4 drums	16 drums	
7/6	Spent acetone	" "	13 drums	42 drums	

SC1678.E
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *	
			* Present	* Future
7/6	Various lab chemicals	University	825 gal.	3300 gal.
7/6	Muriatic acid with heavy metals	Electroplating co.	0	20,000 gal.
7/6	PCB spill cleanup debris	Dept. of Int.	0	500 tons
7/6	1,1,1-trichloroethane still bottoms	Waste solvent recycling	10 drums	120 drums
7/6	Methylene chloride still bottoms	" "	10 drums	120 drums
7/6	Trichlorotrifluoroethane still bottoms	" "	15 drums	180 drums
7/6	Unrecyclable trichlorotrifluoroethane	" "	15 drums	180 drums
7/6	Unrecyclable perchloroethylene solvent	" "	25 drums	25 drums
7/6	Penta- and tetra-chlorophenol-contaminated wood residue	Wood treatment	0	42 cu.yd.
7/6	Penta- and tetra-chlorophenol-contaminated soil & rocks	" "	30 cu.yd.	0
7/6	Pentachlorophenol sludge	Wood treatment	0	2500 gal.
7/9	Freeze damage NH ₄ F/HF solution	Electronic co.	324 gal.	0
7/9	Soil contaminated with HF, HCl & H ₂ SO ₄	" "	2 drums	8 drums
7/9	Various lab chemicals	School	4 drums	16 drums
7/9	PCB contaminated oil	Electric util.	0	990 gal.
7/9	PCB contaminated oil	Dept. store	0	10 drums
7/9	Various lab chemicals	University	385 gal.	0
7/9	Arsenic-contaminated water	Electronic co.	450 gal.	5500 gal.

SC1678.E
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
7/9	Unrecyclable trichloroethylene	Waste processor	15 drums	180 drums	
7/9	Unrecyclable methylene chloride	" "	10 drums	120 drums	
7/9	Trichloroethylene still bottoms	" "	10 drums	120 drums	
7/9	Unrecyclable 1,1,1-trichloroethane	" "	10 drums	120 drums	
7/9	Perchloroethylene still bottoms	" "	25 drums	25 drums	
7/12	Photo-resist sludge	Electronic co.	0	8,000 gal.	
7/13	Phenol-contaminated liners, gloves, etc.	Chemical co.	220 gal.	550 gal.	
7/13	Soda ash with lead	Battery mfg.	20 cu.yd.	0	
7/13	Ductwork contaminated with lead	" "	10 tons	0	
7/13	Soil/soda ash contaminated with lead	" "	45 cu.yd.	0	
7/13	1,1,1-trichloroethane degreasing solvent	Food processor	220 gal.	880 gal.	
7/13	Emission control dust with heavy metals	Steel mill	11 cu.yd.	3000 cu.yd.	
7/13	Methylene chloride solvent	Mfg. of printed circuit board	0	40 drums	
7/13	PCB-contaminated rags, concrete, dirt, etc.	University	0	25 drums	
7/13	Creosote tank bottoms	Wood preserving	2750 gal.	11,000 gal.	
7/13	Penta tank bottoms	" "	1650 gal.	6600 gal.	
7/18	Ignitable paint sludge	Drum recondit.	0	11,000 gal.	
7/18	Various lab chemicals	College	0	300 gal.	
7/18	PCB-contaminated filters	Electric util.	0	1 drum	

SC1678.E
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *	
			* Present *	* Future *
7/18	PCB-contaminated oils	Electric util.	1580 gal.	1 drum
7/18	Zinc dust	Foundry	0	15 drums
7/18	Pentachlorophenol-contaminated wood waste	Wood treatment	0	42 cu.yd.
7/18	Lead-contaminated debris	Battery co.	10 cu.yd.	0
7/19	Empty chemical containers	Smelting & refining of non-ferrous metals	0	36 cu.yd.
7/19	Copper baghouse dust with heavy metals	" "	10 drums	0
7/19	Spent coating solvent: xylene, toluene, resin residue & mineral spirits	Coating resins mfg.	0	6600 gal.
7/19	Transformers containing liquids with less than 500 ppm PCBs	Plywood mill	0	200 gal.
7/19	Transformers containing liquids with more than 500 ppm PCBs	" "	0	200 gal.
7/24	Cleaning solution with heavy metals	Hub mfg.	0	40 drums
7/24	Sulfuric acid	Car radiator mfg.	5 drums	0
7/24	Mixed solvents: xylene, paraffins, naphthenes and aromatics	" "	0	20 drums
7/26	Mixed paint solvents: toluol, xylol, naphtha, MIBK, MEK & alcohols	Paint mfg.	0	400 drums
7/26	Hydrochloric acid with heavy metals	Electroplating	0	20,000 gal.
7/26	Ignitable paint sludge	Electronic co.	0	30 drums
7/26	PCB-contaminated oils	Electric util.	0	20 drums

SC1678.E
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
7/26	Trichloroethylene-contaminated materials	Electronic co.	0	10 drums	
7/26	Trichloroethylene-contaminated water	" "	0	3000 gal.	
7/26	Mixed solvents: MEK, toluene and acetone, containing vinyl, epoxy and acrylic resins	Can co.	3000 gal.	0	
7/26	Ammonium sulfate/NH ₄ OH solution with Ni, Co and Cu	Gov't research facility	0	1000 gal.	
7/26	Sodium chromate/NaOH solution with Co and Ni	" "	0	500 gal.	
7/26	Sulfuric acid with Ni and Co	" "	0	2000 gal.	
7/26	Hydrochloric acid solution with NH ₄ Cl	" "	0	2000 gal.	
7/26	Ammonium sulfate/NH ₄ OH with Co and Ni	" "	0	2000 gal.	
7/26	Photo-resist-contaminated soil	Electronic co.	14 drums	0	
7/26	N-methyl-2-pyrrolidone, amino alcohol & water	" "	10 drums	0	
7/30	Rosin flux-isopropyl alcohol	Electronic co.	165 gal.	1780 gal.	
7/30	Bromoxynil octanoate herbicide	Chemical co.	18 drums	0	
7/30	Phenol-contaminated sump sludge with urea and phenolic resins and formaldehyde	Chemical co.	5000 gal.	1800 gal.	
7/30	Heavy metal-contaminated sand	Site cleanup project	16 drums	0	
7/31	Sulfuric acid/hydrogen peroxide solution	Al anodizing co.	2000 gal.	0	

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* * Date *	* Type *	* Source *	* Quantity *		* *
			Present	Future	
7/2	Gelled polyester resin with acetone	Solvent processor	0	96 drums	
7/2	Ink sludge with heavy metals	Newspaper co.	1650 gal.	6600 gal.	
7/2	Phenolic distillation residue	Chemical co.	0	3000-8000 gal.	
7/2	Phenolic distillation fraction containing phenol, o-chlorophenol, cyclohexane solvent, water and non-volatile solvent	" "	0	800 gal.	
7/2	Sump sludge with phenolic tars and chlorinated phenol derivatives	" "	0	1000 gal.	
7/2	Off-spec sulfonyl diphenol	" "	0	1000 gal.	
7/2	Off-spec thiodiphenol	" "	0	5000 gal.	
7/2	Off-spec methylene dioxybenzene	" "	0	500 gal.	
7/2	Spent mixed solvents of MEK, naphtha, dioctyl phthalate, etc.	Chemical co.	165 gal.	860 gal.	
7/2	Chlorinated hydrocarbon-contaminated ceramic and absorbent	Chemical co.	6 cu.yd.	0	
7/2	Chlorinated hydrocarbon-contaminated steel tanks	" "	13 cu.yd.	0	
7/2	Spent mixed solvents of cresylic acid, ortho-dichlorobenzene, mono-chlorotoluene and KOH	Aircraft shop	0	385 gal.	
7/2	Pyridine-soaked filter substrate	Research facil.	0	12 drums	

* * Date *	* Type *	* Source *	* Quantity *		* *
			* Present	* Future	
7/5	Diesel oil-soaked rags, absorbent pads, sawdust	Oil co.	0	30 drums	
7/5	Liquid asphalt	" "	0	100 drums	
7/5	Spent mixed solvents of n-propyl alcohol, xylene, kerosene, isopropyl acetate and water with heavy metals	Ink formulation	10 drums	40 drums	
7/5	Spent mixed solvents of ethanol, naphtha, IPA and water with heavy metals	" "	12 drums	12 drums	
7/6	Spent 1,1,1-trichloroethane, trichloroethylene, MEK, etc.	Chemical co.	15,000 gal.	0	
7/6	Methylene chloride-soaked foam	Chemical co.	0	100 drums	
7/6	MEK still bottoms	Solvent recycl.	0	20 drums	
7/9	Unwanted hydroquinone product	Chemical co.	0	500 gal.	
7/9	Copper sulfete	Chemical co.	0	500 gal.	
7/9	Methyl alcohol with lithium chloride	Chemical co.	0	1000 gal.	
7/13	Asphalt/heavy oil with polynuclear aromatic hydrocarbon	Industrial cleaning service	0	24 drums	
7/13	Asphalt/heavy oil-contaminated rags, absorbent pads, etc.	" "	0	24 drums	
7/13	Nitric acid solution	Electronic co.	200 gal.	800 gal.	
7/13	Caustic solution	" "	300 gal.	1200 gal.	
7/13	Sulfuric acid/hydrogen peroxide solution	" "	55 gal.	300 gal.	

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* * * * *	* Date *	* Type *	* Source *	* Quantity *		* *
				* Present *	* Future *	
	7/13	API separator sludge with phenol, oils and biological matters	Chemical co.	0	3000 gal.	
	7/13	Heptane-toluene solvent with TB (MTBP) residue, TDP and other phenolics	Chemical co.	0	2500 gal.	
	7/13	Toluene-heptane with cyclohexane and phenolic residues	" "	0	500 gal.	
	7/18	Chromic acid solution	Auto engine shop	0	1100 gal.	
	7/18	Caustic cleaning soln.	" "	0	1375 gal.	
	7/18	PCB liquids	Paper co.	0	350 gal.	
	7/18	PCB transformers	Paper co.	0	200 cu.ft.	
	7/18	Oil sludge with heavy metals	Waste oil processing	0	60,000 gal.	
	7/18	Cyanide-contaminated solids	Waste processor	0	115 drums	
	7/18	Various outdated lab chemicals in lab packs	" "	0	20 drums	
	7/18	PCB-contaminated liquids	Shipbuilding co.	0	50 drums	
	7/18	PCB-contaminated rags, soil, etc.	" "	0	15 drums	
	7/18	PCB-contaminated concrete, clothing, etc.	Spill cleanup	45 drums	0	
	7/19	Methanol/isopropanol contaminated with water	Railroad co.	5 drums	0	
	7/26	Lab samples of various chemicals in lab packs	Chemical co.	0	10 drums	
	7/26	Discarded Guaiacol product	" "	0	6 drums	
	7/26	Discarded Thiobis product	" "	0	6 drums	

* * Date *	* Type *	* Source *	* Quantity *		* Future *
			* Present	* Future	
7/26	Sulfuric acid solution	Electronic co.	400 gal.	1600 gal.	
7/26	Sodium sulfate decahydrate crystals	" "	8 drums	32 drums	
7/26	Tin/lead fluoborate plating solution	" "	4 drums	16 drums	
7/26	Polyglycol ether tinning fluid with lead	" "	4 drums	16 drums	
7/26	Ink sludge with heavy metals	Ink mfg.	0	20 drums	
7/26	Antimony trioxide, chrome and hydrofluoric acid-contaminated articles	Electronic co.	14.7 cu.yd.	60 cu.yd.	
7/26	Fire retardant product	Railroad co.	5 drums	0	
7/26	Caustic sludge with lead	Auto shop	0	10 drums	
7/26	Ignitable paint sludge	Paint co.	0	200 drums	
7/30	PCB transformer	EPA	1 unit	0	
7/30	Paint sludge with methylene chloride	Aerospace co.	0	120 drums	
7/30	Polyurethane foam Component B - tertiary amine, polyol blend and trichlorofluoromethane	Chemical co.	0	50 drums	
7/30	Polyurethane foam Component A - diphenyl methane diisocyanate	" "	0	50 drums	
7/30	Ethylene glycol	Chemical co.	2040 gal.	0	
7/30	Paint sludge	Mfg. of paints	0	40 drums	
7/30	Nitric acid/ammonium bifluoride solution	Electronic co.	0	100,000 gal.	
7/30	Cleaning solution of trisodium phosphate, sodium EDTA, NH ₄ OH, NaNO ₂ and water	" "	0	100,000 gal.	

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* * Date *	* Type *	* Source *	* Quantity *		* Future *
			Present	*	
7/30	Lectromelt furnace baghouse dust	Al smelting	0		100 cu.yd.
7/30	Wheelabrator cleaner baghouse dust	" "	0		50 cu.yd.
7/31	Nickel sludge	Waste treatment	0		5 drums
7/31	Waste treatment sludge with cadmium	" "	0		5 drums
7/31	Caustic sludge	Radiator shop	0		10 drums
7/31	Organic solvent-conta- minated dirt/sawdust	Solvent recycl.	0		40 drums
7/31	Fiberglas/plastic debris	" "	20 drums	0	
7/31	Pallets, small equip- ment and scrap metals contaminated with heavy metals and organic solvents	Superfund project	10,000 cu.yd.	0	
7/31	Empty crushed drums contaminated with heavy metals, organic solvents, etc.	" "	10,000 cu.yd.	0	
7/31	Soil contaminated with organic compounds	Subsurface exploration	70 drums	0	
OTHER STATES - 40					
7/2	Duct residues with heavy metals	Electronic co. (ID)	0		500 gal.
7/2	Chrome-contaminated water	Research facil. (ID)	0		5500 gal.
7/2	Boiler cleaner compound	Defense Dept. (Guam)	300 gal.	0	
7/2	Mixed ignitable sol- vents	Electronic co. (MT)	0		255 gal.

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MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
7/2	Isolaminating resin containing styrene monomer and methyl methacrylate	Oil co. (HI)	14 drums	0	
7/2	PCB transformers	Real estate co. (MT)	3000 gal.	0	
7/2	2,4-D-contaminated water	Chemical co. (MT)	0	12,000 gal.	
7/5	Plating sludge with Cr and Pb	Electronic co. (MT)	0	800 gal.	
7/6	PCB street light ballast	Electric util. (MT)	5 drums	0	
7/6	Mixed photographic chemical solutions	Research facil. (ID)	0	500 gal.	
7/6	Oil & machine coolant-contaminated water	Electronic co. (ID)	0	300 gal.	
7/6	Various small quantities of solid pesticides	Domestic clean-out project (B.C.)	4 drums	0	
7/6	Various small quantities of liquid pesticides	" "	10 drums	0	
7/6	Various small quantities of pesticides	" "	9 drums	0	
7/6	Small quantities of various corrosive chemicals	" "	7 drums	0	
7/6	Small quantities of organic chemicals	" "	6 drums	0	
7/6	Small quantities of various pesticides	" "	38 drums	0	
7/6	Small quantities of chemical reagents	Laboratory cleanout proj. (B.C.)	13 drums	0	
7/6	Small quantities of various acids & bases	" "	7 drums	0	

* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
Date	Type	Source	Present	Quantity	Future		
7/6	Creosote/coal tar-contaminated spill cleanup debris	Railroad co. (MT)	48 drums	0			
7/6	Creosote/coal tar-contaminated spill cleanup debris	" "	12 drums	0			
7/13	Oily sludge	Research facil. (ID)	0	2000 gal.			
7/13	Fuel oil #5	" "	0	300 gal.			
7/18	PCB-contaminated rags, dirt, etc.	Spill cleanup (MT)	1 drum	0			
7/18	Trichloroethane/dioxane-contaminated water	Chemical co. (UT)	100 drums	0			
7/18	Degreasing solvent: methylene chloride, xylene, acetone, Freon, etc.	Rocket motor case insulation production (UT)	0	200 drums			
7/18	Degreasing solvent: 1,1-dichloroethane, MEK, methylene chloride, ethyl benzene, etc.	" "	0	200 drums			
7/18	Ignitable lab solvents in lab packs	Waste mgmt. co. (HI)	0	50 drums			
7/18	Oxidizing agents in lab packs	" "	0	50 drums			
7/18	Various pesticides in lab packs	" "	0	50 drums			
7/18	Various organic solvents in lab packs	" "	0	50 drums			
7/25	Ignitable paint sludge	Particle bd. mfg. (MT)	0	11,000 gal.			
7/26	Freeze damaged polyvinyl acetate	Railroad co. (B.C.)	7 drums	0			
7/26	SO ₂ scrubber solids with arsenic	Sulfuric acid (MT)	13 cu.yd.	0			

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* * *	* Date *	* Type *	* Source *	* Quantity Present *	* Future *	* *
	7/26	Mercury lamps	Electrn. co.(ID)	60 units	240 units	
	7/26	Solder oil with lead	" "	0	40 drums	
	7/30	Otto fuel-contaminated articles	Waste process. facility (HI)	150 drums	0	
	7/31	Arsenic-contaminated filters	Chemical co. (AK)	0	16 drums	
	7/31	Lindane-contaminated water	Wood treatment (HI)	20 drums	80 drums	
	7/31	Tank bottoms containing chrome, arsenic and copper	" "	20 drums	80 drums	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

July, 1984
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	16	16	7	7	131	122
Airports			2	2	1	1

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	July, 1984 (Month and Year)
---	--------------------------------

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Clackamas	Deseret Industries Thrift Store, Clackamas	07/84	In Compliance
Clackamas	Morse Brothers, Clackamas	07/84	In Compliance
Columbia	Chappell Gravel Company, near Scappoose	07/84	No Violation
Multnomah	Martin-Marietta, Portland	07/84	In Compliance
Multnomah	Pacific Power & Light Substation, NE 82nd & Klickitat Portland	07/84	No Violation
Marion	Wilson Logging, Mehama	07/84	In Compliance
Jackson	Wildish Sand & Gravel, Eagle Point	07/84	In Compliance
Umatilla	Pendleton Municipal Airport Pendleton	07/84	Boundary Approved
Washington	Chehalem Mountain Heliport	07/84	Boundary Approved

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1984

CIVIL PENALTIES ASSESSED DURING MONTH OF JULY, 1984:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Mallories Dairy, Inc. Silverton, Oregon	AQOB-WVR-84-40 Open burned commercial waste.	7/16/84	\$500	Paid 8/6/84
Cedar Ridge Develop. Inc. Milwaukie, Oregon	AQOB-NWR-84-69 Open burned construction waste.	7/30/84	\$50	Awaiting response to notice.
Dale Fischer dba/ Dale Fischer Trucking Columbia County	SS-NWR-84-65 Repaired an on-site sewage disposal system without a permit.	7/30/84	\$100	Awaiting response to notice.
Mike Huff dba/ Town & Country Const. Bend, Oregon	AQ-CR-84-66 Fugitive emissions and operating an air contaminant source without a permit.	7/30/84	\$500	Awaiting response to notice.

VAK:b
GB3691

July 1984
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	18	12
2 Discovery	0	2
3 Settlement Action	2	1
4 Hearing to be scheduled	5	9
5 Hearing scheduled	3	3
6 HO's Decision Due	0	0
7 Briefing	2	2
8 Inactive	2	2
 SUBTOTAL of cases before hearings officer.	 <u>32</u>	 <u>31</u>
9 HO's Decision Out/Option for EQC Appeal	2	2
10 Appealed to EQC	1	1
11 EQC Appeal Complete/Option for Court Review	0	0
12 Court Review Option Pending or Taken	0	0
13 Case Closed	0	2
 TOTAL Cases	 <u>35</u>	 <u>36</u>

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

§ Civil Penalty Amount

ACDP Air Contaminant Discharge Permit

AGl Attorney General l

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

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

Hrnngs Hearings 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

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

WQ Water Quality Division

WVR Willamette Valley Region

July 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	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.
SPERLING, Wendell dba/Sperling Farms	11/25/81	11/25/81	03/17/83	<u>Resp</u>	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	<u>Respondent's exceptions and brief on appeal due August 13, 1984.</u>
OLINGER, Bill Inc.	09/10/82	09/13/82	10/20-21/83 11/2-4/83 11/14-15/83 5/24/84	<u>Resp</u>	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	<u>Respondent's closing brief due September 1, 1984.</u>
MARCA, Gerald	01/06/83	01/11/83	06/14/84	<u>Resp</u>	45-SS-SWR-82-101 SS-Civil-Penalty of \$500, 46-SS-SWR-82-114 Remedial-Action-Order.	<u>No appeal to EQC. Penalty paid. Case closed.</u>
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 reviewed.
McINNIS ENT.	06/17/83	06/21/83		Hrngrs	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500.	To be scheduled.

July 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
TELEDYNE-WAH CHANG-ALBANY	09/07/83	09/08/83	07/10/84	Prtys	53-AQOB-WVR-83-73 OB Civil Penalty of \$4000	<u>Consent Order and Agreement issued July 24, 1984. Case closed.</u>
CRAWFORD, Raymond, M.	09/15/83	09/16/83	08/01/84	Prtys	54-AQOB-NWR-83-63 OB Civil Penalty of \$2000	<u>Order of Dismissal issued July 25, 1984.</u>
MID-OREGON CRUSHING	09/19/83	09/27/83	09/13/84	Prtys	55-AQ-CR-83-74 AQ Civil Penalty of \$4500	Hearing scheduled.
McINNIS ENTERPRISES, LTD., et al.	09/20/83 10/25/83	09/22/83 10/26/83		Hrngs/ Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of \$14,500, and 59-SS-NWR-83-33290P-5 SS license revocation.	Scheduled hearing deferred to follow circuit court proceedings. Discovery continuing.
WARRENTON, City of	8/18/83	10/05/83		Prtys	57-SW-NWR-PMT-120 SW Permit Appeal	Settlement action.
CLEARWATER IND., Inc.	10/11/83	10/17/83		Hrngs	58-SS-NWR-83-82 SS Civil Penalty of \$1000	To be scheduled.
WILLIS, David T., Jr.	01/05/84	01/18/84	08/28/84	Prtys	01-AQOB-NWR-83-102 OB Civil Penalty of \$200	Hearing scheduled.
CLEARWATER IND., Inc.	01/13/84	01/18/84		Hrngs	02-SS-NWR-83-103 SS Civil Penalty of \$500	To be scheduled.

July 1984

DEQ/EQC Contested Case Log

<u>Pet/Resp Name</u>	<u>Hrng Rgst</u>	<u>Hrng Rfrl</u>	<u>Hrng Date</u>	<u>Resp Code</u>	<u>Case Type & No.</u>	<u>Case Status</u>
HARPER, Robert W.	03/13/84	03/21/84		Prtys	03-AQ-FB-83-23 FB Civil Penalty of \$1,000	<u>Department requested without objection from Respondent that case be heard after October 1.</u>
KUENZI, Lee A.	03/17/84	03/28/84		Prtys	04-AQ-FB-83-01 FB Civil Penalty of \$500	<u>Department requested without objection from Respondent that case be heard after October 1.</u>
MALPASS, David C.	03/26/84	03/28/84		Prtys	05-AQ-FB-83-14 FB Civil Penalty of \$500	Preliminary issues.
LOE, Roger E.	03/27/84	03/28/84		Prtys	06-AQ-FB-83-15 FB Civil Penalty of \$750	<u>Department requested without objection from Respondent that case be heard after October 1.</u>
SIMMONS, Wayne	03/27/84	04/05/84		Prtys	07-AQ-FB-83-20 FB Civil Penalty of \$300	Preliminary issues.
COON, Mike	03/29/84	04/05/84		Prtys	08-AQ-FB-83-19 FB Civil Penalty of \$750	Preliminary issues.
BIELLENBERG, David	03/28/84	04/05/84		Prtys	09-AQ-FB-83-04 FB Civil Penalty of \$300	<u>Department requested without objection from Respondent that case be heard after October 1.</u>

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CONTES.T

- 3 -

Aug. 13, 1984

July 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
BRONSON, Robert W.	03/28/84	04/05/84		Prtys	10-AQ-FB-83-16 FB Civil Penalty of \$500	Preliminary issues.
NEWTON, Robert	03/30/84	04/05/84		Prtys	11-AQ-FB-83-13 FB Civil Penalty of \$500	Preliminary issues.
KAYNER, Kurt	04/03/84	04/05/84		Prtys	12-AQ-FB-83-12 FB Civil Penalty of \$500	<u>Department requested without objection from Respondent that case be heard after October 1.</u>
BUYSERIE, Gary	03/26/84	04/05/84		Prtys	13-AQ-FB-83-21 FB Civil Penalty of \$300	Preliminary issues.
BUYSERIE, Gary	03/26/84	04/05/84		Prtys	14-AQ-FB-83-22 FB Civil Penalty of \$750	Preliminary issues.
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84	04/12/84		Prtys	15-AQ-FB-83-22 FB Civil Penalty of \$500	<u>Department requested without objection from Respondent that case be heard after October 1.</u>
DOERFLER FARMS	04/30/84	05/08/84		Prtys	16-AQ-FB-83-11 FB Civil Penalty of \$500	<u>Department requested without objection from Respondent that case be heard after October 1.</u>

July 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
TRANSCO Industries, Inc.	06/05/84	06/12/84		Prtys	17-HW-NWR-84-45 HW Civil Penalty of \$2,500	Preliminary issues.
TRANSCO Industries, Inc.	06/05/84			Prtys	18-HW-NWR-84-46 HW Compliance Order	Preliminary issues.
INTERNATIONAL PAPER CO.	06/12/84	06/12/84		Prtys	19-WQ-SWR-84-29 WQ Civil Penalty of \$4,750	Preliminary issues.
VANDERVELDE, Roy	06/12/84	06/12/84		Prtys	20-WQ-WVR-84-01 WQ Civil Penalty of \$2,500	Preliminary issues.
CLINTON, Carl	07/03/84		07/09/84		21-NC-NWR-84 Noise Variance Request	Order denying variance request issued 7/13/84. Event scheduled for 7/15/84.
<u>WESTERN PACIFIC LEASING CORP., dba/Killingsworth Fast Disposal</u>	<u>06/01/84</u>	<u>07/23/84</u>		<u>Prtys</u>	<u>22-SW-NWR-84 Solid Waste Permit Modification</u>	<u>Preliminary issues.</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and	* Location	* Variance From	* Date	* Date	* Status
* Permit No.		(Rule)	* Granted	* Expires	
*	*	*	*	*	*

AIR QUALITY

Timber Products (15-0025)	Medford	Particle Dryer Standards OAR 340-30-045(a)	12/19/80	6/30/83	<u>In compliance</u>
Mt. Mazama Plywood (10-0022)	Sutherlin	Veneer Dryer Standards OAR 340-25-315(1) (b)	7/17/81 4/16/82 4/3/83 7/8/83	5/1/84	Company in bank- ruptcy, waiting for settlement
Champion International (22-5195)	Lebanon	Veneer Dryer Standards OAR 340-25-315(1) (b)	8/19/83	9/1/84	On schedule
FMC (26-2944)	Portland	VOC Standards OAR 340-22-170	10/15/82	12/31/86	On schedule
Carnation Can (34-2677)	Hillsboro	VOC Standards OAR 340-22-170(4) (a) (D)	10/15/82	12/31/85	On schedule
Rancho-Rajneesh Funeral Pyre (16-0021)	Jefferson County	Opacity Standards OAR 340-21-025(b)	12/3/82	Permanent	
Oil Dri (19-0018)	Christmas Valley	Fugitive Control Standards OAR 340-21-015(2) (b) OAR 340-21-030(2)	12/3/82	4/1/84	<u>In compliance</u>
Winter Products (26-3033)	Portland	VOC Standards OAR 340-22-170(4) (j)	1/14/83	1/1/87	On schedule
Leading Plywood Corp. (02-2479)	Corvallis	Veneer Dryer OAR 340-25-315(1) (b)	10/7/83	10/1/84	<u>Not on schedule, plans and specifi- cations not submitted</u>

MAR. 22 (4/84)

ME40 (1)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and	* Location	* Variance From	* Date	* Date	* Status
* Permit No.		(Rule)	* Granted	* Expires	
*	*	*	*	*	*

AIR QUALITY (cont.)

These variances were a class variance for industrial painting operations granted at the 11/18/83 EQC.

Amcoat (26-3036)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Bingham- Willamette Co. (26-2749)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Brod & McClung- Pace Co. (03-2680)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Cascade Corp. (26-3038)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Hearth Craft, Inc. (26-3037)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Lear Siegler- Peerless Div. (34-2670)	Tualatin	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Meyers Drum Co. (26-3035)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Northwest Marine Iron Works (26-3101)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule
Oregon Steel Mills (26-1865)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule

MAR. 22 (4/84)
ME40 (2)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and	* Location	* Variance From	* Date	* Date	* Status	*
* Permit No.		(Rule)	* Granted	* Expires		
*	*	*	*	*	*	*

AIR QUALITY (cont.)

Pacific Fireplace Furnishings (34-2676)	Tualatin	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Portland Willamette Co. (26-2435)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Portland Wire & Iron Works (26-2486)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Reimann and McKenny (26-2572)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Tektronix, Inc. (34-2638)	Beaverton	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Union Pacific (26-3098)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Wade Manufacturing (34-2667)	Tualatin	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	
Wagner Mining Equipment (26-3039)	Portland	VOC Standards OAR 340-22-170	11/18/83	7/1/85	On schedule	

MAR. 22 (4/84)

ME40 (3)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and	* Location	* Variance From	* Date	* Date	* Status
* Permit No.		(Rule)	* Granted	* Expires	
*	*	*	*	*	*

NOISE

Murphy Veneer	Myrtle Point	Log loader noise OAR 340-35-035	2/24/84	7/1/87	On schedule.
Med Co.	Rogue River	Noise emission standards OAR 340-35-035	8/27/82	12/31/83	Extension request received and additional time granted to measure results of compliance efforts.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and * Permit No. *	* Location *	* Variance From * (Rule) *	* Date * Granted *	* Date * Expires *	* Status *
<u>SOLID WASTE DISPOSAL SITES</u>					
Cannon Beach (23)	Clatsop County	Open Burning Standards OAR 340-61-040(2)	10/7/83	11/1/84	<u>Transfer stations in planning stages. A variance request for 6-month extension on September EQC Agenda</u>
Seaside (22)	Clatsop County	Open Burning Standards OAR 340-61-040(2)	10/7/83	11/1/84	<u>Transfer stations in planning stages. A variance request for 6-month extension on September EQC Agenda</u>
Powers (160)	Coos County	Open Burning Standards OAR 340-61-040(2)	<u>5/18/84</u>	<u>5/29/86</u>	<u>City is upgrading the system</u>
Adel (4)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Christmas Valley (9)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Fort Rock (276)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Paisley (178)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Plush (10)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Silver Lake (184)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule
Summer Lake (183)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	On schedule

MAR. 22 (4/84)
ME40 (5)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

* Source and	* Location	* Variance From	* Date	* Date	* Status	* *
* Permit No.		(Rule)	* Granted	* Expires		* *
*	*	*	*	*	*	*

SOLID WASTE DISPOSAL SITES (cont.)

Mitchell (175)	Wheeler County	Open Burning Standards OAR 340-61-040(2)	4/24/81	7/1/86	On schedule	
Butte Falls (205)	Jackson County	Open Burning Standards OAR 340-61-040(2)	7/16/82	7/1/85	On schedule	

MAR.22 (4/84)
ME40 (6)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

WATER QUALITY STIPULATED CONSENT ORDERS

The water quality program supplements its permit program by use of stipulated consent orders establishing time schedules for construction of waste treatment facilities. The following consent orders are in force.

<u>Source and Permit No.</u>	<u>Location</u>	<u>Purpose</u>	<u>Date Granted</u>	<u>Date Expires</u>	<u>Status</u>
Happy Valley	Clackamas Co.	Establish time schedule	2/17/78	None	Compliance schedule being negotiated
Coquille (3679-J)	Coos Co.	Establish time schedule	10/15/82	7/31/84	Compliance schedule incorporated in permit
Silverton (3146-J)	Marion Co.	Establish time schedule	1/14/83	4/1/85	On schedule
Tangent	Linn Co.	Establish time schedule	11/1/83	1/1/86	<u>Not on schedule; determine strategy after bond election</u>

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DEPARTMENT OF ENVIRONMENTAL QUALITY

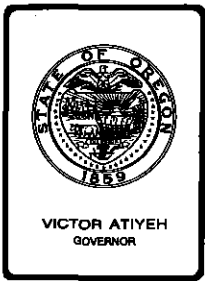
MONTHLY ACTIVITY REPORT

VARIANCE LOG

July 1984

AIR QUALITY NEGOTIATED COMPLIANCE SCHEDULES

<u>Source and Permit No.</u>	<u>Location</u>	<u>Schedule</u>
Hyster Co. (26-3032)	Portland	Close down or comply with VOC rules by March 1, 1986. Company closed 12/83.
Boise Cascade (05-1849)	St. Helens	Improve TRS controls and demonstrate compliance by October 15, 1984.
Bend Mill Work (09-0015)	Bend	In compliance.
Hoff-Ronde Lumber	Union	Install particulate controls by May 1, 1984 and demonstrate compliance by June 1, 1984. <u>Source test not yet completed.</u>
<u>Pendleton Flour Mills</u>	<u>Pendleton</u>	<u>Control dust problem by August 7, 1985.</u>
<u>DAW Forest Products</u>	<u>Bend</u>	<u>Modify wood waste handling system and repair boilers by October 1, 1984.</u>



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, September 14, 1984, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendations

It is recommended the Commission take the following actions:

Approve tax credit applications for facilities subject to old tax credit laws:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1677	Trojan Nuclear Project	Containment systems
T-1698	Omark Industries, Inc.	Electrostatic powder coating line
T-1674	Number One Boardman Station	Ash collection, transfer, and storage system

Fred Hansen

KNPayne
229-6484
8/22/84
Attachments

Agenda Item C
Page 2
September 14, 1984

Proposed August 1984 Totals:

Air Quality	\$9,610,482
Water Quality	-0-
Solid/Hazardous Waste	-0-
Noise	-0-
	<hr/>
	\$9,610,482

1984 Calendar Year Totals:

Air Quality	\$1,918,365
Water Quality	1,657,060
Solid/Hazardous Waste	635,114
Noise	-0-
	<hr/>
	\$4,210,539

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Trojan Nuclear Project

Portland General Electric Company
121 S.W. Salmon Street
Portland, OR 97204

Pacific Power & Light Company
920 S.W. Sixth Avenue
Portland, OR 97204

City of Eugene, Acting By and Through
The Eugene Water and Electric Board
P.O. Box 10148
Eugene, OR 97440

The applicant owns and operates a nuclear-fueled electricity generating facility located along U.S. Highway 30 near Rainier, Oregon.

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

2. Description of Claimed Facility

The facilities described in this application are associated with the containment building and consist of the following equipment and applicable installed costs:

	<u>Applicable Installed Cost</u>
a. Containment Cleanup Recirculation Units (CS-11)	\$ 11,200
b. Containment Spray System	4,239,271
c. Containment Cooling Water System (CCWS)	2,901,356
d. Containment Isolation Valves	111,993
	<hr/> \$7,263,820

Notice of Intent to Construct and Preliminary Certification for Tax Credit are not required.

Construction was initiated on the claimed facility in May 1971, completed in December 1975, and the facility was placed into operation in December 1975.

Facility Cost: \$7,263,820 (Accountant's Certification was provided).

3. Evaluation of Application

The applicants have requested certification of those elements and equipment within the containment building as set forth in Section 2 above. The containment building also houses the reactor vessel and steam generator which are not parts of the facilities claimed herein.

During the operation of a nuclear reactor, radioactive gases evolve. Some of these gases adsorb onto airborne dusts and thereby render the dust particles radioactive. The Nuclear Regulatory Commission (NRC) limits the emission rates and ambient levels of radioactive materials (gaseous and particulate) to the atmosphere from nuclear power plants. In order to comply with these limits, the emissions must be controlled by appropriate combinations of retention (to allow for decay of short-lived isotopes), high efficiency filtration of dusts and activated carbon adsorption of some gases. Acceptable operation of containment building emissions control systems are determined by associated radioactive, temperature, pressure, hydrogen and particulate monitoring equipment. Used filters, spent activated carbon and other radioactive solid wastes generated by these claimed facilities are transported to Hanford for final disposal.

The facilities claimed in this application were installed during construction of the Trojan Nuclear Plant and are currently operated to control emissions from the containment building. These facilities, in combination with those described in Application T-1603 (approved by EQC 11/18/83), comprise the complete air pollution control equipment or systems related to the containment building at the Trojan nuclear plant. Information in the application indicates that emission rates and ambient levels of radioactive materials are well below appropriate NRC limits.

The Department has concluded that the facilities described in Application T-1677 were necessarily installed and are being operated for the purpose of maintaining continuous compliance with NRC imposed limits for emission rates and ambient levels of radioactive materials emanating from the containment building.

There is no return on investment from the facilities claimed in this application.

The application was received on January 18, 1984, additional information was received on July 23, 1984, and the application was considered complete on July 23, 1984.

4. Summation

- a. The facilities were not required to have prior approval to construct or preliminary certification.
- b. The facilities were constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. The facilities are designed for and are being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facilities are necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80% or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$7,263,820 with 80% or more allocated to pollution control, be issued for the facilities claimed in Tax Credit Application No. T-1677.

F.A. SKIRVIN:a
AA4363
(503) 229-6414
August 7, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Omark Industries, Inc.
5550 S.W. Macadam Avenue
Portland, OR 97201

The applicant owns and operates a plant to manufacture chains for chain saws at 4909 S.E. International Way, Milwaukie, 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 an electrostatic powder coating line which replaced a lacquer dip coating line.

Request for Preliminary Certification for Tax Credit was made on January 11, 1980, and approved on April 9, 1980.

Construction was initiated on the claimed facility on April 15, 1980, completed on June 19, 1980, and the facility was placed into operation on June 19, 1980.

Facility Cost: \$310,386.00 (Accountant's Certification was provided).

3. Evaluation of Application

The principal purpose of construction and installation of the facility is to comply with a requirement imposed by the Department to limit the amount of volatile organic compounds (solvent vapors) emitted from coating (paint) lines.

The applicant's existing lacquer dip coating line did not meet the coating rule limit of 3.5 pounds of solvent per gallon of coating that became effective December 31, 1982. The existing line used 6.2 pounds of solvent per gallon of coating and emitted 42.7 tons of solvent annually.

The electrostatic powder coating line uses dry epoxy powder which is charged and sprayed with compressed air through electrostatic guns. Coated parts are transported by an enclosed track conveyor to a ceiling mounted oven for curing. (The oven "melts" the powder into a

continuous coating.) The containment and recovery booths operate under negative pressure to reduce loss of overspray powder. Overspray is collected and transferred to a recovery system. The recovered powder is recycled. The exhaust air from the recovery system passes through a 95% efficient filter and then through a 99.97% efficient absolute filter. The powder has essentially no solvent emissions.

The new system costs are:

Booths & Recovery Equipment	
Powder coating stations (2)	\$40,456
Powder storage and recovery units (3)	46,473
Color change storage and recovery unit (1)	18,043
Installation	44,739
Miscellaneous, including controls & filters	<u>29,244</u>
	\$178,955
Powder Delivery & Curing Equipment	
Gun system	\$19,905
Oven	47,630
Track conveyor	16,982
Electrostatic guns	10,603
Installation	13,114
Miscellaneous	<u>11,351</u>
	\$119,585
Building Modification	
Wall, process control and safety	\$11,846
Total	\$310,386

The alternative control methods considered were:

1. Add on solvent fume incinerator - high operating cost and unproven capture efficiency.
2. High solids liquid spray - available systems barely meet rule.
3. Powder coating - proven technology that more than meets rule.

The cost to operate the electrostatic powder coating line has increased over the old lacquer dip coating line, thereby generating no return on the investment. The percent of the cost allocable to pollution control is 80 percent or more.

The application was received on May 21, 1984, additional information was requested on July 13, 1984, was received on August 8, 1984 and the application was considered complete on August 8, 1984.

4. Summation

- a. The facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. The facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. The 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 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 \$310,386.00 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1698.

LLOYD KOSTOW:a
(503) 229-5186
August 9, 1984
AA4585

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Number One Boardman Station
c/o Portland General Electric Company
121 S.W. Salmon Street
Portland, OR 97204

The applicant owns and operates a coal burning electricity generating plant on Tower Road, southwest of Boardman, 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 described to be a main boiler economizer ash collection, transfer and storage system consisting of grizzly boxes, cinder feeders, ash feeders, transfer blowers, transfer pipe and storage tank.

Request for Preliminary Certification for Tax Credit was made on May 27, 1982, and approved on July 16, 1982.

Construction was initiated on the claimed facility on June 2, 1982, completed on September 20, 1983, and the facility was placed into operation in December 1982.

Facility Cost: \$2,036,276 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility is a pressurized dry transfer and storage system for handling boiler economizer ash prior to its ultimate disposal at the applicant's on-site ash disposal pit. Originally, economizer ash was mixed with water and combined with wet bottom ash. The cement-like properties of the former caused the combined material to behave similar to concrete. Thus it was necessary to install the dry system for handling economizer ash in a dust-free manner. The claimed facility successfully meets this requirement based on Department inspections of the plant site.

There is no economic return associated with the claimed facility. The facility functions in compliance with the air contaminant discharge permit conditions. It is concluded that a principal purpose of the claimed facility is pollution control and that the cost of an ash collection and disposal facility that does not include dust controls would be less than 20% of the facility cost. Therefore, 80% or more of the cost is allocable to pollution control.

The application was received on January 10, 1984, additional information was received on August 9, 1984, and the application was considered complete on August 9, 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 80% or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$2,036,276 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1674.

F.A. SKIRVIN:a
(503) 229-65414
August 14, 1984
AA4609



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, September 14, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Rules for Granting Water Quality Standards Compliance Certifications Pursuant to Section 401 of the Federal Clean Water Act

Background

Section 401 of the Federal Clean Water Act requires any applicant for a Federal license or permit to provide the licensing or permitting agency with a certification from that state that the project will comply with effluent limitations, water quality related effluent limitations, water quality standards and implementation plans, national standards of performance for new sources, and toxic and pretreatment effluent standards adopted pursuant to the Clean Water Act.

The Department has been implementing this section of the federal law without having adopted procedural rules regarding certification. Recently, numerous applications for certification of projects subject to licensing by the Federal Energy Regulatory Commission have demonstrated the need to clarify procedures for receiving applications and processing certifications pursuant to Section 401 of the Clean Water Act. In particular, the Department's Agreement for Coordination with the Land Conservation and Development Commission (LCDC) identifies Section 401 Certification as an activity affecting land use and thus requires a determination of consistency prior to issuance of certification. Procedures need to be clarified regarding this determination.

Until recently, nearly all requests for certification have been for projects in navigable waters or adjacent wetlands requiring permits from the U.S. Army Corps of Engineers or from the U.S. Coast Guard for structures that may impact navigation. For these applications, the State of Oregon has a well established agency coordination program where the Division of State Lands receives applications from the applicant (by way of the Federal Agency), distributes them to state natural resource agencies for review and comment, and compiles comments into a coordinated state response to the applicant. Under this coordinated program the federal agency issues public notice of the project on behalf of all of the agencies. DEQ's notice of request for certification is circulated with the package by the Federal Agency. DEQ's

certification is forwarded to the Division of State Lands. The coordinated response is then released when agency comments are compiled and the project is determined to be compatible with land use requirements. This process has been quite efficient and effective.

Alternatives and Evaluation

There are two basic alternatives available at this time. The easiest would be to continue present procedures with some administrative clarification regarding land use compatibility statements, but without adopting rules.

While this may be satisfactory in most cases, there will likely be times when such informal procedures will lead to problems--particularly if a certification is challenged. This alternative is not recommended.

The recommended alternative is to adopt procedural rules which clearly define the procedure for receiving applications, giving public notice as required by Section 401 of the Clean Water Act, and issuance or denial of certification.

Draft rules have been developed which define the minimum information needed to constitute a complete application. In addition to the applicant's normal project descriptive information, the rules require submittal of a statement from the appropriate local planning jurisdiction that the project is either compatible with the acknowledged local comprehensive plan, or is consistent with statewide planning goals if the local plan is not acknowledged.

The rules also provide that failure to complete an application or supply requested additional information will be grounds for denial of certification.

DEQ's Coordination Agreement with LCDC anticipated that DEQ may in some instances need to proceed to review an application without a land use determination from the local agency. In such case, DEQ's action would be conditional upon the applicant obtaining such a statement prior to initiating work. This process was necessary in the beginning when most jurisdictions were fully involved in plan preparation and unable to promptly respond to requests for compatibility determination. Since most jurisdictions now have acknowledged plans, and the local planning agencies are better able to review and respond to proposals, it is appropriate to make the land use statement a necessary part of a completed application. DEQ does not propose to grant certification without the local land use sign off.

The draft rules further describe public notice procedures and procedures for issuance, denial, revocation and suspension of certification. The federal law allows up to one year to process certifications; if action is not complete within that time, the certification requirement is waived. The Department proposes to act within 90 days. This allows for receiving applications, forwarding notice to the Secretary of State Bulletin 10 days in advance of the nearest publication date (1st or 15th of each month), 30 days notice period for public comment and approximately 30 to 45 days for evaluation of comments and final action by the Department. A process is also provided for extending the period for action beyond 90 days where necessary to allow for hearing, submittal of additional information or other cause.

Draft rules have been written to formalize and continue the present streamlined procedure for coordinated agency response through the Division of State Lands for U.S. Corps of Engineers and U.S. Coast Guard permit applications as an exception to the normal process.

The following is a brief outline of the proposed rules:

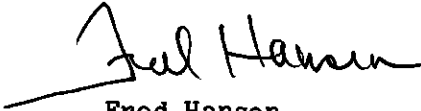
- 48-005 Purpose
- 48-010 Definitions
- 48-015 Certification Required--describes situations where certification will be required.
- 48-020 Application for Certification--describes contents of a complete application, including requirement for land use compatibility statement, and public notice requirements. Describes procedures for requesting a hearing on any application. Describes alternative procedure for applications processed through Division of State Lands Coordination program.
- 48-025 Issuance of Certificate--describes time limits for processing completed applications, the form of certification, and procedures for appealing the conditions of granted certifications.
- 48-030 Certification Delivery--describes procedure for forwarding certificates to applicant or Federal permitting agency.
- 48-035 Denial of Certification--describes procedure for denial of certification, notification of applicant, and appeal.
- 48-040 Revocation or Suspension of Certification--describes conditions for revocation or suspension of certification and procedures for notification and appeal.

Summation

1. Section 401 of the Federal Clean Water Act requires applicants for Federal permits and licenses to obtain certification from the State that the proposed activity will comply with water quality requirements and standards.
2. The Department has been processing applications for certification since the Clean Water Act was passed, relying on the language of the Federal Statute to guide the process rather than specific rules adopted by the Commission.
3. Recent changes in the number and nature of applications as well as the need to clarify land use compatibility requirements have demonstrated the need for clarification of application processing procedures by adoption of specific procedural rules.

Director's Recommendation

Based on the Summation, it is recommended that the Commission authorize the Department to conduct a public hearing on proposed rules for certification of compliance with Water Quality Requirements and Standards pursuant to Section 401 of the Federal Clean Water Act as contained in Attachment 1.


Fred Hansen

- Attachments: 3
1. Draft Rules
 2. Public Notice
 3. Statement of Need

Glen D. Carter
229-5358
WL3640
September 4, 1984

OREGON ADMINISTRATIVE RULES
Chapter 340, Division 48

DIVISION 48

CERTIFICATION OF COMPLIANCE WITH WATER QUALITY REQUIREMENTS AND STANDARDS.

Purpose

340-48-005 The purpose of these rules is to describe the procedures to be used by the Department of Environmental Quality for receiving and processing applications for certification of compliance with water quality requirements and standards for projects which are subject to federal agency permits or licenses and which may result in any discharge into navigable waters or impact water quality.

Definitions

340-48-010 As used in these rules unless otherwise required by context:

(1) "Certification" means a written declaration by the Department of Environmental Quality, signed by the Director, that a project or activity subject to federal permit or license requirements will not violate applicable water quality requirements or standards.

(2) "Clean Water Act" means the Federal Water Pollution Control Act of 1972, PL 92-500, as amended.

- (3) "Coast Guard" means U.S. Coast Guard.
- (4) "Commission" means Oregon Environmental Quality Commission.
- (5) "Corps" means U.S. Army Corps of Engineers.
- (6) "Department" or "DEQ" means Oregon Department of Environmental Quality.
- (7) "Director" means Director of the Department of Environmental Quality or the Director's authorized representative.
- (8) "Local Government" means county and city government.

Certification Required

340-48-015 Any applicant for a federal license or permit to conduct any activity, including but not limited to the construction or operation of facilities which may result in any discharge to waters of the State, must provide the licensing or permitting agency a certification from the Department that any such discharge will comply with Sections 301, 302, 303, 306, and 307 of the Clean Water Act which generally prescribe effluent limitations, water quality related effluent limitations, water quality standards and implementation plans, national standards of performance for new sources, and toxic and pretreatment effluent standards.

Application for Certification

340-48-020 (1) Except as provided in section (6) below, completed applications for project certification shall be filed directly with the DEQ.

(2) A completed application filed with DEQ shall contain, at minimum, the following information:

- (a) Legal name and address of the project owner.
- (b) Legal name and address of owner's designated official representative, if any.
- (c) Legal description of the project location.
- (d) A complete description of the project proposal, using written discussion, maps, diagrams, and other necessary materials.
- (e) Name of involved waterway, lake, or other water body.
- (f) Copies of the environmental background information required by the federal permitting or licensing agency.
- (g) Copy of any public notice and supporting information, issued by the federal permitting or licensing agency for the project.
- (h) A statement from the appropriate local planning agency that the project is compatible with the acknowledged local comprehensive plan or that the project is consistent with statewide planning goals if the local plan is not acknowledged.

(3) The DEQ reserves the right to request any additional information necessary to complete an application or to assist the DEQ to adequately evaluate the project impacts on water quality. Failure to complete an application or provide any requested additional information within the time specified in the request shall be grounds for denial of certification.

(4) Public notice of all applications filed with DEQ shall be by publication in the Secretary of State's Bulletin, mailing of notification to those persons who request to be on a DEQ mailing list for receiving such notices, and mailing of notification to local governments in the project area. Notices shall specify the duration of the comment period which will normally be 30 days.

(5) The Director shall provide an opportunity for the applicant, any affected state, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to certification applications. If the Director determines that useful information may be produced thereby, or if there is significant public interest in holding a hearing, a public hearing will be held prior to the Director's final determination. Instances of doubt shall be resolved in favor of holding the hearing. There shall be public notice of such a hearing.

(6) For projects or activities where the Division of State Lands is responsible for compiling a coordinated state response (normally applications requiring permits from the Corps or Coast Guard), the following procedure for application and certification shall apply:

(a) Application to the Federal agency for a permit constitutes application for certification.

(b) Applications are forwarded by the Federal Agency to the Division of State Lands for distribution to affected agencies.

(c) Notice is given by the Federal Agency and Division of State Lands through their procedures. Notice of request for DEQ certification is circulated with the Federal Agency Notice.

(d) All comments including DEQ Water Quality Certification are forwarded to the Division of State Lands for evaluation and coordination of response. The Division of State Lands is responsible for determination of compatibility with the local comprehensive plan or consistency with statewide planning goals.

Issuance of a Certificate

340-48-025 (1) Within ninety (90) days of receiving a complete application for project certification, the DEQ shall serve written notice upon the applicant that the certification is granted or denied or that a further specified time period is required to process the application. Written notice shall be served in accordance with the provisions of OAR 340-11-097 except that granting of certification may be by regular mail. Any extension of time shall not exceed 1 year from the date of filing a completed application. If the Department fails to take timely action on an application for certification, the certification requirements of Section 401 of the Clean Water Act are waived.

(2) DEQ's Certification for a project shall contain the following information:

- (a) Name of Applicant;
- (b) Project's name and federal identification number (if any);
- (c) Type of project activity;
- (d) Name of water body;
- (e) General location;
- (f) Statement that the project complies with applicable requirements of the Federal Clean Water Act;
- (g) Special conditions if necessary to assure compliance with Sections 301, 302, 303, 306, and 307 of the Clean Water Act and state water quality requirements.

(3) If the applicant is dissatisfied with the conditions of any granted certification, the applicant may request a hearing before the Commission. Such requests for a hearing shall be made in writing to the Director within 20 days of the date of mailing of the certification. Any hearing shall be conducted pursuant to the rules of the Commission for contested cases.

(4) Certifications granted pursuant to these rules are valid for the applicant only and are not transferable.

Certification Delivery

340-48-030 For projects where application for certification is filed directly with DEQ by the applicant, the DEQ certification will be returned directly to the applicant. For those applications that are coordinated by the Division of State Lands, DEQ certification will be delivered to the Division of State Lands for distribution to the applicant and the federal permitting agencies as part of the State of Oregon coordinated response.

Denial of Certification

340-48-035 If the Department proposes to deny certification for a project, a written notice setting forth the reasons for denial shall be served upon the applicant following procedures in OAR 340-11-097. The written notice shall advise the applicant of appeal rights and procedures. A copy shall also be provided to the federal permitting agency. Within 20 days from the date of mailing such notice, the applicant may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the rules of the Commission for contested cases.

Revocation or Suspension of Certification

340-48-040 (1) Certification granted pursuant to these rules may be suspended or revoked if the Director determines that:

- (a) The federal permit or license for the project is revoked.
- (b) The federal permit or license allows modification of the project in a manner inconsistent with the certification.
- (c) The application contained false information or otherwise misrepresented the project.
- (d) Conditions regarding the project are or have changed since the application was filed.
- (e) Special conditions or limitations of the certification are being violated.

(2) Written notice of intent to suspend or revoke shall be served upon the applicant following procedures in OAR 340-11-097. The suspension or revocation shall become effective 20 days from the date of mailing such notice unless within that time the applicant requests a hearing before the Commission or its authorized representative. Such a request for hearing shall be filed with the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the rules of the Commission for contested cases.

GDC:t

WT245

Revised 9/4/84

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PUBLIC HEARING ON RULES FOR WATER QUALITY STANDARDS COMPLIANCE CERTIFICATION

Date Prepared: 8-28-84

Notice Issued:

Comments Due:

WHO IS AFFECTED: Any person or party applying for a federal agency permit or license to construct and/or operate facilities which may affect waters of the state and persons who use the waters of the state.

WHAT IS PROPOSED: The DEQ is proposing procedural rules for processing applications and issuing water quality standards compliance certifications for water related projects subject to federal agency permit or license. Projects include waterway fills, instream construction, hydroelectric projects, etc.

WHAT ARE THE HIGHLIGHTS: Some federal agencies issue permits for facilities and activities in waters of the state that result in discharges of materials that may pollute the water. Consequently, Section 401 of the Federal Clean Water Act of 1977, requires that the applicant for such a federal permit must first obtain certification from the DEQ that there is reasonable assurance the proposed discharge or activity will not violate applicable water quality requirements and standards. The DEQ must also provide procedures for public notice and public hearing of its actions.

SPECIAL CONDITIONS: The proposed rules require a land use compatibility determination for each project prior to certification.

HOW TO COMMENT: A public hearing will be held to receive oral comments on:

Date:

Time:

Place:

Written comments should be sent to the Department of Environmental Quality, Water Quality Division, P.O. Box 1760, Portland, OR, 97207.

Any questions or requests for additional information should be directed to Glen Carter of the Water Quality Division, 229-5358 or toll free 1-800-452-4011.

WHAT IS THE NEXT STEP: Once the public testimony has been received and evaluated, the rules will be revised if necessary, and then presented to the Environmental Quality Commission for adoption.



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 1-800-452-7042, and ask for the Department of Environmental Quality.
1-800-452-4011



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

ORS 468.020 authorizes the Commission to adopt rules necessary and proper in performing the functions vested by law in the Commission.

ORS 468.730 authorizes the Commission to adopt the necessary rules to implement those provisions of the Federal Water Pollution control Act which are within the jurisdiction of the state.

(2) Need for the Rule

Under the Federal Water Pollution Control Act (Clean Water Act) the Department of Environmental Quality has the responsibility to review applications for a Federal license or permit to conduct any activity which may result in any discharge into navigable waters. After review, the Department must certify whether the discharge or activity will comply with effluent limitations, water quality standards, national standards of performance for new sources, and toxic and pretreatment standards. Rules are needed to establish procedures for applying for certification, providing for public input in the certification process, addressing land use issues and concerns, and describing certification issuance, denial and appeal procedures.

(3) Principal Documents Relied Upon in This Rulemaking

- a. ORS 468.020
- b. ORS 468.730
- c. Federal Water Pollution Control Act (Clean Water Act)
Title IV, Section 401.

LAND USE CONSISTENCY

The proposed rules appear to affect land use and to be consistent with the Statewide Planning goals.

Goal 6 (Air, Water and Land Resources Quality): This proposal is deemed to improve and maintain water quality and is consistent with the goal because the DEQ certification assures compliance with state and federal water quality standards and requirements.

These rules are also deemed compatible with the Statewide Land Use Planning goals since they require an application for certification to contain a statement of land use compatibility from the appropriate planning agency.

The rule does not appear to conflict with other goals.

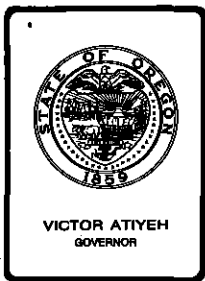
Public comment on any land use issue involved is welcome and may be submitted in the same manner as indicated for testimony in this notice. It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with 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 apparent conflicts brought to our attention by local, state or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT

The proposed rules should have minimal impact on small businesses. The requirement for certification has been in effect for more than 10 years, and certifications have been routinely processed throughout this period. The rules codify the procedure that has evolved over time. This should make it easier for applicants to understand and meet requirements for certification. The rules clarify the requirement for land use consistency for projects to be certified. The rules benefit project applicants, including small businesses, by reducing the normal response time from 1 year allowed by federal law to 90 days.

GDC:l
WL3639
September 4, 1984



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, September 14, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing
on the Modification of Hazardous Waste Rules, OAR 340-100-
010 and 340-105-010

Background

On April 20, 1984, the Commission adopted a revised set of hazardous waste management rules that were nearly identical to the federal hazardous waste management rules contained in 40 Codified Federal Regulations Parts 260, 261, 262, 263, 264 and 270 (DEQ Divisions 100, 101, 102, 103, 104 and 105, respectively). The staff did not include 40 CFR Part 265 since in the Department's judgement it was nearly identical to Part 264. The difference between these two parts is that Part 265 is a set of self-implementing standards that operate between rule adoption and issuance of a permit (interim status standards), whereas Part 264 is a set of final standards that are intended to be activated only upon issuance of a permit.

In commenting on the Department's June 1, 1984 Final Authorization Application, EPA has pointed out a number of rules in Part 264 that are not self-implementing and therefore cannot operate as interim status standards. Coincidentally, the Department tried during several recent inspections to enforce some of these standards and realized that certain Part 264 standards are not self-implementing. Since interim status standards are needed now (since not all hazardous waste permits have been issued), and in the future when additional waste streams are classified as hazardous, the Department proposes to adopt an equivalent set of standards to EPA's Part 265 interim status standards.

Since April 20, 1984, we've also received numerous inquiries on the meaning of two words: "residue" as used in the definition of hazardous waste (340-101-003(1)) and "extraction" as used in the exclusion of residues from the extraction and beneficiation of ores and minerals (340-101-004(2)(g)). Since these are two very important terms, we are proposing definitions at this time.

Alternatives and Evaluation

The Department agrees with EPA that we do not have an equivalent set of interim status standards to EPA's Part 265 and, therefore, our June 1st Final Authorization Application is deficient. There are four ways of addressing this deficiency:

1. Adopt 40 CFR Part 265 in its entirety by reference.
2. Amend OAR 340 Division 104 so that in fact it is fully equivalent to EPA's Parts 264 and 265.
3. Recodify Part 265 as OAR 340 Division 107 and adopt as interim status standards.
4. Make no changes in which case EPA has tentatively concluded our program is not equivalent.

Because of time constraints imposed by the authorization process, and to ensure that no further rule deficiencies occur, the Department proposes to adopt 40 CFR Part 265 by reference. Considering the effort that has been put into obtaining authorization to date, the Department does not consider alternative #4 worthy of further consideration.

As for the concern over the meaning of the terms "extraction" and "residue", the Department is proposing new definitions that will hopefully clarify what was intended to be potentially regulated. In the comment following rule 340-101-004(2)(g), the Department intended to make it clear that residues from the processing of ores were not intended to be excluded from regulation. It has been pointed out to the Department, however, that the standard mining and mineral industry usage of the term "extraction of ores and minerals" means both extraction of ores from the earth and the extraction of metals from ores (i.e., processing). Since it is not intended that the extraction of metals from ores and minerals be exempted from hazardous waste regulation in Oregon, we propose to add a definition of extraction that limits the exemption to the extraction of ores and minerals from the earth.

The question over the lack of a definition of "residue" stems from a concern that it potentially subjects manufacturing residues that are used, reused or recycled to regulation, whereas the federal definitions of "solid waste" and "hazardous waste" specifically speak to "wastes" from manufacturing being subject to regulation. The definition in rule 340-101-003(1) is taken directly from ORS 459.410(6). In examining that definition, the Department believes it instructive that the Oregon Legislature specifically used the words "discarded, useless and unwanted" when referring to pesticides and empty containers but did not use those terms when referring to residues. The Department has always interpreted that to mean a legislative directive to regulate all industry, manufacturing, trade, business or government residue whether or not they were used, reused, recycled or discarded. On the other hand, the Commission has already determined that certain residues do not warrant the same level of regulation through the adoption of rules such as 340-101-004 (exclusions), -005 (small quantity) and -006 (use, reuse and recycling).

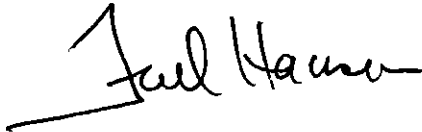
Rule 340-101-004(2)(j) specifically states that intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process that are typically processed through the next step of the process within a short time are excluded from regulation. Since there is an apparent misunderstanding on the intended scope of potential regulation of residue, the Department proposes to define "residue" to clearly include materials that are used, reused and recycled.

Summation

1. On April 20, 1984, the Department adopted hazardous waste management rules to make its program equivalent to the federal program.
2. Adopting the proposed interim status rule modification will ensure that the Department has a set of self-implementing standards, whereas the present OAR 340 Division 104 does not fully accomplish that purpose as originally intended.
3. Adoption of the several definitions will remove any ambiguity and clarify the Department's intention as to their meaning.

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 340-100-010 and 340-105-010.



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
August 21, 1984
ZC1685

The adoption of the definitions will clarify word usage relative to the management of hazardous waste.

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 to 110.

FISCAL AND ECONOMIC IMPACT:

Since the interim status standards apply only to facilities that are required to obtain a permit, and are in general less stringent than permit standards, they impose no new requirements on the regulated community.

The added definitions simply clarify the manner in which the words were intended to be used by the Department.

Since the proposed rules are only intended to clarify rules already in place, there is no positive or negative fiscal or economic impact on business, including small businesses.

FSB:c
ZC1685.1

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF MODIFYING) LAND USE CONSISTENCY
OAR 340-100-010 and 340-105-010)

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 storage, treatment and disposal, and thereby provide protection for air, water and land resource quality.

The rules comply with Goal 11 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 November 2, 1984, as part of the agenda of a regularly scheduled Commission meeting.

FSB:c
ZC1685.2

A CHANCE TO COMMENT ON...

Public Hearing on Amendments to the Hazardous Waste Rules

Date Prepared: August 8, 1984
Hearing Date: October 2, 1984
Comments Due: October 2, 1984

WHO IS AFFECTED: Persons who manage hazardous waste including generators and owners and operators of hazardous waste 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, by incorporating federal interim status standards. This is necessary to assure equivalence to the federal program in order for the Department to obtain Final Authorization to manage hazardous waste in Oregon.

The Department also proposes to adopt several definitions to clarify word usage relative to the management of hazardous waste.

WHAT ARE THE HIGHLIGHTS:

- o OAR 340-105-010 is being modified to adopt 40 CFR Part 265 by reference.
- o Several definitions are being added to OAR 340-100-010.

HOW TO COMMENT: A public hearing is scheduled for oral comments on:

Tuesday, October 2, 1984
9:00 a.m.
DEQ Portland Headquarters
Room 1400
522 SW Fifth Ave.

Written comments can be submitted at the public hearing or sent to DEQ, PO Box 1760, Portland, Oregon, 97207, by October 2, 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 response to comments and make a recommendation to the Environmental Quality Commission on November 2, 1984.



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-7810, and ask for the Department of Environmental Quality.

1-800-452 4011



BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF MODIFYING)
OAR 340-100-010 and 340-105-010) PROPOSED MODIFICATIONS

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

. . .

"Beneficiation of ores and minerals" means the upgrading of ores and minerals by purely physical processes (e.g., crushing, screening, settling, flotation, dewatering and drying) with the addition of other chemical products only to the extent that they are a non-hazardous aid to the physical process (such as flocculants and deflocculants added to a froth-flotation process).

. . .

"Extraction of ores and minerals" means the process of mining and removing ores and minerals from the earth.

. . .

"Residue" means any garbage, refuse, sludge or any other material, including any solid, liquid, semi-solid or contained gaseous material, which results from any process of industry, manufacturing, trade, business or government or from the development or recovery of any natural resource.

2. 340-105-010 (1) Permit application. . . .

(2) Who applies? . . .

(3) Completeness. . . .

(4) Information requirements. . . .

(5) Existing management facilities. (a) Owners and operators of existing hazardous waste management facilities that do not have a permit must submit a Part A permit application to the Department by June 1, 1984.

(b) The Department may at any time require the owner or operator of an existing management facility to submit Part B of their permit application. The owner or operator shall be allowed at least six months from the date of request to submit Part B of the application. Any owner or operator of an existing management facility may voluntarily submit Part B of the application at any time.

(c) An owner or operator of an existing management facility that has not [yet] been issued a management facility permit shall comply with the regulations of [Division 104, excluding Subdivision F, and] 40 CFR Part 265[, Subpart F] until final administrative disposition of a permit is made. After such final disposition, a management facility shall not treat, store or dispose of hazardous waste without a permit issued in accordance with Divisions 100 to 106.

(d) An owner or operator that has not submitted an acceptable Part A permit application, or an acceptable Part B permit application when required to do so, or does not operate in compliance with the regulations of [Division 104, and] 40 CFR Part 265, [Subpart F,] as required by subsections (a) to (c) of this section, shall be subject to Department enforcement action including termination of the facility's operation.

(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[;]L

(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:

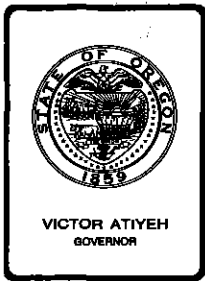
(I) It is necessary to prevent a threat to human health or the environment because of an emergency situation, or

(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] Subpart H of 40 CFR Part 265 (financial requirements), until the Department has released him in writing. The Department shall not release the old owner or operator until the new owner or operator has demonstrated to the Department that he is complying with that [Subdivision] Subpart. 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.



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, September 14, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on
Proposed New Rules Relating to the "Opportunity to Recycle"
(OAR 340-60-001 through -080)

Background

During its 1983 regular session, the 63rd Oregon Legislative Assembly passed Oregon's Recycling Opportunity Act (SB 405). It requires that the "opportunity to recycle" be made available to all Oregonians. The Act is codified as ORS Chapter 459. The Commission is directed by the Act to adopt rules and guidelines necessary to carry out the provisions of the Act by January 1, 1985.

The rules as required by ORS 459.170 address:

1. Acceptable alternatives for providing the opportunity to recycle. (OAR 340-60-035)
2. Educational, promotional and notice requirements. (OAR 340-60-040)
3. Identification of wastesheds within the state. (OAR 340-60-025)
4. Identification of principal recyclable materials in each wasteshed. (OAR 340-60-030)
5. Guidelines for local governments for implementing the provisions of the Act. (OAR 340-60-001 to -080)
6. Standards for the joint submission of the recycling reports required of local governments. (OAR 340-60-045)
7. Permit fees assessed against disposal sites (adopted by Commission February 24, 1984, Agenda Item No. I). (OAR 340-61-115)

The "opportunity to recycle" must be provided to every person in the state by July 1, 1986. This includes households, businesses and industry. The "opportunity to recycle" includes at a minimum:

- o A recycling depot located either at a disposal site or at another site more convenient to the people being served. The depot is also a condition of the DEQ disposal site permit.
- o At least monthly on-route collection of source-separated recyclable material from collection service customers within urban growth boundaries of cities with 4,000 or more population or within an urban growth boundary established by a metropolitan service district.
- o A public education and promotion program that encourages participation in recycling and give notice to each person about the recycling program available to them.

The proposed rules were developed with the assistance of the Solid Waste Advisory Task Force Recycling Rules Subcommittee which has met at least monthly since October 1983. The Department also held a series of eight public informational meetings throughout the state on the proposed rules in June and July 1984. Additionally, the Department's staff met with many affected local governments and other affected persons to discuss the Act and its implementation. These meetings occurred from January to July 1984.

Alternatives and Evaluation

NEW POLICY

Adoption of a set of recycling rules is required by new statutory authority. The proposed rules will give local governments and other persons involved in the solid waste collection service process guidance to carry out new statutory requirements.

The Act signals a major change in direction for solid waste management in Oregon by establishing priorities to: (1) reduce the amount of solid waste generated, (2) reuse materials, (3) recycle materials, (4) recover energy from solid waste that cannot be reused or recycled and (5) dispose of the remaining solid waste that cannot be reused, recycled, or from which energy cannot be recovered. This Act places increased emphasis on recycling as a solid waste management method.

IMPLEMENTATION OF THE ACT

The Oregon Recycling Opportunity Act envisions a cooperative effort among local governments (cities and counties), garbage collection and disposal services, recyclers, and the public. It does not designate who shall provide the "opportunity to recycle," but requires that it be provided. Local government leaders, in conjunction with the other persons involved in the solid waste collection process, will decide who in their community can best make available the recycling collection and promotion in accordance with the Act.

The proposed rules are intended as a guidance to assist the affected persons in the wasteshed in implementing the opportunity to recycle. By these rules, the Commission will designate the wastesheds where the opportunity will be provided and the principal recyclable materials which will be recycled. The lists of principal recyclable materials are those materials which have a long-term past and expected future markets for recycling. If these materials can be collected, they are generally recyclable from the wasteshed. The Department and the affected persons will use these lists as they determine what materials shall be recycled for each specific situation or location in the wasteshed where the "opportunity to recycle" must be provided. The Department will provide assistance to the wastesheds in implementation of the Act. The key to success of the Act will be the cooperative efforts of the local governments and other affected persons in providing the opportunity. The successful implementation of these rules will also depend on the cooperation of the local governments and affected persons with the Department.

CRITERIA FOR PROPOSED RULES

The Act requires in ORS 459.170(2)(a) through (g) that the following criteria be considered in developing the proposed rules.

1. The purposes and policy stated in ORS 459.015.
2. Systems and techniques available for recycling, including but not limited to existing recycling programs.
3. Availability of markets for recyclable material.
4. Costs of collecting, storing, transporting and marketing recyclable material.
5. Avoided costs of disposal.
6. Density and characteristics of the population to be served.
7. Composition and quantity of solid waste generated and potential recyclable material found in each wasteshed.

The Department compiled and reviewed information pertinent to the criteria. Surveys were conducted to identify recycling markets, the amounts of materials recycled by those markets and the freight allowances offered by the markets. Disposal sites and communities throughout the state were surveyed to identify existing recycling activities. Previous waste generation and composition studies were reviewed. Available information on population densities and state geographical differences were compiled and reviewed. Existing solid waste planning and management areas were identified and evaluated for suitability for wasteshed designation. Local government control mechanisms of collection service were reviewed. And, cities of 4,000 or more persons with responsibilities under the Act were identified.

CRITIQUE OF PROPOSED RULES

Many alternatives to each of these rules were discussed and were eventually modified into the existing proposed rules. Individual cities and counties, groups of counties, cities with populations over 4,000, individual disposal site areas and large regions of the state were considered for possible wasteshed designations. These concepts were all modified to the proposed form that emphasizes existing county boundaries.

Counties already function as designated solid waste management areas. Linn and Benton Counties were joined into one wasteshed because they share common collection and disposal systems. The City of Portland was set aside as a separate wasteshed because it has a unique solid waste collection situation. The City of Salem has formally requested that the area within the urban growth boundaries of the cities of Salem and Keiser be considered a wasteshed. The Department has received no formal acknowledgement from the City of Keiser on this proposal. Marion County does not support this proposal because they believe such a division will lead to unnecessary duplication of effort and expenditure of resources when implementing the Act. Several other cities indicated an interest in being their own wasteshed. We are asking that those cities provide a formal statement at the public hearing on these rules requesting separate status. The Department will then make recommendations to the Commission on those requests.

Several options were considered in the discussion of principal recyclable materials; longer and shorter lists were proposed. The present list represents the materials most commonly available from the wasteshed and provides a practical starting point for recycling.

Various methods of education and promotion were discussed with a special education advisory group. While more complex education programs were considered, the proposed rule is practical and is a good starting point. Successful programs and resources can be used as models for increased recycling education and promotion.

The Act requires affected persons in a wasteshed to submit a recycling report to the Department by July 1, 1986. Initially, several options were considered for the recycling report. The concept of a short report to be submitted on forms provided by the Department is proposed as the most appropriate. The report needs to be short and simple, with emphasis placed on program implementation and not on reporting.

The proposed rule for alternative methods for providing the opportunity to recycle is intended to give the affected persons in the wasteshed as much room for accommodation of special or regional differences and still provide the opportunity to recycle as required by law. We have tried to make as many alternative methods as possible available to the local service providers so that some form of the opportunity to recycle is available to all Oregonians.

There was considerable discussion about the portion of the rule dealing with fair market value (OAR 340-60-059). ORS 459.192 allows a material which is purchased or exchanged from the generator for fair market value to be excluded from all regulations provided by the Act. How broadly or

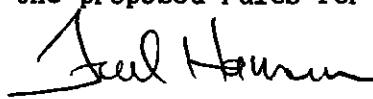
narrowly "purchased or exchanged for fair market value" is interpreted will affect whether certain recycling activities are regulated by local franchises. For example, local government would not be able to regulate the number of persons providing collection of recyclable paper in a community as long as the paper was purchased or exchanged for fair market value. The recycling industry in Oregon is very concerned that present successful recycling efforts not be adversely affected. There was a great range of strong opinions on this issue.

Summation

1. On August 4, 1983, the Recycling Opportunity Act was signed into law.
2. The new statute requires the Commission to adopt by January 1, 1985, rules necessary to carry out the provisions of the Act.
3. The rules were developed by giving consideration to the criteria stated in the Act.
4. The rules preserve the primary responsibility of local government for adequate solid waste management programs.
5. The rules identify wastesheds based primarily upon existing designated solid waste management agencies, i.e., counties.
6. The rules identify principal recyclable materials for each wasteshed and a process for identification of recyclable materials for specific situations and locations where the opportunity to recycle is required.
7. The rules accommodate regional and demographic difference in Oregon by providing for alternative methods of providing the opportunity to recycle.
8. The rules clarify the exemption of certain materials from regulation when they are purchased or exchanged for fair market value.
9. The Department developed the proposed rules using a variety of avenues for public input.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed rules for OAR Chapter 340, Division 60.


Fred Hansen

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

William Bree:c
229-6975
August 29, 1984
SC1686

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING)
OAR CHAPTER 340, DIVISION 60) STATEMENT OF NEED FOR
PROPOSED RULES

STATUTORY AUTHORITY:

ORS 459.170 requires the Commission to:

- (1) By January 1, 1985, and according to the requirements of ORS 183.310 to 183.550, the Commission shall adopt rules and guidelines necessary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.165, 459.200, 459.250, 459.992 and 459.995, including but not limited to:
 - (a) Acceptable alternative methods for providing the opportunity to recycle;
 - (b) Education, promotion and notice requirements, which requirements may be different for disposal sites and collection systems;
 - (c) Identification of the wastesheds within the state;
 - (d) Identification of the principal recyclable material in each wasteshed;
 - (e) Guidelines for local governments and other persons responsible for implementing the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995;
 - (f) Standards for the joint submission of the recycling report required under ORS 459.180(1); and
 - (g) Subject to prior approval of the appropriate legislative agency, the amount of an annual or permit fee or both under ORS 459.235, 459.245 and 468.065 necessary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995.
(adopted by Commission February 24, 1984, Agenda Item No. I)
(OAR 340-61-115)

NEED FOR THE RULES:

The planning, developing and operating of a recycling program is a matter of statewide concern. The "opportunity to recycle" should be provided to every person in Oregon. There is a shortage of appropriate sites for landfills in Oregon. It is in the best interest of the people of Oregon to extend the useful lives of existing solid waste disposal sites by encouraging recycling and reuse of materials whenever it is economically feasible.

These proposed rules will make it possible to extend landfill life and provide all Oregonians with an "opportunity to recycle."

PRINCIPAL DOCUMENTS RELIED UPON:

Existing state statute ORS 459.005 through 459.250.

FISCAL AND ECONOMIC IMPACT:

The proposed rules will save natural resources and extend landfill life. Recovered materials will support jobs in recycling industries. The Recycling Opportunity Act allows the Department to assess fees against disposal sites and it allows for adjustments in the rates charged for garbage collection in order to cover cost associated with providing the opportunity to recycle where required. Local governments and disposal site permittees may incur cost associated with providing the "opportunity to recycle." These costs may be reflected in increases in garbage rates and disposal fees charged to the public.

The new Recycling Act and these proposed rules will have an effect on small business. First, every small business in Oregon will be provided the opportunity to recycle. This recycling opportunity has not always been available in the past. Second, several types of small business will be directly impacted by these rules. Most of the state's garbage collection companies, recycling collection companies and recycling brokers and dealers are small businesses. The recyclers and brokers will see an increase in income from increased volume of recyclable material as a result of implementation of these rules. The garbage collection companies will see a variety of impacts of these rules. They should see a decrease in garbage generation but an increase in material to be recycled. They will experience a savings in avoided disposal costs. Persons who provide the opportunity to recycle will have costs related to collection and income from sales of material. However, for franchised collection services, the law allows that any additional costs of providing the opportunity to recycle shall be recovered in rates provided under franchise agreements.

EG:c
SC1686.1

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING) LAND USE CONSISTENCY
OAR CHAPTER 340, DIVISION 60)

The proposal described appears to be consistent with all statewide planning goals. Specifically, the rules comply with Goal 6 because they provide for recycling of solid waste in a manner that encourages the reduction, recovery and recycling of material which would otherwise be solid waste, and thereby provide protection for air, water and land resource quality.

The rules comply with Goal 11 by promoting waste reduction at the point of generation, beneficial use and recycling. They also intend to assure that current and long-range waste disposal needs will be reduced by the provision of the opportunity to recycle.

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 November 2, 1984, as part of the agenda of a regularly scheduled Commission meeting.

A CHANCE TO COMMENT ON...

Public Hearing on Proposed Recycling Rules

Date Prepared: August 30, 1984
Hearing Date: October 1 & 2, 1984
Comments Due: October 2, 1984

**WHO IS
AFFECTED:**

All holders of disposal site permits, all persons involved in collection of recyclable materials or solid waste, all brokers and end-users of recyclable materials, any local government that issues franchises for collection service, cities with populations of 4,000 or more, metropolitan service districts and the general public.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality (DEQ) proposes rules to carry out the provisions of the Recycling Opportunity Act. The new act requires that the opportunity to recycle be made available to all Oregonians by July 1, 1986. The opportunity to recycle includes at a minimum:

- o A recycling depot located either at a disposal site or at another site more convenient to the people being served. The depot is also a condition of the DEQ disposal site permit.
- o On-route collection of source-separated recyclable material at least once a month from collection service customers within urban growth boundaries in cities of 4,000 or more population or a metropolitan service district.
- o A public education and promotion program that encourages participation in recycling and gives notice to each person about the recycling program available to them.

**WHAT ARE THE
HIGHLIGHTS:**

The proposed rules address the following:

1. Acceptable alternatives for providing the opportunity to recycle.
2. Educational, promotional and notice requirements.
3. Identification of wastesheds within the state.
4. Identification of principal recyclable materials in each wasteshed.



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



5. Guidelines for local governments for implementing the provisions of the Opportunity to Recycle Act.
6. Standards for the joint submission of the recycling reports required of local governments.

**HOW TO
COMMENT:**

Public hearings are scheduled for oral comments on:

Monday, Oct. 1, 1984 3 p.m. to 5 p.m. 7 p.m. to 9 p.m.	Portland Building Conference Rm. C, 2nd Floor 1120 SW 5th, Portland
Monday, Oct. 1, 1984 2 p.m. to 4 p.m.	State Office Building, Rm. 360 700 SE Emigrant, Pendleton
Monday, Oct. 1, 1984 3 p.m. to 6 p.m.	Eugene City Council Chambers 777 Pearl St., Eugene
Monday, Oct. 1, 1984 3 p.m. to 6 p.m.	Bend City Council Chambers 710 NW Wall, Bend
Tuesday, Oct. 2, 1984 2 p.m. to 5 p.m.	Jackson County Courthouse Auditorium, 10 S. Oakdale, Medford

Written comments can be submitted at the public hearing or sent to DEQ, PO Box 1760, Portland, Oregon, 97207, by October 2, 1984.

For more information, call Bob Brown at 229-5157 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 response to comments and make a recommendation to the Environmental Quality Commission on November 2, 1984.

PROPOSED RULES FOR THE IMPLEMENTATION OF THE
RECYCLING OPPORTUNITY ACT

Preface:

340-60-001 The following statements are intended to guide state agencies, local governments, industries, the public and the Department of Environmental Quality in their efforts to implement these rules and the provisions of Oregon's Recycling Opportunity Act.

NEW POLICY

These rules give local governments and other persons involved in the solid waste collection service process guidance to carry out new statutory requirements of Oregon's Recycling Opportunity Act.

The Act signals a major change in direction for solid waste management in Oregon by establishing priorities to: (1) reduce the amount of solid waste generated, (2) reuse materials, (3) recycle materials, (4) recover energy from solid waste that cannot be reused or recycled and (5) dispose of the remaining solid waste that cannot be reused, recycled, or from which energy cannot be recovered. The Act places increased emphasis on recycling as a solid waste management method.

The Act envisioned that every person in Oregon should have the opportunity to recycle and that any material which could be recycled for less cost or equal to the cost associated with disposal should be recycled. The Act is based on the policy that it is a higher and better use of material resources to reuse or recycle a material rather than dispose of them.

IMPLEMENTATION OF THE ACT

The Oregon Recycling Opportunity Act envisions a cooperative effort among local governments (cities and counties), garbage collection and disposal services, recyclers, and the public. The Act does not designate who shall provide the "opportunity to recycle," but requires that it be provided. Local government leaders, in conjunction with the other persons involved in the solid waste collection process, will decide who in their community can best make available the recycling collection and promotion in accordance with the Act.

These rules are intended to assist local communities in the implementation of the new Act. The Department will provide assistance to the local communities in implementation of the Act. The key to success of the Act will be the cooperative efforts of the local governments and other affected persons in providing the opportunity. The successful implementation of these rules will also depend on the cooperation of the local governments and affected persons with the Department.

LOCAL GOVERNMENT ROLE

Local government will maintain its primary responsibility for solid waste management and will be a major factor in providing for the opportunity to recycle and in the preparation of the recycling report. These rules are intended to increase, not decrease, the role of local government in solid waste management. In the new Recycling Opportunity Act, local government has clearly been granted the authority to regulate both solid waste and recyclable material collection service. This added authority will help see that an effective recycling system is in place in each community.

WASTESHED DESIGNATION

These rules designate wastesheds throughout the state. An important consideration in the choice of wastesheds was whether the people involved could and would work together to provide the best opportunity to recycle to the public. The wasteshed boundaries were chosen to facilitate effective working relationships. Existing solid waste management areas were selected where there were already successful working relationships. By choosing existing local government boundaries as wasteshed boundaries, these rules place a continued emphasis on the local governments and their role in solid waste management. It is not intended that these wasteshed designations supplant any existing regulatory structure in the area or that any local government will be required to take on responsibilities beyond their jurisdiction. The wastesheds as designated in these rules are intended to be used for the purposes of this Act only.

WASTESHED AGENT

These rules make a provision that each wasteshed have a designated agent to deal with the Department in matters relating to the recycling report. The Act and these rules see the wasteshed as an area of the state. The Department does not intend to deal with the wasteshed as a new form of local government. Since it will be difficult to communicate with every person in the wasteshed on formal issues which arise relating to the recycling report, these rules call for a single agent in that role. The agent will operate on behalf of all affected persons within that wasteshed and will be an integral part of the implementation of the opportunity to recycle insofar as that individual represents the diverse views of the affected persons in the wasteshed.

RECYCLING REPORT

The recycling report called for by the Act and these rules should be viewed as a progress report and not a complex planning document. It is intended to be a communication from the people in the wasteshed to the Department stating how they will or are implementing the opportunity to recycle within the wasteshed. The Department wishes to keep reporting requirements to a minimum. The Department intends to provide forms for the submittal of the report and to work with the people in each wasteshed well in advance of the report deadline to develop the information which will go into the report. The reports are intended to be simple; containing information which should be available well in advance of the reporting date.

Since the Department is required to relay the report information to the legislative assembly, it may be necessary to require similar reports subsequent to future legislative sessions.

RECYCLABLE MATERIALS

The Act requires that the opportunity to recycle be provided for all recyclable materials. In determining what is a recyclable material at a specific location, the definition includes an economic criteria. This criteria compares the net cost of recycling to the net cost of disposal. What material meets the definition of recyclable material will depend upon the method which is used to collect and market that material. In some cases, the cost of collection of recyclable materials is not going to be on a profitable or break-even basis if based solely on the income from sales to markets. Avoided disposal cost savings and income from franchise rates should also be considered. Net cost of collecting and marketing a recyclable material may represent an expense to the recycler if it is not recovered in a rate structure. Such costs were envisioned in the

legislation and are addressed in the provision that allows for recovery of costs of providing the opportunity to recycle in rates established under franchises.

PRINCIPAL RECYCLABLE MATERIALS

These rules list the principal recyclable materials for each wasteshed. The lists are intended to be a basis for determination of what are the recyclable materials at each location where the opportunity to recycle is required. The Department is aware that there are economic, demographic and geographic factors which will allow a specific material to be a recyclable material in one portion of a wasteshed and not a recyclable material in another. These rules make provision for this circumstance. The Department will seek the advice of the people involved in recycling in each wasteshed in determining what materials meet the definition of recyclable material at each specific location where the opportunity to recycle is required. Between the time of the identification of the principal recyclable materials in these rules and the submittal of the recycling reports, the Department intends to work with affected persons in every wasteshed to help identify materials contained on the principal recyclable list which do not meet the definition of recyclable material at each location in the wasteshed. The Department will make a periodic review of the principal recyclable material lists and will submit changes to the Commission for inclusion into these rules.

EXISTING RECYCLING PROGRAMS

The Department is aware that many areas of the state presently have recycling programs which meet or exceed the requirements envisioned in these rules. The Department will endeavor to take full advantage of these success stories. Local governments are encouraged to provide special consideration to ongoing programs which provide the opportunity to recycle

as required by the Act and these rules. Early implementation of the opportunity to recycle will benefit all of the parties involved. It is the intent of the Act and these rules to increase the level of recycling and to reduce the amount of material going to disposal. In addition, it is the intent of these rules to provide the opportunity to recycle to additional geographical areas of the state as well as for additional recyclable materials.

PURCHASE OR EXCHANGE FOR FAIR MARKET VALUE

The Act provides that any material which is source separated by the generator and purchased or exchanged from the generator for fair market value is exempt from the provisions of the Act.

The Act gave local government the authority to regulate the collection service for recyclable materials. Such an exemption will limit local government in its ability to require collection service for these materials in these situations. These rules do not address the situation where a purchase has occurred, however, they do address the issue of exchange for fair market value. By definition, the Department proposes that if there has been no purchase of the material there has not been an exchange for fair market value. This definition is based on the belief that for an exchange to have taken place benefits must accrue to both parties. When local government chooses to provide for the benefit of collection of a recyclable material from the generator through franchised collection service, then they have eliminated the possibility of any benefit to the generator by having another party provide equal service. So, in such a situation, the material is not exempt from government regulation. Whether a local government will choose to regulate recyclable materials in this regard is, of course, left up to the local government and the affected persons within the watershed. The purpose for the inclusion of this rule

was to preserve as much control with local government in the expectation that local government will provide for an effective and efficient opportunity to recycle program.

COLLECTION SERVICE

These rules make no effort to define "collection" beyond its direct use in the statute. Local government has been granted the authority to regulate both "collection service" and "solid waste collection service" as part of its management of solid waste. There is no requirement that local government must limit competition in the field of recycling collection, however, it is appropriate to preserve their ability to do so when they feel it is necessary. In order to provide an effective and efficient recycling program, they may desire to define the scope of collection to include drop-off locations as well as on-route collection or to limit the number of persons who provide collection service of recyclable materials in a specific area.

COMMERCIAL AND INDUSTRIAL RECYCLING

These rules do not make any distinction between different types of sources of recyclable materials. The same material may be generated from a residential, commercial, or industrial source. The intent of the statute and these rules is that every person, including industrial and commercial waste generators, be provided the opportunity to recycle. While there is an extensive system for the collection of large amounts of recyclable material from commercial and industrial generators, many sources of smaller amounts of material do not presently have opportunity to recycle the same materials. Commercial and industrial generators should be considered when a program to provide the opportunity to recycle is being implemented. While much recycling is already going on, there is still recyclable material going into the waste stream. Dealing with recycling from

commercial and industrial sources will be difficult for local government because of the diversity of size and business activity at commercial sources and because there are a number of competing collectors presently providing service to sources which generate valuable recyclable material. Further, some of the recyclable material generated from commercial sources will be exempted from local government regulation because it is purchased or exchanged for fair market value from the generators.

Purpose:

340-60-005 The purpose of these rules is to prescribe requirements, limitations and procedures for planning, development and operation of waste reduction and recycling programs and for providing the opportunity to recycle.

Definitions:

340-60-010 As used in these rules unless otherwise specified:

- (1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.
- (2) "Area of the state" means any city or county or combination or portion thereof or other geographical area of the state as may be designated by the Commission.
- (3) "Collection franchise" means a franchise, certificate, contract or license issued by a city or county authorizing a person to provide collection service.
- (4) "Collection service" means a service that provides for collection of solid waste or recyclable material or both.
- (5) "Collector" means the person who provides collection service.

- (6) "Commission" means the Environmental Quality Commission.
- (7) "Department" means the Department of Environmental Quality.
- (8) "Director" means the Director of the Department of Environmental Quality.
- (9) "Disposal site" means land and facilities used for the disposal, handling or transfer of or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site; but the term does not include a facility subject to the permit requirements of ORS 468.740; a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site licensed pursuant to ORS 481.345.
- (10) "Generator" means a person who last uses a material and makes it available for disposal or recycling.
- (11) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.
- (12) "Metropolitan service district" means a district organized under ORS chapter 268 and exercising solid waste authority granted to such district under ORS chapters 268 and 459.
- (13) "On-route collection" means pick up of source separated recyclable material from the generator at the place of generation.
- (14) "Opportunity to recycle" means those activities described in OAR 340-60-020:

- (15) "Permit" means a document issued by the Department, bearing the signature of the Director or his authorized representative which by its conditions may authorize the permittee to construct, install, modify or operate a disposal site in accordance with specified limitations.
- (16) "Person" means the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.
- (17) "Principal recyclable material" means that material which will generally be recyclable material under the specific condition where the opportunity to recycle is required in a wasteshed.
- (18) "Recyclable material" means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.
- (19) "Resource recovery" means the process of obtaining useful material or energy resources from solid waste and includes:
- (a) "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.
 - (b) "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose;
 - (c) "Recycling," which means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.
 - (d) "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

- (20) "Solid waste collection service" or "service" means the collection, transportation or disposal of or resource recovery from solid wastes but does not include that part of a business licensed under ORS 481.345.
- (21) "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; but the term does not include:
- (a) Hazardous wastes as defined in ORS 459.410
 - (b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals.
- (22) "Solid waste management" means prevention or reduction of solid waste; management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities necessary or convenient to such activities.
- (23) "Source separate" means that the person who last uses recyclable material separates the recyclable material from solid waste.
- (24) "Waste" means useless or discarded materials.
- (25) "Wasteshed" means an area of the state having a common solid waste disposal system or designated by the commission as an appropriate area of the state within which to develop a common recycling program.

Policy Statement

340-60-015 Whereas inadequate solid waste collection, storage, transportation, recycling and disposal practices waste energy and natural resources and cause nuisance conditions, potential hazards to public health and pollution of air, water and land environment, it is hereby declared to be the policy of the Commission:

- (1) To require effective and efficient waste reduction and recycling service to both rural and urban areas.
- (2) To promote and support comprehensive local or regional government solid waste and recyclable material management planning:
 - (A) Utilizing progressive waste reduction and recycling techniques;
 - (B) Emphasizing recovery and reuse of solid waste; and
 - (C) Providing the opportunity to recycle to every person in Oregon through best practicable methods.
- (3) To establish a comprehensive statewide program of solid waste management which will, after consideration of technical and economic feasibility, establish the following priority in methods of managing solid waste:
 - (a) First, to reduce the amount of solid waste generated,
 - (b) Second, to reuse material for the purpose for which it was originally intended,
 - (c) Third, to recycle material which cannot be reused,
 - (d) Fourth, to recover energy from solid waste that cannot be reused or recycled so long as the energy recovery facility preserves the quality of air, water and land resources, and
 - (e) To dispose of solid waste that cannot be reused, recycled, or from which energy cannot be recovered by landfilling or other methods approved by the Department.
- (4) To retain primary responsibility for management of adequate solid waste programs with local government units.

- (5) To encourage maximum participation of local government in the planning, development, and operation of required recycling programs.

Opportunity to Recycle

340-60-020 As used in these rules the opportunity to recycle means at least:

- (1) (a) A place for collecting source separated recyclable material located either at a disposal site or at another location more convenient to the population being served and, if a city has a population of 4,000 or more, on-route collection at least once a month of source separated recyclable material from collection service customers within the city's urban growth boundary or, where applicable, within the urban growth boundary established by a metropolitan service district; or
- (b) An alternative method approved by the Department which complies with rules of the Commission.
- (2) The "opportunity to recycle" defined in subsection (1) of this section also includes a public education and promotion program that:
 - (a) Gives notice to each person of the opportunity to recycle; and
 - (b) Encourages source separation of recyclable material.

Wasteshed Designation

340-60-025 The following areas are designated wastesheds within the state of Oregon:

- (1) Baker wasteshed is all of the area within Baker County

- (2) Benton & Linn wasteshed is all of the area within Linn and Benton Counties excluding the area within:
 - (a) the city of Gates
 - (b) the city of Idanha
 - (c) the city of Mill City
- (3) Clackamas wasteshed is all of the area within Clackamas County and all of the area within the cities of Lake Oswego, Wilsonville, and Rivergrove excluding the area within:
 - (a) the city of Portland
 - (b) the city of Tualatin
- (4) Clatsop wasteshed is all of the area within Clatsop County
- (5) Columbia wasteshed is all of the area within Columbia County
- (6) Coos wasteshed is all of the area within Coos County
- (7) Crook wasteshed is all of the area within Crook County
- (8) Curry wasteshed is all of the area within Curry County
- (9) Deschutes wasteshed is all of the area within Deschutes County
- (10) Douglas wasteshed is all of the area within Douglas County
- (11) Gilliam wasteshed is all of the area within Gilliam County
- (12) Grant wasteshed is all of the area within Grant County
- (13) Harney wasteshed is all of the area within Harney County
- (14) Hood River wasteshed is all of the area within Hood River County
- (15) Jackson wasteshed is all of the area within Jackson County
- (16) Jefferson wasteshed is all of the area within Jefferson County
- (17) Josephine wasteshed is all of the area within Josephine County
- (18) Klamath wasteshed is all of the area within Klamath County
- (19) Lake wasteshed is all of the area within Lake County
- (20) Lane wasteshed is all of the area within Lane County

- (21) Lincoln wasteshed is all of the area within Lincoln County
- (22) Malheur wasteshed is all of the area within Malheur County
- (23) Marion wasteshed is all of the area within Marion County and all of the area within the cities of Gates, Idanha, Mill City and the urban growth boundary of the city of Salem
- (24) Morrow wasteshed is all of the area within Morrow County
- (25) Multnomah wasteshed is all the area within Multnomah County excluding the area within:
 - (a) the city of Portland
 - (b) the city of Lake Oswego
- (26) Polk wasteshed is all the area within Polk County excluding the area within:
 - (a) the urban growth boundary of the city of Salem
 - (b) the city of Willamina
- (27) Portland wasteshed is all of the area within the city of Portland
- (28) Sherman wasteshed is all of the area within Sherman County
- (29) Tillamook wasteshed is all of the area within Tillamook County
- (30) Umatilla wasteshed is all of the area within Umatilla County
- (31) Union wasteshed is all of the area within Union County
- (32) Wallowa wasteshed is all of the area within Wallowa County
- (33) Wasco wasteshed is all of the area within Wasco County
- (34) Washington wasteshed is all of the area in Washington County and all of the area in the city of Tualatin excluding the area within:
 - (a) the city of Portland
 - (b) the city of Lake Oswego

- (c) the city of Wilsonville
- (d) the city of Rivergrove
- (35) Wheeler watershed is all of the area within Wheeler County
- (36) Yamhill watershed is all of the area within Yamhill County and all of the area within the city of Willamina.

Principal Recyclable Material

340-60-030

- (1) The following are identified as principal recyclable materials in the watersheds as described in Sections (3) through (7):
 - (a) newspaper
 - (b) ferrous scrap metal
 - (c) non-ferrous scrap metal
 - (d) used motor oil
 - (e) corrugated cardboard and kraft paper
 - (f) container glass
 - (g) aluminum
 - (h) hi-grade office paper
 - (i) tin cans
- (2) In addition to the principle recyclable materials listed in (1) above, additional recyclable materials may be identified for the specific location where the opportunity to recycle is required.
- (3) In the following watersheds, the principal recyclable materials are those listed in Section 2(a) through (i):
 - (a) Benton and Linn watershed
 - (b) Clackamas watershed
 - (c) Clatsop watershed
 - (d) Columbia watershed
 - (e) Hood River watershed
 - (f) Lane watershed
 - (g) Lincoln watershed

- (h) Marion wasteshed
 - (i) Multnomah wasteshed
 - (j) Polk wasteshed
 - (k) Portland wasteshed
 - (l) Umatilla wasteshed
 - (m) Union wasteshed
 - (n) Wasco wasteshed
 - (o) Washington wasteshed
 - (p) Yamhill wasteshed
- (4) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (g):
- (a) Baker wasteshed
 - (b) Crook wasteshed
 - (c) Jefferson wasteshed
 - (d) Klamath wasteshed
 - (e) Tillamook wasteshed
- (5) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (h):
- (a) Coos wasteshed
 - (b) Deschutes wasteshed
 - (c) Douglas wasteshed
 - (d) Jackson wasteshed
 - (e) Josephine wasteshed
- (6) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (e):
- (a) Curry wasteshed
 - (b) Grant wasteshed
 - (c) Harney wasteshed
 - (d) Lake wasteshed
 - (e) Malheur wasteshed
 - (f) Morrow wasteshed
 - (g) Wallowa wasteshed

- (7) In the following wastesheds, the principal recyclable materials are those listed in Section 2(a) through (d):
 - (a) Gilliam wasteshed
 - (b) Sherman wasteshed
 - (c) Wheeler wasteshed
- (8) The opportunity to recycle shall be provided for each of the principal recyclable materials listed in (3) through (7) above and for materials identified under (2) above except for any material, approved by the Department, which the recycling report demonstrates does not meet the definition of recyclable material for the specific location where the opportunity to recycle is required.
- (9) Any affected person may request the Commission to modify the recyclable material for which the Commission determines the opportunity to recycle must be provided or may request a variance under ORS 459.185.
- (10) The Department will make a periodic review of the principal recyclable material lists and will submit changes to the Commission for inclusion into this rule.

Acceptable, Alternative Methods for Providing the Opportunity to Recycle

340-60-035

- (1) Any affected person in a wasteshed may propose to the Department an alternative method for providing the opportunity to recycle. All proposals for alternative methods shall be submitted to the Department for approval of acceptability prior to implementation as part of the opportunity to recycle. Each submittal shall include a description of the proposed alternative method and a discussion of the reason for using this method rather than the general method set forth in OAR 340-60-020(1)(a).

- (2) The Department will review these proposals as they are received. Each proposed alternative method will be approved, approved with conditions, or rejected based on consideration of the following criteria:
- (a) Will the alternative increase recycling opportunities beyond the level anticipated from the general method for providing the opportunity to recycle?
 - (b) What conditions and factors make the alternative method necessary?
 - (c) Is the alternative method as convenient to the people using or receiving the service as the general method for providing the opportunity to recycle?
 - (d) Is the alternative method as effective in recovering recyclable materials from solid waste as the general method for providing the opportunity to recycle?
- (3) The affected persons in a wasteshed may propose as provided in (1) above an alternative method to providing on-route collection as part of the opportunity to recycle for low density population areas within the urban growth boundaries of a city with a population over 4,000 or where applicable the urban growth boundaries established by a metropolitan service district.

Education, Promotion and Notification

340-60-040

- (1) Affected persons in each wasteshed shall design, commit resources and implement an education and promotion program that provides:
- (a) Public notice that is reasonably designed to reach all persons who generate recyclable materials in the wasteshed, that clearly explains why people should recycle, the recycling opportunities available to the recipient, the

materials that can be recycled and the proper preparation of those materials.

(A) The notice used for persons within the urban growth boundaries of cities with more than 4,000 people shall include:

- (i) reasons why people should recycle, and
- (ii) the name, address and phone number of the person providing on-route collection, and
- (iii) the availability of depots for recyclable materials at all disposal sites serving the area, including what materials are accepted and hours of operation, and
- (iv) the availability of depots for recyclable material at locations designated as more convenient to the public being served, including what materials are accepted and hours of operation, or
- (v) instead of (iii) and (iv) a phone number to call for all such information about depot locations and collection service.

(B) The notice used for people not within the urban growth boundary of cities with more than 4,000 people, shall include:

- (i) reason why people should recycle, and
- (ii) the availability of depots for recyclable materials at all disposal sites serving the area, including what materials are accepted and hours of operation, and

- (iii) the availability of depots for recyclable materials at locations designated as the more convenient to the public being served, including what materials are accepted and hours of operation, or
 - (iv) a phone number to call for all such information about depot locations and collection service.
 - (b) A written reminder about the on-route recycling collection program distributed to all solid waste collection service customers every six (6) months.
 - (c) Written information at all disposal sites with attendants and where it is otherwise practical.
 - (A) This written material shall include:
 - (i) reasons why people should recycle, and
 - (ii) a list of materials that can be recycled, and
 - (iii) instructions for the proper preparation of recyclable materials, and
 - (iv) a list of the recycling opportunities available at the disposal site or designated "more convenient location".
 - (B) At sites without attendants, a sign indicating the availability of recycling at the site or at the "more convenient location" shall be prominently displayed including what materials are accepted and hours of operation.
 - (d) Recycling information and education to public and private schools, community groups and the general public.
- (2) The affected persons in the wasteshed shall identify a mechanism for citizen involvement in the development and implementation of the wasteshed's education and promotion program.

- (3) The affected persons in each watershed shall provide notification and education materials to local media and other groups that maintain regular contact with the public including local newspapers, local television and radio stations, community groups, neighborhood associations.
- (4) Information related to the education and promotion program shall be included in the Recycling Report as outlined in OAR 340-60-045(7).

Standards for Recycling Reports

340-60-045

- (1) The recycling report shall be submitted to the Department on forms supplied by the Department not later than July 1, 1986.
- (2) When reviewing the recycling reports, the Department will include consideration of:
 - (a) Those items set forth in ORS 459.185(6)(a) through (f):

"459.185(6)

 - (a) The materials which are recyclable;
 - (b) The manner in which recyclable material is to be collected;
 - (c) The responsibility of each person in the solid waste collection and disposal process for providing the opportunity to recycle;
 - (d) A timetable for development or implementation of the opportunity to recycle;
 - (e) Methods for providing the public education and promotion program;
 - (f) A requirement that as part of the recycling program a city or county franchise to provide for collection service; and . . ."

- (b) The situations in the wasteshed where the opportunity to recycle is specifically required by ORS 459.200 and ORS 459.250,
 - (c) Types and amounts of material which are recyclable, and
 - (d) For ongoing programs:
 - (A) Levels of recovery of recyclable materials at each situation and within the wasteshed as a whole;
 - (B) The level of participation in the opportunity to recycle at different locations in the wasteshed; and
 - (C) Proposed changes in the methods of providing the opportunity to recycle that will improve recycling levels.
- (3) (a) The cities and counties and other affected persons in each wasteshed shall before July 1, 1985:
- (A) Designate a single person as agent for that wasteshed and official contact between the affected persons in that wasteshed and the Department in matters relating to the recycling report.
 - (B) Inform the Department of the choice of an agent.
- (b) If the cities and counties and other affected persons have not designated an agent by July 1, 1985, the Department will designate such a person.
- (c) The cities and counties and other affected persons in a wasteshed shall gather information from the affected persons in the wasteshed and compile that information into the recycling report.
- (4) (a) Prior to submitting the recycling report, it shall be made available to all cities and counties and other affected persons in the wasteshed for review.

- (b) The recycling report shall include a certification from each county and city with a population of over 4,000 that it has reviewed the report.
- (c) The recycling report shall be made available for public review and comment prior to submittal to the Department. Any public comments shall be submitted to the Department with the report.
- (5) All affected persons in the wasteshed shall have the opportunity to make available to the wasteshed agent, the Department, or other persons developing the recycling report, any information which they feel is necessary to complete the recycling report.
- (6) The recycling report shall include an attachment which describes all proposed and all approved alternative methods for the opportunity to recycle which are to be used in the wasteshed.
- (7) The recycling report shall include the following information related to Education, Promotion and Notification:
 - (a) The name, address and phone number of a recycling education contact person for the wasteshed;
 - (b) A description of the roadblocks to recycling identified in the wasteshed;
 - (c) A description of the education program elements being used to overcome the identified roadblocks and the efforts for the coming year aimed at overcoming those roadblocks;
 - (d) A summary of the public involvement process being used and, if possible, a list of the citizen's involved;
 - (e) A summary of, the cost of, and the funding for the wasteshed's education program; and
 - (f) Copies of articles that were printed or aired, samples of printed materials that are being used in the wasteshed and

summaries of special events that have been held. If they have already been utilized, a brief summary of the effectiveness of these resources or efforts shall also be included.

Fair Market Value Exemption

340-60-050

- (1) To qualify for exemption under ORS 459.192 a source separated recyclable material must:
 - (a) Be purchased from the generator or
 - (b) Be exchanged between the generator and a collector with a measurable savings in solid waste collection or disposal cost to the generator resulting.
- (2) If a local government requires that the opportunity to recycle a material be provided at no charge to the generator, the material must be purchased from the generator to qualify for an exemption under 459.192.

Recyclable Material

340-60-055

- (1) The cost of collection and sale of a recyclable material shall be calculated by considering only the collector's costs from the time after material is source separated and leaves the use of the generator until it is first sold or it is transferred to the person who recycles it. All costs and savings associated with collection of a recyclable material shall be considered in the calculation.
- (2) Any measurable savings to the collector resulting from making a material available for recycling as opposed to disposal shall be considered the same as income from sale.

More Convenient Location

340-60-060 Any disposal site that identifies a more convenient location for the collection of recyclable materials as part of providing the opportunity to recycle shall provide information to users of the disposal site about the location of the recycling collection site, what recyclable materials are accepted and hours of operation.

Exemption

340-60-065 Any disposal site that does not receive recyclable material separately or mixed with the solid waste which it accepts is not required to provide a place for collecting source separated recyclable material.

Small Rural Sites

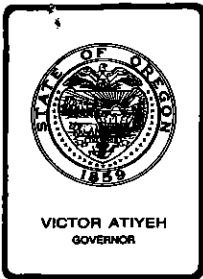
340-60-070 Any disposal site from which marketing of recyclable material is impracticable due to the amount or type of recyclable material received or geographic location shall provide information to the users of the disposal site about the opportunity to recycle at another location serving the watershed. Such information shall include the location of the recycling opportunity, what recyclable materials are accepted, and hours of operation.

Reasonable Specifications for Recyclable Materials

340-60-075 No person providing the opportunity to recycle shall be required to collect source separated recyclable material which has not been correctly prepared to reasonable specifications which are related to marketing requirements and which have been publicized as part of an education and promotion program.

Prohibition

340-60-080 In addition to the provisions set forth in ORS 459.195, no person shall dispose of source separated recyclable material which has been collected from the public by a method other than reuse or recycling.



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, September 14, 1984, EQC Meeting

Proposed Adoption of Changes to the Indirect Source Rules in the Medford Area (Amendments to OAR 340-20-100 to 20-135).

BACKGROUND AND PROBLEM STATEMENT

Background

On April 6, 1984, the Environmental Quality Commission adopted Temporary Rules for Indirect Sources in the Medford area in response to the defeat of an inspection and maintenance (I/M) ballot measure on March 27, 1984. The I/M defeat left the Medford area without a viable carbon monoxide (CO) attainment plan.

"Indirect sources" include shopping centers, office complexes, parking lots, highways and other facilities that cause increased traffic and result in increased motor vehicle emissions. The temporary changes to the Indirect Source Rules, now being proposed as permanent changes, were in the following areas:

1. The Department was given authority to require the City of Medford to develop a more aggressive Parking and Traffic Circulation Plan which would become an element of a revised CO attainment plan;
2. The Department received authority to review Indirect Source projects proposed for construction that included parking lots with 50 or more spaces and highway projects with a forecast traffic volume within ten years of construction of 20,000 or more vehicles per day.

The Department is seeking adoption of the above outlined changes to the Indirect Source Rules on a permanent basis because:

1. The adoption schedule for a revised CO attainment plan goes well beyond the expiration date (October 3, 1984) of the temporary rules.

2. Without an I/M program, it is questionable whether a replacement CO strategy would maintain compliance with the CO standard. I/M would have increased in effectiveness over time and would have provided some margin for CO attainment. In its absence, the Department needs to maintain review of Indirect Source projects with 50 or more parking spaces to make sure that an individual project or combination of projects does not worsen the current air quality problem nor negate the effectiveness of a revised attainment plan.

At the June 29, 1984 Commission meeting, the Department was authorized to hold a public hearing on the proposed permanent rule amendments. A public hearing was held on August 8, 1984 in Medford in accordance with State public notice procedures. The proposed permanent changes to the Indirect Source Rules are shown in Attachment 1. The final Public Hearing Notice is shown in Attachment 2. The Hearing Officer's Report is shown in Attachment 3.

Problem Statement

The Medford CO plan is not adequate to demonstrate attainment of the CO health standard in the Medford area by the Congressionally mandated date of December 31, 1987. In addition to the problem of continued nonattainment of the CO health standard, the Environmental Protection Agency (EPA) has indicated that it would be required to impose sanctions, pursuant to the Clean Air Act, if the Medford CO plan is not revised to demonstrate attainment by the end of 1987. These sanctions would be in the form of a construction moratorium on major new or modified industrial CO sources (emitting 100 tons or more of CO per year) and restrictions on federal funding for transportation projects, sewage treatment facilities and Department air program activities. Final EPA action could come as early as September 1984 on the construction moratorium and November 1984 on the funding sanctions.

The permanent changes to the Indirect Source Rules, which are proposed for final adoption, would augment the effort to develop an alternative CO strategy. An approvable CO strategy is needed to show how Medford can meet the CO health standard by the December 31, 1987 federal deadline and thereby head off federally imposed economic sanctions.

Authority for the Commission to Act

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 and Fiscal and Economic Impact Statement is attached (Attachment 4).

Major Elements of the Proposed Rule and Principal Impacts

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 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 Medford with 50 or more planned spaces would be required to secure an Indirect Source Construction Permit from the Department. Parking projects with 250 or more spaces outside the Medford city limits and within five miles of the city limits would be required to have a construction permit. In Jackson County, parking projects with 500 or more spaces located more than 5 miles from the Medford city limits would be similarly affected;
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 set at 20,000 vehicles per day;
3. The Parking and Traffic Circulation Plan regulations (OAR 340-20-120) would be updated to reflect the required plan submittal date of August 25, 1984 which conformed to the 120 day submittal period under the Temporary Rules. With the exception of the above noted change, the regulations would be permanently established exactly as adopted by Temporary Rules on April 6, 1984. The City of Medford had outlined three parking and traffic circulation options (labeled Options #1, #2, #3) in the 1982 Medford CO plan. Option #1 was the least extensive and basically included a commitment to complete the traffic signal computerization project and also to change downtown parking time limits, eliminating the "2-hour shuffle." Option #2 had all the elements of Option #1 and added the Front Street bypass or alternatively, the 3-laning of Central Avenue with the removal of on-street parking. Option #3 added expensive arterial street improvement projects. The 1982 CO plan included a commitment to implement Option #1. The more aggressive Option #2 plan would reduce downtown CO levels. Since the City now indicates that it has the resources to implement Option #2, the effect of the changes to the Parking and Traffic Circulation Plan regulations is to require the City to submit a plan containing the major elements previously identified with Option #2.

By 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/m³ of 8-hour CO under adverse meteorological conditions. The 1 mg/m³ 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 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 forecasted traffic volumes equalling or exceeding the 50,000 vehicles per day threshold.

Adoption of the proposed rules would result in increased costs and inconvenience for new businesses with 50 or more parking spaces in the City of Medford. Although there is presently no application fee for Indirect Source projects, increased costs would be associated with preparation of an application, evaluation by the Department of CO impacts caused by the source, and the mitigation of the CO impact. Some businesses, if CO impacts could not be mitigated, may be denied permits to locate in or near the CO problem area.

On the positive side, these rules could possibly help prevent permanent federal sanctions on construction of new or modified major industrial CO sources, transportation project funding, air planning funding, and sewage treatment facilities funding.

Evaluation of Testimony

The proposed permanent changes to the Indirect Source Rules have been initiated by the Department. At the hearing authorized by the EQC, ten persons testified. Only one individual representing the Oregon Lung Association, Southern Region, supported the proposed changes to the rules.

The section below contains a brief summary of the chief concerns raised by the testimony, with the Department's response following.

1. The proposed rule changes are punitive. They help to perpetuate Oregon's image of not being open for business.

Response: The proposed 50-space cutoff for the City of Medford represents a necessary response to a very serious CO health problem. Rather than being punitive, the proposed action is viewed as an action which is intended to keep the existing CO problem from getting worse. Once a sufficient strategy is in place, the requirement would be removed. The failure of Jackson County to develop an acceptable CO strategy and resulting EPA industrial source growth sanctions and highway fund sanctions could be viewed as real impediments to growth and development. Adoption of the Indirect Source Rule modifications will aid in ultimately removing these sanctions.

2. The real solution to the Medford CO problem is an inspection and maintenance (I/M) program. The DEQ has not worked hard enough on that solution. Neither the State Legislature nor the Environmental Protection Agency have been supportive of that solution.

Response: Several studies have shown that I/M has the greatest potential for significantly reducing CO emissions in the Medford area. A comprehensive analysis of alternative transportation control measures was issued by Jackson County in July, 1980. A major conclusion of that analysis was that I/M would provide 60 percent of the emission reduction needed to achieve the CO standard. The Department, along with a coalition of concerned citizens from Jackson County representing various organizations, achieved success at the State Legislature after two unsuccessful attempts at passing necessary enabling legislation. The Department has been a continuing source of information on I/M, providing mechanic's training and technical information on the effectiveness of I/M. DEQ has also urged EPA to provide technical information as well as funding for I/M activities in Jackson County. EPA has committed to set aside a significant amount of funds to aid the startup of an I/M program. Therefore, the track record would confirm the strong commitment DEQ has had to pursue implementation of an I/M program in the Medford area.

3. Testimony was offered which challenged the consistency of the proposed rules with Land Conservation and Development Commission (LCDC) statewide planning goals. Specifically, the rule is thought to be in conflict with: Goals 9 (Economy), 10 (Housing), 11 (Public Facilities), 12 (Transportation), 13 (Energy Conservation), and 14 (Urbanization).

Response: A detailed response to the consistency of the proposed rules with the above cited statewide planning goals is shown in Attachment 5.

With regard to the Department's rulemaking process, the DEQ/LCDC Coordination Agreement (approved by LCDC in January 1983) requires the Department to be responsible for making goal compatibility statements for only Goals 6 (Air, Water and Land Resource Quality) and 11 (Public Facilities and Services). To assure that new DEQ rules affecting land use conform with LCDC goals and are compatible with the local comprehensive plan, DEQ sent a public notice to notify the local government of the proposed rule adoption. Comments received related to other goals are considered before final adoption of the rules. Responses to the above listed individual goals follow:

- a. Goal 9 - When the City of Medford's Comprehensive Plan was amended in 1982, the City made a commitment to limit land use activities that might cause a demonstrable deterioration in air quality. The proposed rule amendments would not interfere with that commitment.
- b. Goal 10 - Many apartments could be expected to be built with less than 50 parking spaces (and would thereby be unregulated) irrespective of the 50 space proposed review cutoff. Most mobile home parks would likely have very small air impacts on the identified problem area due to their very low trip generation rates and therefore, not be restricted.
- c. Goal 11 - The ability of the City to provide urban facilities and services such as fire protection, police protection, sanitary services, storm drainage, etc. should not be affected by the proposed rule changes.
- d. Goal 12 - Adoption of the proposed rule changes may help the area meet federal air standards and thereby avoid federal sanctions on highway funding assistance. The avoidance of such sanctions would put the City in a better position to meet its transportation goals.
- e. Goal 13 - The Department believes that such factors as market conditions, land availability and price, development costs, and local zoning ordinances far outweigh the proposed rule amendments as factors in determining whether developments are small and scattered.
- f. Goal 14 - Many small scale industrial and commercial developments could take place in the existing city limits and the Urban Growth Boundary without significantly impacting air quality in the identified CO problem area.

Based on the above responses, there does not appear to be an inherent conflict between the proposed rule and LCDC goals.

4. The proposed rule changes would negatively impact health care facilities in the Medford area.

Response: In regard to health care facilities, the Department recognizes the concerns expressed and will deal with the subject issue on a case-by-case basis, utilizing existing administrative rules.

5. The 500 space review cutoff beyond 5 miles from the city limits should be changed to 1,000 spaces.

Response: The 500 space review at 5 miles is needed in order to keep track of the cumulative impact of moderate to large projects on the identified nonattainment area and to seek appropriate mitigation, if necessary.

ALTERNATIVES AND EVALUATION

Alternative courses of action include doing nothing, changing threshold limits to somewhere in between the current limits (50 spaces) and the former limits (1,000 spaces) that existed prior to April 6, 1984, or adopting the current temporary rules on a permanent basis. By doing nothing, the review threshold for parking facilities would revert to 1,000 spaces and the highway project cutoff would go back to 50,000 vehicles per day after October 3, 1984. Also, the Department's authority to require a more aggressive parking and traffic circulation plan would lapse. The chief consequence of this alternative is that the Department would review very few, if any, future indirect source projects, since most commercial/retail projects involve much fewer than 1,000 parking spaces, and almost all highway projects would have future traffic volumes well less than 50,000 vehicles per day. The resulting growth in traffic and emissions from unregulated indirect source projects could negatively affect the ability to develop CO attainment. Under such circumstances, the development of a CO attainment plan would be made more difficult.

By setting the review threshold for parking projects somewhere between 50 and 1,000 spaces, the regulatory burden would be diminished, depending upon where it was set. The chief disadvantage to establishing a review threshold much higher than 50 spaces, say 150 or more spaces, is that the Department would lose the ability to regulate some significant trip generators, such as large fast-food restaurants. 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 facilities funding.

Making the temporary changes to the Indirect Source Rules permanent has the following chief advantages:

- a. 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. The more aggressive plan includes as a major element the Front Street bypass or the alternative of 3-laning Central Avenue with the removal of on-street parking. In the event of unforeseen delays in final plan submittal that would include necessary ordinances and enforcement mechanisms, the Department's legal authority to require a plan would be maintained.
- b. With a review cutoff of 50 parking spaces, the Department would be able to review most significant CO sources, and prevent their construction if they would significantly hinder development and implementation of a CO attainment strategy.

SUMMATION

1. At the June 29, 1984 Environmental Quality Commission meeting, the Department was authorized to hold a public hearing on proposed permanent changes to the Indirect Source Rules in the Medford area. The proposed changes would continue to require the City of Medford to develop a more aggressive Parking and Traffic Circulation Plan and would maintain the Department's authority to review Indirect Source projects with parking lots of 50 or more spaces within the city limits and highways with a forecasted volume of 20,000 or more vehicles per day within ten years of construction. The more aggressive plan, which includes the Front Street bypass or the alternative of 3-laning Central Avenue with the removal of on-street parking, would reduce downtown CO levels.
2. A public hearing was held on August 8, 1984 in Medford. Of ten persons giving oral testimony, only one individual representing the Oregon Lung Association, Southern Region, supported the proposed rules change.
3. The hearing testimony challenged the consistency of the proposed rule changes with Land Conservation and Development Commission Goals 9 (Economy), 10 (Housing), 11 (Public Facilities), 12 (Transportation), 13 (Energy Conservation) and 14 (Urbanization). In addition, concerns were raised about impacts on health care facilities.
4. In response to the land use testimony, the Department makes the following points:
 - a. Goal 9 - When the City of Medford's Comprehensive Plan was amended in 1982, the City made a commitment to limit land use activities that might cause a demonstrable deterioration in air quality. The proposed rule amendments would not interfere with that commitment.

- b. Goal 10 - Many apartments could be expected to be built with less than 50 parking spaces (and thereby would be unregulated) irrespective of the 50 space proposed review cutoff. Most mobile home parks would be expected to have very small air impacts in the identified problem area.
- c. Goal 11 - The ability of the City to provide urban facilities and services such as fire protection, police protection, sanitary services, storm drainage, etc. should not be affected by the proposed rules.
- d. Goal 12 - Adoption of the proposed rule amendments may help the area meet federal air standards and thereby avoid federal sanctions on highway funding assistance. The avoidance of such sanctions would put the City in a better position to meet its transportation goals.
- e. Goal 13 - The Department believes that such factors as market conditions, land availability, land prices and development costs, and local zoning ordinances, far outweigh the proposed rule amendments as factors in determining whether developments are small and scattered.
- f. Goal 14 - Many small scale industrial and commercial developments could take place in the existing city limits and the Urban Growth Boundary without significantly impacting air quality in the CO problem area.
- g. For health care facilities, the Department recognizes the concerns expressed and will deal with the subject issue on a case-by-case basis, utilizing existing administrative rules.

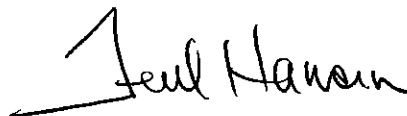
Based on the above responses, there does not appear to be an inherent conflict between the proposed rule and LCDC Goals.

- 5. Another complaint against the proposed rule changes was that they are punitive and help to perpetuate Oregon's image of not being open for business. In response to this complaint, the proposed action is intended to keep the existing CO problem from getting worse. Once a sufficient strategy is in place, the requirements would be repealed. An attainment strategy is needed to remove federal growth sanctions. A successful attainment strategy would enhance the prospect for economic growth.
- 6. Alternatives to adopting the current temporary rules on a permanent basis include letting them expire, or changing the threshold limits for the review of projects to somewhere in between the current limits (50 spaces for parking projects) and the limits (1,000 spaces) that existed prior to April 6, 1984. Highway project review would revert to 50,000 vehicles per day if no action is taken.

7. The chief consequence of not adopting the proposed permanent changes is that very few, if any, Indirect Source projects would be reviewed and therefore, associated traffic and emission growth would make the development of a CO attainment plan more difficult.
8. The chief advantages of making the proposed changes permanent are:
 - a. The Department's authority to require a more aggressive parking and circulation plan would be maintained beyond the maximum 180-day period (April 6, 1984 to October 3, 1984) allowed by Temporary Rules.
 - b. At 50 spaces, the Department would be able to review "intensive trip generators," such as fast-food restaurants, that have significant CO impacts and might interfere with attainment and maintenance of the CO health standard.
 - c. At 20,000 vehicles per day for highway projects, the Department would be able to review major arterial projects which might interfere with attainment or maintenance of the CO health standard.
9. Adoption of the proposed rules would result in increased costs and inconvenience for new businesses with 50 or more parking spaces in the City of Medford. However, permanent adoption of the proposed rules could possibly help prevent permanent federal sanctions on construction of new or modified major industrial CO sources, transportation project funding, air planning funding, and sewage treatment funding.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the EQC adopt the proposed amendments to OAR 340-20-100 to 20-135 (Attachment 1) as permanent rules for Indirect Sources in the Medford area.



Fred Hansen

- Attachments:
1. Proposed Rule Revision to OAR 340-20-100 to 20-135.
 2. Final Public Hearing Notice
 3. Hearing Report
 4. Statement of Need for Rulemaking
 5. Response to Mayor Hannum's Testimony

HOWARD W. HARRIS:a
229-6086
September 5, 1984
AA4580

PROPOSED AMENDMENTS TO OAR 340-20-100 to 20-135, RULE SECTIONS
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).

The City of Medford shall 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 by August 25, 1984.

(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.

AA4305

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, and ask for the Department of Environmental Quality.

1-800-452-4011



**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

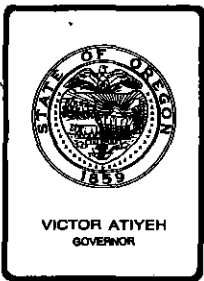
Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Air Quality Division, P.O. Box 1760, Portland, OR 97207, but must be received by no later than August 10, 1984.

**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



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: Hearing Officer

SUBJECT: Hearing Report on August 8, 1984, Hearing, "Proposed Changes to the Indirect Source Rules in the Medford Area (Amendments to OAR 340-20-100 to 20-135)."

Summary of Procedure

Pursuant to public notice, a public hearing was convened at the Medford City Hall Municipal Courtroom, located at 411 W. 8th Street in Medford, at 7:00 p.m. on August 8, 1984. The purpose of this hearing was to receive testimony regarding proposed permanent amendments to OAR 340-20-100 to 20-135, Rules for Indirect Sources. The proposed changes to the Rules would affect the regulation of parking projects, highway projects, and the requirements for submitting a parking and traffic circulation plan in the Medford area.

Summary of Testimony

Frank J. Pulver III, Leever & Pulver Real Estate, presented a prepared paper opposing the adoption of the proposed changes to the rules. He states that the Medford area was on the verge of significant successes in economic development which could strengthen the area and afford an opportunity to eventually address a number of deferred community needs that require attention. Adoption of the rules changes would stifle the area, and such action demonstrates a lack of perspective on the community's needs. He pointed out that the community has had a positive stance toward air quality for some time: industry has responded to its problems and Jackson County, the City of Medford and the Chamber of Commerce endorsed I & M. He maintained that the rules are punitive and he also noted that the problem is point specific in North Medford, not area wide.

Mr. Pulver indicated that the Department should be looking for creative solutions to the problem instead of proposing punitive rules and mentioned such possibilities as the extension of Crater Lake Avenue to Barnett Road

and a point of sale inspection. He also stated that the Department staff have suggested that the computer model may be inadequate to evaluate certain potential solutions. If that is the case, he recommended use of actual measurements rather than a complicated computer.

Bill Haas, Medford Chamber of Commerce, stated that the Medford Chamber of Commerce has been involved in air quality issues since early 1975. The Chamber has worked with industry to control their problems and has supported many of the regulations and rules for cleaning up the air. However, the Chamber does not support the proposed rules, as it is punitive, inadequate and premature, and more time is needed to develop alternative plans. Adoption of the rules will stifle the initiative of people in the community to work on the problem.

Mr. Haas stated that the real answer to the problem was enactment of an Inspection and Maintenance program, something the Chamber has supported for over four years. He indicated that to date, the Department has not worked on that solution. Neither the State Legislature or the EPA has been supportive of that solution. The EPA mandates I/M as a solution, but does not give the tools or the help to solve the problem. They come with punishment, but not the help.

Mr. Haas concluded by requesting that the Environmental Quality Commission not adopt the proposed rule changes.

R.L. Gantenbein, P.E., Marquess and Associates, Inc. stated that he has been involved in air pollution for most of his professional career since 1965. Making the proposed rules permanent would be a big nettle in everyones side. From a technical standpoint, he thinks that there are changes going on and taking place in and around the City all the time that far outweigh the changes occurring at small parking lots. While the rules may be an effective tool for large parking lots, Mr. Gantenbein stated that he had a great deal of doubt that the rules could be backed up as an effective tool for dealing with small parking lots.

He pointed out that the Clean Air Act of 1970 encouraged Indirect Source regulations, but the 1977 amendments did not include requirements for such regulations. The reason for this was that the federal government themselves questioned the effectiveness of such parking lot rules. Mr. Gantenbein concluded by saying he wished the Commission would seriously contemplate whether we have a really effective tool, or whether it's just more of a nettle in everyones side.

Lou Hannum, Mavor, City of Medford, presented a prepared paper arguing that the proposed rule is not consistent with statewide planning goals. He stated that he is a long time and constant supporter of efforts to clean the air in Jackson County and cited his appointment to the Air Quality Committee in 1977 and membership on subsequent committees, including a two year period as chairman of the committee whose recommendations formed the basis for the State Implementation Plan. He also cited the City of Medford's support for such clean air measures as a ban on backyard burning, ban on sale of coal, and passage of an aggressive particulate strategy.

Mayor Hannum stated that the Department's land use consistency statement refers only to Goals 6 and 11 without providing support data for either and totally ignores Goals 9, 10, 12, 13 and 14. The City of Medford has a comprehensive land use plan acknowledged by LCDC that incorporates growth to 60,400 population by the year 2000.

Mayor Hannum made the following points about the LCDC goals:

Goal 9 - Economy. The Department rule would discourage economic development and would encourage scattered small uses instead of more efficient integrated uses.

Goal 10 - Housing. The Department rule impacts apartments and mobile home parks for which the City has identified the greatest need.

Goal 11 - Public Facilities. The proposed rule will clearly affect arterial street development through the 20,000 ADT limit and will indirectly discourage commercial/industrial projects which would be able to make required major street improvements.

Goal 12 - Transportation. The 20,000 ADT limit will impact on the ability to implement the city's arterial street program.

Goal 13 - Energy Conservation. By encouraging scattered, small scale development instead of integrated centers, vehicle miles traveled would be increased, leading to increased fuel consumption.

Goal 14 - Urbanization. The rule will tend to force urban uses into the unincorporated area which will hinder the ability to provide needed urban services at a reasonable cost.

Mayor Hannum indicated that he had not listed all the potential conflicts with various statewide goals, but hoped enough had been raised to indicate that the questions had not been adequately considered. He also asked what would happen if an applicant appeals to LUBA? Who would handle the appeal?

Mayor Hannum stated that the CO problem cannot be solved by the city alone. He indicated that some studies show as much as 70 percent of downtown traffic is from outside the city. He also noted that Medford is a major health service area with major hospitals that have plans for future expansion that would be affected.

Mayor Hannum requested that the rule not be made permanent and reiterated that both the Department's statements of Fiscal and Economic Impact, and Land Use Consistency are inadequate and fail to address several major questions.

Jim Mendell, Medford School District 549C, stated that he was representing the Board of Education for Medford School District 549C. He explained the problems of the present grade structure in Medford, which is likely to be

solved by either rehabilitating Mid-High or the construction of a new high school. In either case, new parking would be required and he is concerned that the Department might not approve the selected project. He indicated that the Board of Education supports clean air, and that he personally supported the I/M program and regretted its failure at the polls. He concluded by stating that the needs of the school system should be recognized whether or not the regulations are approved. The Board of Education prefers that the Commission not approve the regulations at this time.

Genevieve Pisarski Sage, Oregon Lung Association, Southern Region, presented a prepared paper supporting the proposed rulemaking. The Oregon Lung Association, Southern Region, believes that the Rules are necessary to develop a new control strategy to bring the area into attainment with the carbon monoxide health standard as soon as possible and to prevent possible new sources that could interfere with the efficacy of such a plan. In supporting the proposed rules, Ms. Sage noted that the Oregon Lung Association regional council was respectfully disagreeing with their friends at the Chamber of Commerce and in the City of Medford. She stated that her organization had also been involved in the process of finding a solution to Medford's air quality problems for years. She believes that time has run out. The public health cannot be jeopardized any longer. She does not regard the proposed rules as a permanent solution, but rather as something that has to be done on an interim basis while a permanent solution is found.

Bob Robertson stated that he is an attorney and local developer. He heartily subscribed to the comments of Frank Pulver, Jim Mendell, and Bill Haas. He believed the solution lies with the State Legislature and he suggested that the Department defer action on permanent rules until such time as the Legislature meets next spring. The Legislature could pass a point of sale bill or require an I/M Program for Jackson County and other counties in Oregon that have a carbon monoxide problem.

Kevin Burrill, Burrill Lumber Company, stated that he is a shareholder and officer in Eugene F. Burrill Lumber Company in White City, Oregon. He noted that his company and others in the industry had spent millions of dollars to clean up pollution sources in that industry. He stated that he was concerned about the rules as an employer of 150 people in Jackson County and as the owner and developer of 200 acres of commercial and light industrial property within the City of Medford. He emphasized the need to diversify the local economy and indicated that there had to be a balance between economic and environmental concerns. He believes the temporary rules were adopted as a punitive measure to punish the County for its failure to impose a mandatory I/M program. He believes many negative votes were cast because I/M was offered by the Department as the only cure, rather than as only one alternative to clean up the air. The Department should prepare an economic and employment impact statement as part of the proposed rule. He concluded by stating that other options should be reviewed; the rule is not needed, as it is punitive, negative and it fails to solve the problem.

A. Lee Gardner, Genel Co. Inc., stated that he is the manager of the Medford Industrial Park in White City, which is one of the largest privately owned industrial parks in Oregon. The proposed rules are definitely punitive and they set up a negative attitude toward the area. The proposed rules would also adversely affect the business image that he and his company are trying to promote in this state. Even though the Medford Industrial Park is well outside the city limits, his company would be adversely affected by the proposed rules and he encourages the Commission not to adopt the rules at this present time.

Donna Butchino stated that she is a resident of Jackson County and very interested in the County's air quality problem. She believes the applause given to some speakers was indicative of the support of the audience and many people within the County for the proposed rules not being accepted and put into action. She stated that it is a prime example of the Department trying to stifle the individuality of Southern Oregonians. While the Department proposed restrictive rules on parking projects to five miles outside the city, just 6 miles outside the city the Department is proposing a permit for an industrial plant that will be putting out 742 tons of CO into the airshed a year. She indicated that she is bothered by the Department's attitude whereby the area is chastised for not passing I/M on the one hand, then on the other, the Department is contributing to the problem of CO in the area through the proposed industrial facility permit. She stated that if the Department is not willing to help and to listen to citizen concerns, then the Department should get out of the area's business.

Other Testimony, Received by Letter:

Jerry Barnes, Chairman, Jackson County Board of Commissioners, stated that the rule amendments would reduce the parking project review cutoff point from 1,000 to 500 spaces for all areas in the county which are more than five miles beyond the city limits of Medford. Based on the Board's understanding of the limited areas of noncompliance within the city, the Board does not see how there could be any potential air quality improvement from implementing the amendment. The former requirement of allowing 1,000 spaces without review would encourage decentralization of large parking projects, which could benefit long-term correction of local carbon monoxide problems. Mr. Barnes stated that the Board recommends that the parking project review cutoff point for areas beyond the five mile limit remain at 1,000 spaces.

William Dames, Dames & Dames, Attorneys at Law, stated that federal and state highway money should be used to double-deck I-5 between Barnett and Crater Lake Highway in order to give shopping center traffic an alternative route.

Oral and Written Testimony was offered by:

Frank J. Pulver, III, Lever & Pulver Real Estate
Lou Hannum, Mayor, City of Medford
Genevieve Pisarski Sage, Oregon Lung Association, Southern Region

Oral Testimony was given by:

Bill Haas, Medford Chamber of Commerce
R. L. Gantenbien, P.E., Marquess & Associates, Inc.
Jim Mendell, Medford School District 549C
Bob Robertson
Kevin Burrill, Burrill Lumber Company
A. Lee Gardner, Genel Co. Inc.
Donna Butchino

Testimony received in written form only:

Jerry Barnes, Chairman, Jackson County Board of Commissioners
William Dames, Dames & Dames, Attorneys at Law

Copies of written testimony are available at the Department of Environmental Quality, Air Quality Division, 522 SW Fifth Avenue, Portland, Oregon.

Recommendations

The hearing officer makes no recommendations.

Respectfully submitted,

Howard W. Harris

Howard W. Harris
Hearing Officer

Attachment 1. Notice of Public Hearing

AS444

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

- o Federal Clean Air Act as Amended (PL95-95) August 1977.
- o Medford Control Strategy for Carbon Monoxide: State Implementation Plan Revision, October 15, 1982.
- o 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.

STATE OF OREGONDEPARTMENT OF ENVIRONMENTAL QUALITYINTEROFFICE MEMOTO: TRBispham ^{KB}

DATE: September 5, 1984

FROM: ^{HWH} HWHarris and ^{MC} MConley

SUBJECT: Land Use Findings and Analysis -
 Response to Mayor Hannum's August 8, 1984 Testimony Regarding
 Proposed Amendments to Indirect Source Rules in the Medford Area

Mayor Hannum, in his August 8, 1984 testimony regarding the above referenced proposed rule changes, challenged the consistency of the proposed rule changes with Statewide planning goals. He specifically raised questions about consistency of the proposed rule changes with the Land Conservation and Development Commission (LCDC) Goals 9, 10, 12, 13, and 14. He also questioned whether adequate supporting data had been presented for Goals 6 and 11. The discussion below summarizes each issue raised by Mayor Hannum with the Department's response immediately following.

The following discussion addresses those goals and portions of the Medford Comprehensive Plan determined to be relevant to Mayor Hannum's testimony. Those goals not addressed have been determined to not be applicable.

Issue: Goal 6 - Air, Water and Land Resources Quality. "To maintain and improve the quality of air, water and land resources of the state."

Analysis The goal states "All waste and process discharges from future development when combined with such discharges from existing development shall not threaten to violate or violate applicable state or federal environmental quality statutes, rules and standards." The proposed rule amendments are intended to prevent degradation of the Medford air quality by requiring construction permits for certain indirect sources of air pollution in the Medford area. Such sources would include new or modified facilities with parking for 50 or more vehicles within the city limits of Medford. Also, highway projects in Jackson County with a forecast traffic volume of 20,000 or more vehicles per day within ten years of construction would be affected. A detailed discussion of the reasons for adopting these rules is found in the staff report (Agenda Item G, September 14, 1984 EQC Meeting). The purpose of the proposed rule amendment is therefore consistent with Goal 6.

The proposed rule change is also consistent with the City's plan. When the City of Medford's comprehensive plan was amended in 1982, the City made a policy commitment to adopt "strategies leading to compliance with National Air Quality Standards for carbon monoxide and suspended particulates" (Medford Comprehensive Plan, Environmental Element, page 58, adopted February, 1983). The plan also includes a policy which states that "Specific land use activities which are likely to cause a demonstrable deterioration in air quality, locally or regionally, as a result of an industrial process or associated activities such as parking, shall be subject to special locational criteria, special regulation, or prohibition, consistent with DEQ/EPA regulations and other plan and code provisions" (Medford Comprehensive Plan, Environmental Element, page 58, adopted February, 1983). The proposed rule provides a strategy to potentially limit land use activities that might cause a demonstrable deterioration in air quality and is therefore compatible with the land use plan.

Issue: Goal 9 - Economy. "To diversify and improve economy of State." Mayor Hannum states that the proposed rule would discourage economic development potential and encourage scattered small uses rather than large, more efficient integrated uses.

Response: The goal states that "plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability; labor market factors; transportation; current market forces; availability for renewable and nonrenewable resources; availability of land; and pollution control requirements." Economic development does not have to necessarily conflict with the achievement of healthful air quality.

The fact that some fairly small parking lot developments would be subject to permit review does not mean that such projects would be disapproved. While the Department may have some difficulty in approving some projects due to size and location and associated air quality impacts, the Department believes that in the majority of cases other factors such as market conditions, land availability, accessibility and price would be much more important than the Indirect Source Rules in determining the location and character of a given development.

Issue: Goal 10 - Housing. "To provide for the housing needs of citizens of the State."

Mayor Hannum states that the rules will have an impact on low income apartments and mobile home parks.

Response: The impact on air quality of mobile home parks is likely to be small because they tend to be located significantly away from the core area and, at the same time, have very low trip generation rates. The Department has issued a proposed permit, containing no restrictive conditions, for a 110-space mobile home park located about a mile to the north of the north interchange area in Medford. Apartments generally have trip rates that are significantly less than single-family dwelling units. Furthermore, one could expect many apartment developments, even without the rules as a factor, to need less than 50 parking spaces. We would, therefore, expect that a substantial number of apartment projects would be unaffected by the proposed rule. For those projects that would need a permit, it is likely that very few would need to mitigate adverse air impacts.

Issue: Goal 11 - Public Facilities. "To plan and develop a timely, orderly, and efficient arrangement of public facilities to serve as a framework for urban and rural development."

Mayor Hannum states that the proposed rule affects this goal directly through the 20,000 ADT limit and indirectly by discouraging commercial/industrial projects which would be able to make required major street improvements. Other public facility plans would be affected if location of future development is changed.

Response: The proposed rule changes would be unlikely to have a major impact on the location of future development (see response to Goal 9). Also, the ability of the city to provide urban facilities and services such as fire protection, police protection, sanitary services, storm drainage, etc., should not be affected by the proposed rule changes.

Issue: Goal 12 - Transportation. "To provide and encourage a safe, convenient, and economic transportation system."

Mayor Hannum states that the 20,000 ADT limit will impact the ability of the City to implement its arterial street program.

Response: The goal states that "A transportation plan shall . . . minimize adverse social, economic and environmental impacts and costs." By setting the review cutoff at 20,000 ADT, the Department may have some impact on the City's arterial street program. However, the Department needs to have the ability to review moderate volume street projects so that we can identify any projects that might interfere with attainment and maintenance of the 8-hour CO standards. In the event that an individual project did have some potentially adverse CO impacts, the Department would be in a position to seek design changes or other mitigative measures which would either eliminate the problem or reduce it to acceptable levels. Such action is consistent with Goal 12.

Furthermore, adoption of the proposed rule amendments may help the area meet federal air standards and thereby avoid federal sanctions on highway funding assistance. The avoidance of such sanctions would put the city in a better position to meet its transportation needs.

Issue: Goal 13 - Energy Conservation. "To conserve energy."

Mayor Hannum states that the proposed rule amendments will encourage scattered, small scale commercial development instead of integrated centers resulting in increased vehicle miles traveled, discouraging integration of functionally related uses, and increasing fuel consumption.

Response: Refer to previous comments under Goal 9. The proposed rule amendments are not likely to be a major, crucial factor in determining the size and location of individual projects. From the standpoint of reducing Vehicle Miles Traveled, neighborhood shopping centers that satisfy shopping trip demand at relatively close distances to individual housing units may actually have the effect of reducing Vehicle Miles Traveled if the alternative is to satisfy the demand at a more distant, though centralized, location.

Issue: Goal 14 - Urbanization. "To provide for an orderly and efficient transition from rural to urban land use."

Mayor Hannum states that the proposed rule amendments will tend to force urban uses into the unincorporated area which flies in the face of not only this rule, but the ability to provide needed urban services at a reasonable cost.

Response: Again, the proposed rule changes are unlikely to have a major impact on the location of development, except as previously noted in the discussion under Goal 9. There are many other important factors involved. Furthermore, many small scale industrial and commercial developments could take place in the existing City Limits and Urban Growth Boundary without significantly impacting air quality in the identified CO problem area.

Conclusion

The foregoing responses provide a solid basis for concluding that the proposed changes to the Indirect Source Rules in Medford are consistent with LCDC Goals.

The Mayor does not argue specifically how the rule amendments are incompatible with the Comprehensive Plan. We find the proposed rule amendments to be compatible with the City's plan due to the plan's recognition of the City's responsibility to meet state and federal environmental quality standards, as discussed above under Goal 6, and due to the minimal impacts the rule amendments will have.

Even if the City were correct, and the Department makes no such concession, that the proposed rule amendments were incompatible with the City's plan, DEQ has determined that under ORS 197.180 and 197.643(3) (c) the proposed rules amendments are necessary and permissible. The statute states that a state agency must take actions in compliance with local comprehensive plans, except when:

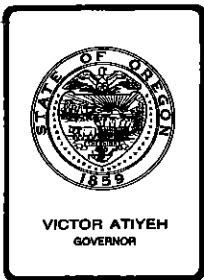
"The comprehensive plan or land use regulations are inconsistent with a state agency plan or program relating to land use that was not in effect at the time the local government's comprehensive plan was acknowledged, and the agency has demonstrated that the plan or program:

- a. Is mandated by state statute or federal law;
- b. Is consistent with the goals; and
- c. Has objectives that cannot be achieved in a manner consistent with the comprehensive plan or land use regulations" (ORS 197.643(3) (c))

DEQ's proposed rule amendments were not in effect when the local comprehensive plan was acknowledged in 1976 and 1981. These proposed rule amendments are mandated by state law, as explained in the staff report, and are consistent with the goals. Further, as mentioned elsewhere in this memo, there may be objectives which cannot be achieved in a manner consistent with certain portions of the comprehensive plan.

Therefore, the rules comply with the statute and would not have to be found compatible with all portions of the comprehensive plan initially acknowledged by LCDC or with subsequent plan amendments.

ME43



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, September 14, 1984, EQC Meeting

Proposed Adoption of Changes to the Indirect Source
Rules in the Medford Area (Amendments to OAR 340-20-
100 to 20-135).

Background

The original staff report contains a typographical error in Attachment 1, which contains the proposed amendments to Rule Sections OAR 340-20-115 and OAR 340-20-120. The identifying number (10) was omitted from the start of the underlined paragraph that follows below paragraph (9) in OAR 340-20-120. The corrected page containing paragraph (10) is attached.

Director's Recommendation

The Director recommends that the rule proposed with the subject staff report be amended as follows:

The identifying paragraph number (10) is added to the start of the sixth line from the bottom of the eighth page in Rule Section OAR 340-20-120.

Fred Hansen

Attachment 1: Corrected Eighth Page of Proposed
Rule Revision to OAR 340-20-100 to
20-135

Howard W. Harris:s
229-6086
September 11, 1984

AS510

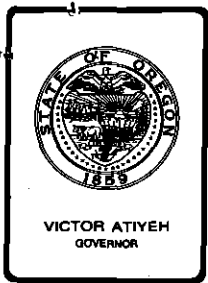
Plan, the appropriate governmental unit or planning agency shall be notified and the plan used for the purposes and implementation of this rule.

(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) The City of Medford shall 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 by August 25, 1984.



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, September 14, 1984, EQC Meeting

Proposed Adoption of 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 -275) to Add Requirements to Assess Visibility Impacts of Major New or Modified Sources on Class I Areas.

Background

In 1980, the Environmental Protection Agency adopted visibility protection rules for Federal Class I areas (40 CFR 51.300-307). Oregon's 12 Class I Areas include 11 Wilderness areas and Crater Lake National Park. The rules required the states to develop programs to assure reasonable progress toward meeting the national goal of preventing any future and remedying any existing visibility impairments resulting from man-made air pollution. Subsequent court challenges of the EPA rule led to the Commission's decision to postpone adoption of Department visibility rules (Agenda Item No. N, April 19, 1982) until EPA could clarify its program requirements. Recent court settlements now require EPA to propose, by October 1984, Phase I visibility monitoring and New Source Review regulations for states that have not incorporated these Class I visibility protection provisions into their State Implementation Plans. A Statement of Need for Rulemaking is enclosed as Attachment 1.

The three remaining provisions of the EPA visibility protection program (Phase II; Best Available Retrofit Technology, integral vista protection and long-range control strategy development) must be adopted by the states and approved by EPA before December, 1986. This schedule requires the Department to provide a rough draft of the Phase II proposed rules to EPA by December, 1985 to be followed by EQC hearings authorization by June, 1986, and EQC adoption by December, 1986.

Problem Statement

The rule revisions proposed for adoption are required to insure that the 12 Class I areas within Oregon are adequately protected from visibility impairment associated with emissions from new major stationary sources or major modifications of existing sources. In addition, the State Implementation Plan (SIP) must be revised to include a firm commitment to operate a visibility monitoring network. If the Department fails to adopt rules and submit them to EPA for approval prior to October 15, 1984, EPA will propose a Phase I program for Oregon which may not be compatible with present Department rules and policies.

Alternatives and Evaluation

Two alternatives to adoption of the proposed rule are possible. These are: a) delay the adoption of the proposed Phase I program until a completed visibility protection program, including control strategies, can be developed; or b) adopt the proposed rules with modifications. Should the Commission decide to delay adoption of the proposed rules, EPA will be forced to adopt a monitoring and New Source Review program for Oregon that may not be compatible with, and could be adverse to, other Department rules.

Rule Development

The proposed rules were drafted by Air Quality Division staff following consultation with EPA technical staff. Informal comments on the draft rule were solicited from the Federal Land Managers, EPA and Department legal counsel, and used in the development of subsequent rule revisions. On June 29, 1984 (Agenda Item D), the Commission authorized public hearings on the proposed rules.

Comments submitted at the August 8 (Portland) and August 9 (Bend) public hearings focused on three principal issues discussed in the following sections.

Rule Definitions

Considerable testimony was received requesting the Department to amend the definition of "visibility impairment" to include wildfires as a natural condition affecting visibility. Others requested that the definition of "significant impairment" should be amended to include specific criteria that may be used to judge visibility impairment.

The rules proposed for adoption have been modified to include naturally ignited wildfires as a natural condition affecting visibility. The definition of "significant impairment", however, has not been changed. No change is necessary to insure consistency with the EPA definition and Section 169A of the Clean Air Act. In recognition of the need for flexibility in applying these definitions on a national level, the Congress and EPA foresaw the need to evaluate significant impairment impacts on a case-by-case basis.

The Department, in recognition of the unique nature of each of Oregon's Class I areas, will also evaluate source impacts on a case-by-case basis using modeling guidance provided by EPA (Workbook for Estimating Visibility Impairment, EPA 450/4-80-031). The criteria used to define significant impairment and the Department's findings concerning major new or modified source impacts will be subject to public comment upon a determination that significant interest in the issue exists to warrant hearings.

Integral Vistas Issues

The inclusion of integral vistas in the definition of Class I areas was a major issue raised in the testimony. Several commentators noted that since EPA does not require inclusion of integral vista issues in the Phase I rules, and given EPA's intent to review the integral vista program, it would be premature for the Department to include an integral vista definition in the proposed rules. In addition, the question was raised challenging the authority of the Department to identify integral vistas in a manner that is independent of the Federal Land Manager-State designation process established under the EPA rules.

The rules proposed for adoption have been amended to delete references to integral vistas pending EPA rule clarification. The Department also concurs with testimony that adoption of integral vista definitions at this time may create future conflicts with EPA rules. The Department, in recognition of the importance of integral vista protection to the scenic resources of the State of Oregon will, however, insure that prominent integral vistas are protected under the Phase II Oregon visibility protection rules. Should the Federal Land Managers fail to designate integral vistas and regardless of whether federal requirements are relaxed on this issue, the Department will propose identification, designation, and protection of integral vistas in the Phase II rule.

While the integral vista designation process described in the EPA visibility rules (40 CFR 51.304) places the primary responsibility for the development of designation criteria and identification of vistas in the hands of the Federal Land Managers, the EPA Rule Supplemented Statement of Basis and Purpose (40 CFR 51.304 at 80095) notes that states may, under their own authority, identify additional integral vistas not specified by the Federal Land Manager. In addition, the Federal Clean Air Act allows states to adopt programs for pollution control that are more restrictive than those required by EPA provided that the state and federal rules do not conflict. The Department, in recognizing both the responsibility of the Federal Land Managers and the need to protect key integral vistas within State of Oregon, will work with the Federal Land Managers during development of the Phase II rules. Should the Federal Land Managers fail to develop designation criteria or identify prominent integral vistas by December, 1985, the Department will propose to assume responsibility for completion of these tasks utilizing normal rulemaking procedures. The Department will, in consultation with Federal Land Managers, proceed to identify important integral vistas within the near future.

New Source Review Rule

Testimony was received from several commentors that the proposed New Source Review rule requirements for visibility impact assessment were unclear due to the fundamental structure of the rules and did not require sources located in nonattainment areas to analyze impacts on Class I areas. To insure clarity, the rules proposed for adoption have been restructured to include a new Visibility Impact Assessment section (OAR 340-20-275) and expanded to include sources located in nonattainment areas.

Other Issues

In addition to the three principal issues discussed above, comments were also received to the effect that (a) the visibility monitoring program description was of insufficient detail to provide meaningful input; (b) that the program should be operated throughout the year rather than only during the summer months; (c) that the NSR rule exception for sources of less than 250 tons/year located 30 Km from a Class I area should be revised to 100 Km; and that (d) the Department should move to include the John Day Fossil Beds National Monument and 1981 land expansions to Crater Lake National Park as Class I areas. The Department considered these comments but, for the reasons noted below, did not modify the proposed rules.

The Department has a more detailed description of the visibility monitoring network, but such detail is not required to be in the SIP since the purpose of the SIP amendment is only to affirm the State's commitment to the monitoring program. Year round monitoring is not practical due to the inaccessibility of the monitoring sites due to winter snowpack. The 30 Km exemption noted in the NSR rules was derived from screening analysis of the visibility impact of a 250 ton per year source of particulate matter, sulfur dioxide and nitrogen oxides with a background visual range of 100 Km. Such sources located more than 30 Km from a Class I area would have imperceptible impacts on the Class I area. Resolution of the final issue would require redesignation of current and newly created wilderness lands to Class I status. This is a separate issue that will be studied by Department staff during the Phase II program development.

The hearings officer's report summarizing public comments on the proposed rule is included as Attachment 2. Proposed revisions to the SIP are included as Attachment 3. Attachment 4 is the amended New Source Review rule.


Summation

1. In December, 1980, the Environmental Protection Agency adopted rules requiring states to include visibility protection for Class I areas in their SIPs. Although court suits have delayed implementation of EPA's program, recent court settlements now require EPA to promulgate visibility monitoring and New Source Review rules for all states that fail to adopt these provisions prior to October 15, 1984.

2. Best Available Retrofit Technology, integral vista protection and long range control strategies must be adopted by the states and approved by EPA by December 1986 under the recent court settlement.
3. Public Hearings were held on the proposed Department rules relating to visibility monitoring and New Source Review requirements. Substantial comments were received on the definition of Significant Impairment, Integral Vista provisions and the clarity of the New Source Review rules.
4. The Department has developed a visibility monitoring program that conforms to EPA requirements. No major changes in the program have been made subsequent to receipt of public comment. The program has been developed with the assistance of the Federal Land Managers.
5. The New Source Review rule has been amended in response to public comment to incorporate provisions for visibility impact assessment (OAR 340-20-275) for sources in nonattainment areas, as well as other minor changes.
6. References to integral vistas have been removed from the proposed rule and SIP revision in response to public comment that it is not needed at this time. The Department, however, believes that certain prominent integral vistas must be protected since they are extremely important to the visitor's experience within certain Class I areas. Should the Federal Land Managers fail to designate integral vistas for Oregon's Class I areas, and irrespective of the status of EPA integral vista requirements, the Department intends to propose identification, designation and protection of integral vistas in the Phase II rules.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission adopt the revised proposed rule (OAR 340-20-220 through -275) and amendments to the State Implementation Plan, OAR 340-20-047, Section 5.2.



Fred Hansen

- Attachments:
1. Statement of Need for Rulemaking
 2. Hearings Officer's Report
 3. Proposed Revision to SIP, Section 5.2
 4. Proposed Revision to New Source Review Rule

JOHN E. CORE:a
229- 5380
August 21, 1984
AA46 19

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 275 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) (PL95-95).
- (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 450/4-80-031.

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 occurrence 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, seven 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 appears to be 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 an 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 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 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

MEMORANDUM

To: Environmental Quality Commission
From: John Core, Hearings Officer
Subject: Report for Hearings Held August 8 and 9, 1984

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 275) to Add Requirements to Assess Visibility Impacts of Major New or Modified Sources on Class I Sources.

Summary of Procedure

Approximately 10 persons attended the August 8 Portland Hearing and 6 persons appeared at the August 9 Bend Hearing. John Core, Senior Environmental Analyst, Air Quality Division, presided at both hearings. A total of 5 persons presented oral testimony while written testimony was received from 16 individuals and agencies.

Summary of Testimony

Oral

Ann Kelley and Bob Robinson of Bend favored adoption of the proposed revisions. Both persons expressed concern about visibility and smoke impacts in Bend and Deschutes County. The oral testimony presented by representatives of the Oregon Departments of Forestry, Associated Oregon Industries and Crown Zellerbach Corporation were also submitted in writing and are therefore discussed below.

Written Testimony

Scott Berg of the Industrial Forestry Association requested that the definition of Visibility Impairment be amended to include smoke from forest wildfires and deletion of references to integral vistas since EPA does not require that this latter issue be addressed at this time.

Randall F. Smith, Acting Chief of the Air Programs Branch, U.S. EPA Region X, submitted written testimony concerning the apparent omission of major sources or source modifications located within nonattainment areas from any requirement for visibility impact assessment. Mr. Smith also noted that the definition of "integral vista" is not approvable by EPA since it does not require the Department to list vistas formally identified by the Federal Land Manager (FLM). Since integral vistas need not be included in the plan at this time, EPA will take no action on the definition should it be included in the adopted rule. EPA also noted that provisions of the NSR rule related to FLM notification (OAR 340-20-245(7)(a)) must include a commitment to submit all information relevant to a New Source Review (NSR) permit application to the FLM within 30 days. Codification and spelling corrections were also noted.

James E. Walther, Crown Zellerbach Corporation, testified that the proposed rule should be amended to address only EPA required elements, deleting reference to integral vistas. The definition of "natural conditions" within the Significant Impairment definition, should be amended to include forest fires and rain. Oregon Administrative Rules 340-20-245(3)(a) should be expanded to exempt major source modifications and major new sources not impacting nonattainment or Class I areas. Mr. Walter further testified that OAR 340-20-245(3)(a)(A) should be reworded for clarity and that the definition of "significant visibility impairment" needs to be further clarified. Oregon Administrative Rule 340-20-247(1) should be limited to assessment of only the proposed source.

Llewellyn Rust, Northwest Pulp & Paper Association, provided testimony that integral vistas should be deleted from the rule and that the exemptions in OAR 340-20-245(2)(b) need to be clarified. NWPPA also feels that on-going Department visibility monitoring programs are sufficient to assess impacts from major new or modified sources.

Comments received from William G. Leavell, State Director of the Bureau of Land Management, request that wildfires should be included in the definition of visibility impairment as a natural aerosol. The BLM also urged the Department to recognize the importance of prescribed fire in forest management.

Daniel J. Tobin, Jr., Regional Director of the National Park Service, requested that clarifying language be added to OAR 340-20-245(7)(9) to insure that FLM's received copies of relevant NSR applications.

Susan Buffone of the National Parks Conservation Association (NPCA) urged the Department to conduct visibility monitoring programs throughout the year and requested that reference to integral vistas be included in OAR 340-20-245(2)(D). In addition, NPCA urged the Department to require visibility analysis (OAR 340-20-245(3)(B)) of all sources within a 100 Km of a Class I area and requests that the Department move forward to redesignate recently appended acreage to Crater Lake National Park and the John Day Fossil Bed National Monument to Class I status.

H. Mike Miller, State of Oregon Department of Forestry, requests deletion of references to integral vistas, inclusion of forest fire smoke as a natural condition under the definition of "Significant Impairment" and expansion of the "significant impairment" definition to incorporate specific criteria.

Mr. Lynn Frank, Director of the Oregon Department of Energy feels that the proposed rules as drafted provided the necessary level of visibility protection and are workable rules.

Richard Angetrom, Oregon Forest Industries Council, testified that the proposed rules go beyond the immediate need for Oregon to meet EPA requirements and feels that references to integral vistas should be deleted.

Richard M. Sandvik of Portland General Electric Company feels that the definition of visibility impairment should be amended to include smoke due to controlled or uncontrolled burning as a natural condition, references to control strategies, integral vistas and BART should be removed from Section 5.2.2 of the SIP and deletion of SIP Sections 5.2.5 - 5.2.7. The integral vista definition should be deleted. Mr. Sandvik also suggested clarifications to OAR 340-20-245(3) and clarification of how industrial sources will implement the visibility impact analysis provisions of OAR 340-20-247. Portland General Electric also feels that an approved methodology for performing visibility modeling should be specified.

Campbell Gilmour of the State of Oregon Highway Division reviewed the proposed rules with respect to asphalt paving plants used in highway construction projects near Class I areas and concluded that adoption of the rules would not impact ODOT operations.

Jeff M. Simon, Regional Forester, U.S. Forest Service, requests that wildfires be included as a natural condition within the definition of "Visibility Impairment" and further clarification of the term "Significant Impairment."

Laurel J. Standley of Corvallis requests that NSR rule definitions be expanded to include field and slash burning emissions, as they are significant sources that impact visibility.

Thomas C. Donaca, General Council of the Associated Oregon Industries (AOI) requested the following revisions:

1. Changes in the definition of "Significant Impairment" to insure consistency throughout the rule.
2. Clarification of the term "significant impairment" such that a source owner/operator can determine if visibility impacts are significant.
3. Correction of inconsistencies between the SIP and NSR rule definition of "Visibility Impairment."

4. Inclusion of "naturally occurring fires" in the definition of natural conditions within the visibility impairment definition.
5. Deletion of references to integral vistas, BART and control strategies in the body of the staff report.
6. Deletion of Integral Vistas from the proposed rules.
7. Clarification of codification in the NSR rule.
8. Inclusion of the term "major modification" in OAR 340-20-245(3).
9. Clarification of the applicability of OAR 340-20-245(5)(a) with respect to air quality monitoring of all major sources or modifications. In general, AOI supports adoption of the rules.

AS446

Attachment 3
Agenda Item No. H
September 14, 1984
EQC Meeting

OAR 340-20-047, Section 5.2

VISIBILITY PROTECTION PLAN FOR CLASS I AREAS

September, 1984

State of Oregon

Department of Environmental Quality

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5.2.6 Integral Vistas (Reserved)

5.2.7 Control Strategies (Reserved).

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, in the judgment of the Department, visibility impairment interferes with the management, protection, preservation or enjoyment of a visitor's visual experience within a Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manger, 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 area and the frequency and occurrence of natural conditions that reduce visibility.

"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, rain, sand, naturally ignited wildfires, 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.

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 prior to October 15, 1984 to:

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

This revision of the SIP describes the program that Oregon will follow to comply with the above requirements of the Clean Air Act. Future SIP revisions will address visibility control strategy development, integral vistas, Best Available Retrofit Technology (BART), and Federal Land Manager coordination regulations to 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 275 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 -275 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 and 340-20-275 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 -275

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 275 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. Class I areas are identified in OAR 340-31-120.

[(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.

- [(11)] (13) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.
- [(12)] (14) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition (22) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.
- [(13)] (15) "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition (22)).
- [(14)] (16) "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission and approved by the Environmental Protection Agency.
- [(15)] (17) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.
- [(16)] (18) "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.
- [(17)] (19) "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the

source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

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

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

- (a) Emissions from ships and trains coming to or from a facility,
- (b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

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

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

<u>Pollutant</u>	<u>Significant Emission Rate</u>
Carbon Monoxide	100 tons/year
Nitrogen Oxides	40 tons/year
Particulate Matter*	25 tons/year
Sulfur Dioxide	40 tons/year
Volatile Organic Compounds*	40 tons/year
Lead	0.6 ton/year
Mercury	0.1 ton/year

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

<u>Pollutant</u>	<u>Significant Emission Rate</u>
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/m³ (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.

<u>Air Contaminant</u>	<u>Emission Rate</u>					
	<u>Annual</u>		<u>Day</u>		<u>Hour</u>	
	<u>Kilograms</u>	<u>(tons)</u>	<u>Kilograms</u>	<u>(lbs)</u>	<u>Kilograms</u>	<u>(lbs)</u>
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)] (23) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

Table 3

Pollutant	Annual	Pollutant Averaging Time			
		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.

(24) "Significant impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a 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)] (25) "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.

(26) "Visibility impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

340-20-230 Procedural Requirements

(1) Information Required

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

- (a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
- (b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;
- (c) A detailed schedule for construction of the source or modification;
- (d) A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;
- (e) To the extent required by these rules, an analysis of the air quality and/or visibility 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 and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission 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 (22)). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.
- (2) Air Quality Analysis
(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 (22)) in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

- (A) Any State or National ambient air quality standard, or
 - (B) Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110), or
 - (C) An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition (23)). 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.
- (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 Areas.
- (a) A proposed major source or major modification is exempt from OAR 340-20-220 to 340-20-275 if:
 - (A) The proposed source or major modification does not have a significant air quality impacts on a designated nonattainment area, and
 - (B) 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) 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 in the area [of the] 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], 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. 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 monitoring plan.
- (b) Air quality monitoring which is conducted pursuant to this requirement, shall be conducted in accordance with 40 CFR 58

Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.

- (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/m³, 8 hour average
 - (ii) Nitrogen dioxide - 14 ug/m³, annual average
 - (iii) Total suspended particulate - 10 ug/m³, 24 hour average
 - (iv) Sulfur dioxide - 13 ug/m³, 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/m³, 24 hour average
 - (vii) Mercury - 0.25 ug/m³, 24 hour average
 - (viii) Beryllium - 0.0005 ug/m³, 24 hour average
 - (ix) Fluorides - 0.25 ug/m³, 24 hour average
 - (x) Vinyl chloride - 15 ug/m³, 24 hour average
 - (xi) Total reduced sulfur - 10 ug/m³, 1 hour average
 - (xii) Hydrogen sulfide - 0.04 ug/m³, 1 hour average
 - (xiii) Reduced sulfur compounds - 10 ug/m³, 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 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 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application.
- (b) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230 Section 3 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

340-20-250 Exemptions

- (1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-20-240 Sections 3 and 4 provided that:
 - (a) No growth increment is available for allocation to such source or modification, and
 - (b) The owner or operator of such source or modification

demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

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

- (2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.
- (3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.
- (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 (231) 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 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(22)); b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

- (7) Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:
 - (a) A detailed description of the processes controlled,
 - (b) Emission calculations showing the types and amounts of actual emissions reduced,
 - (c) The date or dates of such reductions,
 - (d) Identification of the probable uses to which the banked reductions are to be applied,
 - (e) Procedure by which such emission reductions can be rendered permanent and enforceable.

- (8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.

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

340-20-270 Fugitive and Secondary Emissions

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

340-20-275 Visibility Impact Assessment:

New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact assessment requirements:

(1) Visibility Impact Analysis.

(a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225, definition (22)) in conjunction with all other applicable emission increases or decreases (including secondary emissions) permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area. Proposed sources which emit less than 250 tons/year of TSP, SO₂ or NO_x and are located more than 30 Km from a Class I area are exempt from the requirements of OAR 340-20-275(1).

(b) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR 340-20-230(1).

(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) Visibility Monitoring

The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of TSP, SO₂ or NO_x shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately

adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. 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 data gathered over a shorter portion of the year for another representative year, would be adequate to determine that the source of major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan.

(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.

(5) Additional Impact Analysis

(a) The owner or operator of a proposed major source or major modification subject to OAR 340-20-245(6)(a) shall provide an analysis of the impact to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.

(6) Notification of Permit Application

(a) Where a proposed major source or major modification impacts or may impact 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. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 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 340-20-275, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by (a) above. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing.

(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 of modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source of 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.



STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Memorandum

To: Fred Hansen

Date: September 13, 1984

From: TRBispham

Subject: EQC Meeting September 14, 1984, Agenda Item H Revisions

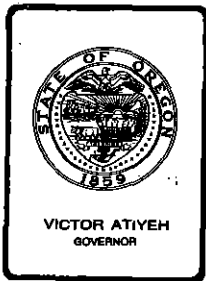
It has come to our attention that the definition of "Visibility Impairment" would include smoke from accidentally ignited forest fires, placing an unreasonable responsibility on Federal Land Managers to control such sources. We would like to correct this omission.

During your introduction to the Commission, please include the following recommendation:

The Department recommends that the definition of visibility impairment found under Section 5.2.1 of the SIP amendment and 340-20-225(26) of the New Source Review Rule be changed to read:

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

ahe



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, September 14, 1984, EQC Meeting

Request for Language Amendments to Administrative Rule 340-53-027, Development and Management of the Statewide Sewerage Works Construction Grants Priority List.

Background

At the August 10, 1984, EQC meeting, in Pendleton, the Commission adopted the FY85 Federal Sewerage Works Construction Grant Priority List together with a new rule (Attachment A) which exercises discretion to allow selected projects to be funded that were substantially planned prior to December 29, 1981, and would otherwise become ineligible for a grant on October 1, 1984.

In the process of preparing the rule for filing with the Secretary of State, we concluded that a word had been omitted which could preclude funding of the intended projects. Filing was held up in order to allow for adoption of a corrected version.

Discussion and Evaluation

Discussion in staff reports, and the record of the hearing adequately addressed the intended result of the proposed rule. Projects impacted were listed in an attachment to the staff report at the August 10 meeting.

The rule should have read "The Director may at the Director's discretion utilize up to twenty (20) percent of the annual allotment for replacement or major rehabilitation of existing sewer systems or elimination of combined sewer overflows provided: ..." The words "replacement or" were not included in the version adopted by the Commission in Pendleton.

Addition of the words "replacement or" does not modify the priority list or change the projects intended to be funded as reflected in the August 10 EQC Agenda Item.

Summation

1. A change is needed in the wording of proposed OAR 340-53-027 to replace "rehabilitation of existing sewer systems" with "replacement or major rehabilitation of existing sewer systems."
2. The revised wording is consistent with staff proposals, the record of public hearing, and analysis conducted during preparation of the FY85 priority list.

Director's Recommendation

Based on the summation, the Director recommends that the Commission re-adopt OAR 340-53-027 as revised in Attachment B.



Fred Hansen

Attachments: 2

- A. OAR 340-53-027 as adopted on August 10, 1984
- B. Proposed Rule, OAR 340-53-027

Robert T. Evans:lt
WL3607
229-5257
August 22, 1984

340-53-027 (As Adopted August 10, 1984)

USE OF DISCRETIONARY AUTHORITY

(1) The Director may at the Director's discretion utilize up to twenty (20) percent of the annual allotment for major rehabilitation of existing sewer systems or elimination of combined sewer overflows provided:

- (a) The project is on the fundable portion of the state's current year priority list and;
- (b) The project meets the enforceable requirements of the Clean Water Act and;
- (c) Planning for the proposed project was complete or substantially complete on December 29, 1981.

BJS:t
WT128
8-22-84

340-53-027 (Revised Proposal)

USE OF DISCRETIONARY AUTHORITY

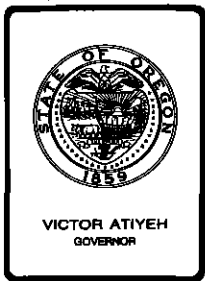
(1) The Director may at the Director's discretion utilize up to twenty (20) percent of the annual allotment for replacement or major rehabilitation of existing sewer systems or elimination of combined sewer overflows provided:

(a) The project is on the fundable portion of the state's current year priority list and;

(b) The project meets the enforceable requirements of the Clean Water Act and;

(c) Planning for the proposed project was complete or substantially complete on December 29, 1981.

BJS:t1
WT128.A
8-22-84



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, September 14, 1984, EQC Meeting

Request for a Variance From OAR 340-21-027(2) for Brookings Energy Facility, Curry County

Background & Problem Statement

On July 18, 1984, a variance request was received from Mr. Pete Smart, President of the Brookings Energy Facility (Attachment A). This facility incinerates municipal solid waste from Curry County in two modular incinerators under the authority of Air Contaminant Discharge Permit 08-0039. Mr. Smart has requested that a variance from Conditions 8 and 10 of that permit (Attachment B) be granted to the Brookings Energy Facility (BEF). These conditions require the installation and operation of a continuous temperature recorder (pyrometer) pursuant to Oregon Administrative Rule 340-21-027(2).

The above cited rule was adopted by the Environmental Quality Commission on January 6, 1984. OAR 340-21-025 was amended at the same time. As a result of these new rules, the maximum allowable particulate emission rate for small coastal municipal waste incinerators changed from from 0.1 to 0.2 grains/dry standard cubic foot and minimum exhaust gas temperatures/gas residence times were established. The operator of an incinerator was further required to install a temperature recording pyrometer. This requirement is to insure a continuous temperature level capable of destroying toxic air pollutants.

Comments on the new rule were solicited from both the BEF and the Curry County Board of Commissioners. A public hearing was held on November 21, 1983. An announcement of the hearing containing the hearing notice and the complete proposed rules package was mailed to both parties on October 4, 1983 (Attachments C,D). An additional hearing announcement was sent to the Brookings Energy Facility on October 20, 1983. The proposed temperature monitoring requirements were prominently mentioned in all of the documents. No written testimony was received from either party, nor was either represented at the public hearing.

After expiration of the previous Air Contaminant Discharge Permit, a proposed renewal permit was sent to BEF on April 4, 1984. The proposed permit incorporated the temperature recorder requirement from the new rules. The final date for submission of written comments on the proposed permit was May 15, 1984. On May 16 and May 18 respectively, comments were received from BEF and the Curry County Board of Commissioners (see Attachment A). Both requested deletion of the temperature recorder requirement in favor of manual recording. Similar comments were received from the City of Brookings on May 29, 1984. After considering the comments that were received, the Department issued the Air Contaminant Discharge Permit on May 25, 1984 without changes from the proposed permit.

The Department does not have the authority to revise the permit conditions as requested because the conditions are based on the Commission's rules. The Department advised the permittee that a variance could be requested from the Commission (Attachment E).

Alternatives and Evaluations

Several alternatives are available to the Commission. The variance request can be approved, approved with conditions concerning manual recording, approved with reinstatement of the previous particulate emissions limitation, or denied.

Under ORS 468.345(1), the Commission is authorized to grant variances from any rule if any of the following conditions are met:

- (a) Conditions exist that are beyond the control of the persons granted such variance; or
- (b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or
- (c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
- (d) No other alternative facility or method of handling is yet available.

Subparts (b) and (c) are claimed by the permittee as reasons for the variance request. It is the responsibility of the permittee to supply documentation to support these claims.

Subpart (b), as noted above, applies in cases where special physical conditions make compliance unreasonable, burdensome, or impractical. Both incinerators at Brookings are already equipped with primary and secondary chamber temperature probes and gauges. Space is not unduly restricted at the site, so the addition of a recorder does not present any

physical problem. A recorder could be mounted on each incinerator or the wires could be extended to allow for installation at a location more convenient to the operator. Space requirements could be further reduced by the use of a multi-channel recorder which could simultaneously record temperatures from both incinerators. In his letter of August 15, 1984 (Attachment H), Mr. Smart maintains that environmental conditions can constitute special physical conditions. The Commission considered the environmental conditions in making its decision to adopt the coastal incinerator rules. The Department believes that a less restrictive rule would increase the potential for emissions of toxic air contaminants.

Subpart (c) applies in cases where compliance is not economically feasible. The permittee has stated that enforcement of the rule "could very possibly" cause closing down of the operation. The Department requested that the BEF supply economic data including financial reports and temperature recorder cost estimates (Attachments E,F). In response, an earnings statement for 1983 was submitted (see Attachment H). This statement indicates that Brookings Energy Facility incurred a net loss of \$5,740.33 on income revenues totalling \$317,405.26 in 1983. According to Item M on page 3 of Attachment H, representatives of the Brookings Energy Facility do not have any data on the cost of temperature recorders. Based on a cost estimate submitted for the Coos County incinerators (see Attachment G), the Department estimates the cost of compliance to be approximately one thousand dollars.

The permittee maintains that since he is discussing cost reduction possibilities with Curry County officials, additional costs would jeopardize the operation. Disposal costs are generally a small portion of the total cost of handling solid waste, with collection and hauling contributing the major share. Even if compliance resulted in a small increase in disposal rates, the Department would not expect an appreciable increase in the customer billing rate.

While recognizing the net loss incurred at the BEF in 1983, the Department can find no justification for the permittee's request for a variance based on subparts (b) or (c). Subparts (a) and (d), which the permittee did not request consideration under, are not applicable.

ORS 468.345(4) requires consideration of the equities involved and the advantages and disadvantages to residents and to the operator of the BEF. The only other facility subject to the temperature recorder rule is the Coos County incinerator installation at Beaver Hill. This facility had a variance from the particulate emissions limitation which was withdrawn after adoption of the relaxed limits. This facility is required to install and operate temperature recorders. No other facilities burn municipal solid waste in Oregon. A permit issued for the proposed facility in Marion

County, which would be much larger than the coastal incinerators, also requires continuous temperature recording.

The capital expenditure needed to comply with the rule appears to be slight, so there is little probability of a facility closure. If closure occurred, an alternate means of disposal would have to be developed and would most likely offset job losses. Similarly, any outcome of the variance request review is unlikely to affect the competitive position of the facility, since it is not in a competitive market.

Residents of the areas surrounding the facility could be affected by increased emissions of toxic air pollutants and by a change in garbage collection fees. The need for high temperatures to destroy potential toxic air pollutants is not at issue in this variance request, rather the means of documenting the actual operating temperatures. The more reliable and accurate the means, the lower the possibility of increased toxic air pollutant emissions.

A temperature recorder has the advantage of providing a continuous readout. Accuracy is maintained by performing maintenance and calibration checks at an interval appropriate to the specific instrument.

In contrast, manual recording is much less reliable in terms of frequency of recording and accuracy. Human error is not the only disadvantage. Further problems are caused by the variable nature of municipal solid waste. BTU value, moisture content, ash content, and other variables which affect combustion fluctuate. Data must be collected often enough to insure that the proper temperatures are maintained at all times.

The superior ventilation along the Oregon coast assists in removal of pollutants from the ambient air. However, this may not be adequate in the case of toxic contaminants. Effects from toxic air pollutants may result from very low concentrations. Concerns have been raised that these effects may not be seen for many years during which time some pollutants may accumulate in body tissues.

The potential for deviations in temperature control and toxic air pollutant emissions are compared below for each alternative.

Alternative 1: Approval of Variance Request

The request, as submitted, would be a permanent variance. Any impacts from granting the variance would continue for the lifetime of the facility. In addition, the variance request and other communications received from Mr. Pete Smart propose that the temperatures be manually recorded, at times yet to be specified, during the daily operating schedule. No detail on these

specified times or identification of how or by whom the times would be chosen is given.

This alternative has the highest probability of temperature deviations and adverse air pollution effects. Since the variance would be permanent, the effects would continue indefinitely.

Alternative 2: Approval of Modified Variance

Under this alternative, the facility operator would be allowed to manually record temperatures for a specified time period, such as one year from the date of approval. Temperatures would be recorded at each incinerator at five minute intervals during warm-up and at fifteen minute intervals during the combustion phase.

This alternative is a compromise between the rule and the variance request. It provides ample time for the permittee to procure the necessary capital for the recorders. The frequency of manual data collection should help to guard against lengthy temperature drops. The possibility of human error is not diminished, however.

Alternative 3: Approval With Particulate Emissions Limitations

This alternative would allow manual temperature recording and reduce the particulate emissions limit from 0.2 grains per standard cubic foot of exhaust gases to the previous limit of 0.1. Since gaseous toxic air pollutants tend to adsorb onto particulate matter, the loss of control over operating temperature would be compensated for by the increased removal of toxics-laden particulate matter.

Adequate control of toxic emissions would be achieved under this option. However, particulate emission control equipment would probably have to be installed. Coos County estimated that such equipment would cost over \$500,000 for the Coos County facility. Since the cost of this equipment would far exceed the cost of temperature recorders, there does not seem to be an advantage to this alternative.

Alternative 4: Denial of Variance Request

Denial of the variance request would provide the intended control of toxic air pollutant emissions and the associated protection of the public health. Any fluctuation in temperature, either above or below 1800° F, could be readily detected.

This alternative has additional benefits to the incinerator operator. By correlating incinerator temperature and auxiliary fuel usage with other

operating parameters, such as the mix of garbage charged, the need for auxiliary fuel could be minimized. The cost of auxiliary fuel was a major issue raised at the November 21, 1983 hearing. In addition, an employee would be freed from having to manually record the temperatures.

Summary

1. The operator of the Brookings Energy Facility is seeking a variance from OAR 340-21-027(2) which requires the installation of temperature recorders at coastal municipal waste incinerators.
2. OAR 340-21-025 was modified in January 1984 to allow for increased particulate emissions from coastal municipal waste incinerators. OAR 340-21-027 was simultaneously adopted to establish combustion temperature and residence time requirements. The temperature/time requirements are integral to controlling toxic air pollutant emissions at the higher particulate emission rates. The use of temperature recorders was required to insure and document compliance with the temperature requirements.
3. Manual temperature recording would be less effective than automatic recording given the variable composition of municipal solid waste and the possibility of operator error.
4. The president of the Brookings Energy Facility and the Curry County Board of Commissioners did not comment during the public comment period or the public hearing concerning the adoption of OAR 340-21-025 and -027. Objections to the proposed Air Contaminant Discharge Permit requirement of temperature recorders were received from both parties after the permit was re-drafted to include the rule requirements.
5. The applicant has requested the variance on the basis of ORS 468.345(1)(b) and (c) for special physical conditions and cost implications. The applicant has not adequately documented either consideration.
6. Approval of the variance request could result in increased ambient concentrations of toxic air pollutants, due to deviations from the required operating temperatures.
7. The Department has been unable to establish any basis for granting the variance request.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission deny the variance request from OAR 340-21-027(2) for the Brookings Energy Facility.



Fred Hansen

- Attachments:
- A. Request for Variance From Mr. Pete Smart, Brookings Energy Facility
 - B. Air Contaminant Discharge Permit 08-0039, Brookings Energy Facility
 - C. Letter to Board of Commissioners, Curry County, October 4, 1983
 - D. Letter to Pete Smart, October 4, 1983
 - E. Letter to Pete Smart, June 22, 1984
 - F. August 3, 1984 letter from DEQ to Mr. Pete Smart
 - G. Testimony from J.R. Perkins, Public Works Director, County of Coos
 - H. Letter from Pete Smart to EQC, August 13, 1984

WENDY L. SIMS:a
229-5259
August 15, 1984
AA4612

BROOKINGS ENERGY FACILITY
BOX 1240
BROOKINGS, OR 97415

July 14, 1984

RECEIVED
JUL 20 1984

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY CONTROL
RECEIVED
JUL 18 1984

Environmental Quality Commission
P. O. Box 1760
Portland, OR 97207

OFFICE OF THE DIRECTOR

Dear Commissioners:

The purpose of this letter is to request a variance to certain "special conditions" of Air Quality Permit No. 08-0039 as provided by ORS 468.345, subsections 1-a, b, c and 4.

About April 10, 1984 we received a letter with a copy of the proposed permit attached from LLOYD Kostow. This letter was in response to an earlier application from us for renewal of Permit no. 08-0039 and was dated April 4, 1984. In this letter Mr. Kostow invited written comments which were to be considered before final issuance of the permit. We submitted a letter of comment, objecting to two special conditions of the proposed permit. Letters from the Curry County Commission and the city of Brookings (site of the facility) were also sent to Mr. Kostow requesting a variance from those same two special conditions. A letter, dated May 25, 1984, was received from Mr. Kostow informing us that the permit would not be changed. He cited OAR 340-21-027(2) and attached a copy of Permit No. 08-0039 identical to the draft copy received in April. Mr. Kostow also informed us that we may appeal to a representative of the Environmental Quality Commission. This prompted us to send such an appeal to Fred Hansen, Director. We have just received a letter from Mr. Hansen, dated June 22, 1984, from which we quote: "An exemption from the rules would require a variance which can only be granted by the E Q C." Copies of all the above mentioned letters are attached and we would like for their content to be a part of this appeal for variance.

We are requesting a variance to Special Conditions 8 and 10 of Permit No. 08-0039, which conditions require installation and operation of continuous recording pyrometers according to a specific time frame. We propose that we be allowed to manually record lower and upper chamber temperatures at specified times during the daily operating schedule. This request is primarily based on information that has already been detailed in letters to Lloyd Kostow and Fred Hansen (attached and marked).

We believe that the geographic, demographic, and economic situations of Curry County and Brookings Energy Facility are such that a variance should be granted according to ORS 468.345, subsections 1-4. This ORS states that a specific variance shall be granted if the commission finds (1-b) "that strict compliance with the rule or standard is inappropriate because: special circumstances render strict compliance unreasonable, burdensome, or impractical. ." Also (4), "The commission . . . shall consider . . . the advantages and disadvantages to residents and to the person conducting the activity for which the variance is sought." We believe the evidence to show that in this case "strict compliance" to the rules to be unreasonable, burdensome, and impractical when all conditions are considered. We also believe that strict compliance would work to the disadvantage of the residents of Curry County and to B E F, the entity that disposes of the solid waste for the residents.

We urgently request careful consideration of marked sections of all the attached material. Granting of this variance will allow us to continue with the job at hand (disposing of solid waste in a safe and reasonable manner). We are presently discussing possible methods by which disposal costs may be reduced with county officials. Any additional cost could very possibly cause the whole operation to fit into a category to which ORS 368.345, subsection 1c could apply.

We have been operating for some five years in the same spot and even now many residents of the area do not know where the facility is. That should say something about the the lack of pollution of the operation.

Respectfully Yours,

A handwritten signature in cursive script, appearing to read "P. Smart".

Pete Smart, President
Brookings Energy Facility

POLLUTION CONTROL

468.345

issue an order, the failure shall be considered a determination that the construction may proceed. The construction must comply with the plans, specifications and any corrections or revisions thereto or other information, if any, previously submitted.

(5) Any person against whom the order is directed may, within 20 days from the date of mailing of the order, 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 pursuant to the applicable provisions of ORS 183.310 to 183.550.

(6) For the purposes of this section, "construction" includes installation and establishment of new air contamination sources. Addition to or enlargement or replacement of an air contamination source, or any major alteration or modification therein that significantly affects the emission of air contaminants shall be considered as construction of a new air contamination source. [Formerly 449.712]

468.330 Duty to comply with laws, rules and standards. Any person who complies with the provisions of ORS 468.325 and receives notification that construction may proceed in accordance therewith is not thereby relieved from complying with any other applicable law, rule or standard. [Formerly 449.739]

468.335 Furnishing copies of rules and standards to building permit issuing agencies. Whenever under the provisions of ORS 468.320 to 468.340 rules or standards are adopted by either the commission or a regional authority, the commission or regional authority shall furnish to all building permit issuing agencies within its jurisdiction copies of such rules and standards. [Formerly 449.722]

468.340 Measurement and testing of contamination sources. (1) Pursuant to rules adopted by the commission, the department shall establish a program for measurement and testing of contamination sources and may perform such sampling or testing or may require any person in control of an air contamination source to perform the sampling or testing, subject to the provisions of subsections (2) to (4) of this section. Whenever samples for air or air contaminants are taken by the department of analysis, a duplicate of the analytical report shall be furnished promptly to the person owning or operating the air contamination source.

(2) The department may require any person in control of an air contamination source to provide necessary holes in stacks or ducts and

proper sampling and testing facilities, as may be necessary and reasonable for the accurate determination of the nature, extent, quantity and degree of air contaminants which are emitted as the result of operation of the source.

(3) All sampling and testing shall be conducted in accordance with methods used by the department or equivalent methods of measurement acceptable to the department.

(4) All sampling and testing performed under this section shall be conducted in accordance with applicable safety rules and procedures established by law. [Formerly 449.702]

468.345 Variances from air contamination rules and standards; delegation to local governments; notices. (1) The commission may grant specific variances which may be limited in time from the particular requirements of any rule or standard to such specific persons or class of persons or such specific air contamination source, upon such conditions as it may consider necessary to protect the public health and welfare. The commission shall grant such specific variance only if it finds that strict compliance with the rule or standard is inappropriate because:

(a) Conditions exist that are beyond the control of the persons granted such variance; or

(b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or

(c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or

(d) No other alternative facility or method of handling is yet available.

(2) The commission may delegate the power to grant variances to legislative bodies of local units of government or regional air quality control authorities in any area of the state on such general conditions as it may find appropriate. However, if the commission delegates authority to grant variances to a regional authority, the commission shall not grant similar authority to any city or county within the territory of the regional authority.

(3) A copy of each variance granted, renewed or extended by a local governmental body or regional authority shall be filed with the commission within 15 days after it is granted. The commission shall review the variance and the reasons therefor within 60 days of receipt of the copy and may approve, deny or modify the variance terms. Failure of the commission to act on the variance within the 60-day period shall be considered a determination that the variance

granted by the local governmental body or regional authority is approved by the commission.

(4) In determining whether or not a variance shall be granted, the commission or the local governmental body or regional authority shall consider the equities involved and the advantages and disadvantages to residents and to the person conducting the activity for which the variance is sought.

(5) A variance may be revoked or modified by the grantor thereof after a public hearing held upon not less than 10 days' notice. Such notice shall be served upon all persons who the grantor knows will be subjected to greater restrictions if such variance is revoked or modified, or are likely to be affected or who have filed with such grantor a written request for such notification.

[Formerly 449.810]

468.350 Air and water pollution control permit for geothermal well drilling and operation; enforcement authority of director. (1) Upon issuance of a permit pursuant to ORS 522.115, the director shall accept applications for such appropriate permits under air and water pollution control laws as are necessary for the drilling of a geothermal well for which the permit has been issued and shall, within 30 days, act upon such application.

(2) The director shall continue to exercise enforcement authority over a permit issued pursuant to this section; and shall have primary responsibility in carrying out the policy set forth in ORS 468.280, 468.710 and rules adopted pursuant to ORS 468.725, for air and water pollution control at geothermal wells which have been unlawfully abandoned, unlawfully suspended, or completed. [1975 c.552 §34]

468.355 Open burning of vegetative debris; local government authority. (1) The Environmental Quality Commission shall establish by rule periods during which open burning of vegetative debris from residential yard cleanup shall be allowed or disallowed based on daily air quality and meteorological conditions as determined by the department.

(2) After June 30, 1982, the commission may prohibit residential open burning in areas of the state if the commission finds:

(a) Such prohibition is necessary in the area affected to meet air quality standards; and

(b) Alternate disposal methods are reasonably available to a substantial majority of the population in the affected area.

(3)(a) Nothing in this section prevents a local government from taking any of the follow-

ing actions if that governmental entity otherwise has the power to do so:

(A) Prohibiting residential open burning;

(B) Allowing residential open burning on fewer days than the number of days on which residential open burning is authorized by the commission; or

(C) Taking other action that is more restrictive of residential open burning than a rule adopted by the commission under this section.

(b) Nothing in this section affects any local government ordinance, rule, regulation or provision that:

(A) Is more restrictive of residential open burning than a rule adopted by the commission under this section; and

(B) Is in effect on August 21, 1981.

(c) As used in this subsection, "local government" means a city, county, other local governmental subdivision or a regional air quality control authority established under ORS 468.505. [1981 c.765 §2]

MOTOR VEHICLE POLLUTION CONTROL

468.360 Definitions for ORS 468.360 to 468.405. As used in ORS 468.360 to 468.405:

(1) "Certified system" means a motor vehicle pollution control system for which a certificate of approval has been issued under ORS 468.375 (3).

(2) "Factory-installed system" means a motor vehicle pollution control system installed by the manufacturer which meets criteria for emission of pollutants in effect under federal laws and regulations applicable on September 9, 1971, or which meets criteria adopted pursuant to ORS 468.375 (1), whichever criteria are stricter.

(3) "Motor vehicle" includes any self-propelled vehicle used for transporting persons or commodities on public roads and highways, but does not include a motor vehicle of special interest as that term is defined in ORS 481.205 (6)(c).

(4) "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. [Formerly 449.949; 1975 c.870 §4]

CURRY COUNTY OREGON BOARD OF COMMISSIONERS

Donald K. Buffington

Kelly G. Ross

John Glenn Mayea



BOX 746

GOLD BEACH, OREGON 97444

(503) 247-7011

Mack Arch on the Curry Coast

May 15, 1984

Department of Environmental Quality
 Lloyd Kostow, Manager
 P.O. Box 1760
 Portland, Oregon 97207

RE Brookings Energy Facility No. 9047 -- Discharge Permit
 No. 8-0039.

Dear Lloyd:

We respectfully request that you consider deleting items 8 and 10, page 3, from the proposed Air Contaminant Discharge Permit. We feel that the same results could be obtained by a manual recording by the permittee at specified times in the operating schedule.

Curry County leases the equipment to B.E.F. and any impact on them will result in a like impact on Curry County. Under present budget constraints any additional costs would be very difficult for us to cope with. We live in a sparsely populated area with our own "built-in air conditioning system" and we feel this is not necessary for the efficient operation of this facility.

Thank you for your consideration in this matter of great concern to us.

Very truly yours,

John Glenn Mayea
 Chairman

JGM: db

pc: B.E.F.
 Commissioner Ross
 Commissioner Buffington
 City of Brookings



May 25, 1984

Department of Environmental Quality
Lloyd Kostow, Manager
P.O. Box 1760
Portland, Oregon 97207

REFERENCE: Brookings Energy Facility No. 9047
Discharge Permit No. 8-0039

Dear Lloyd:

We realize that our comments are past the May 15, 1984 deadline for comments, but we ask you to consider our comments.

The City staff supports and agrees with the Curry County request for deletion of items 8 and 10 on page 3 of the Discharge Permit No. 8-0039.

Continuous monitoring is needed in an urban setting and/or where air inversions exist, but the Brookings Energy Facility is in a rural area and no air inversion exists. The prevailing winds continuously cleanse the air in the area, and the winds prevail toward a large, forested area.

Continuous monitoring equipment certainly requires more maintenance and accomplishes little toward the daily operations. The proposed alternative of manually recording the maximum and minimum temperatures is a reasonable alternative.

The Brookings Energy Facility proposal may not be ideal but certainly appears to be adequate and could suffice until energy sales reach a sufficient level to purchase the pyrometer.

Curry County and the Brookings Energy Facility budgets will be overly burdened to purchase this equipment. We feel that the operator will make the manual reading alternative work and the plant is designed to reduce pollutants to a minimum.

Thank you for your consideration in this matter.

Respectfully,

Leo Lightle

Leo Lightle
Engineering Technician

LL/dmvm

cc: Brookings Energy Facility
↳ Curry County Commissioners

4/4/84



Department of Environmental Quality

522 SOUTHWEST 5TH AVE. PORTLAND, OREGON

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

April 4, 1984

Brookings Energy Facility, Inc.
P.O. Box 1240
Brookings, OR 97415

Final Date for Submission
of Written Comments:
May 15, 1984

Re: Application No. 9047
Proposed Air Contaminant
Discharge Permit No. 08-0039

Gentlemen:

Your application for renewal of your Air Contaminant Discharge Permit has been reviewed by the Department of Environmental Quality and proposed air contaminant discharge permit provisions have been drafted. You are invited to review the attached copy and submit any comments you may have in writing by the final submission date noted above. If the proposed permit is satisfactory, no response to this notice is necessary.

Enclosed for your information is a copy of the public notice concerning your permit. This notice is published in the Secretary of State's bulletin and distributed to the media and interested individuals.

All comments received will be evaluated by the Department of Environmental Quality and action on your application will be taken in the near future.

Sincerely,

Lloyd Kostow
Lloyd Kostow, Manager
Program Operations
Air Quality Division

JO:a
AA4297

Enclosures

cc: Coos Bay Branch, DEQ
Southwest Region, DEQ

Permit Number: 08-0039
Expiration Date: 2-1-89
Page 3 of 5 Pages

- a. Prior to the initial charge of wastes and for the first 30 minutes of incineration of the initial charge, 1600° F for 1 second.
- b. For the period beginning 30 minutes after the initial charge of wastes to the time of the final charge, 1800° F for 1 second or 1700° F for 2 seconds or a temperature and corresponding residence time linearly interpolated between the aforementioned two points.
- c. For a 2 hour period after the final charge of waste, 1600° F for 1 second.

8. The permittee shall install, calibrate, maintain, and operate according to manufacturer's specifications a continuous recording pyrometer. The pyrometer shall be located at a point within the incinerator exhaust system which has been approved by the Department.
9. The permittee shall not incinerate any materials which may emit potentially poisonous or toxic substances. Materials which are not to be incinerated should include any significant identifiable quantities of pesticides and herbicides, electrical switching gear, or heavy metals such as zinc, cadmium, lead and mercury.

Compliance Demonstration Schedule

10. The permittee shall provide for recording pyrometers as specified in Condition 8 in accordance with the following schedule:
 - a. By no later than 60 days after issuance of this permit, the permittee shall submit detailed plans and specifications, to the Department of Environmental Quality for review and approval.
 - b. By no later than 120 days after issuance of this permit, the permittee shall complete the installation of and place in operation the recording pyrometers.
 - c. Within seven (7) days after item b above is completed, the permittee shall inform the Department in writing that the item has been accomplished.

Monitoring and Reporting

11. The permittee shall effectively inspect and monitor the operation and maintenance of the plant and associated air contaminant control facilities. A record of all such data shall be maintained for a period of two years and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval.

RE: APPLICATION NO. 9047
DISCHARGE PERMIT N08-0039

LLOYD KOSTOW, PROGRAM OP. MGR.
AIR QUALITY DIVISION, D E Q
P O BOX 1760
PORTLAND, OR 97207

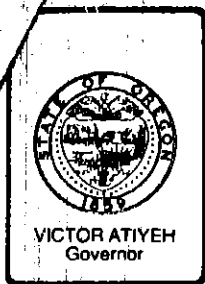
DEAR SIR:

YOUR LETTER OF APRIL 4, WITH THE ENCLOSED DRAFT OF THE PROPOSED DISCHARGE PERMIT NO. 08-0039 HAS BEEN RECEIVED AND REVIEWED. IT IS CLEAR THAT D E Q STAFF HAS APPLIED MUCH TIME AND EFFORT IN THE DEVELOPMENT OF THE PROPOSED PERMIT WITH REGARD TO BOTH GENERAL AND SPECIFIC AIR QUALITY CONTROLS. WE APPRECIATE THE NEED OF MINIMIZING POLLUTION FOR THE OVERALL LIVEABILITY OF OUR STATE AND FOR SAFETY AND WELFARE OF THE PEOPLE.

THERE ARE, HOWEVER, AT LEAST TWO SPECIFICS OF THE PROPOSED PERMIT WHICH, IF APPLIED TO THE OPERATION OF THE B E F INCINERATORS, WOULD SEVERELY IMPACT BOTH THE OPERATORS OF THE FACILITY AND THE PEOPLE OF CURRY COUNTY; THIS WITHOUT ANY APPRECIABLE BENEFIT TO THE LIVEABILITY OF THE AREA OR THE HEALTH AND WELFARE OF THE CITIZENS. THESE THINGS ARE DETAILED ON PAGE 3 OF THE PROPOSED PERMIT, ITEMS 8 AND 10.

WE RESPECTFULLY REQUEST THAT THESE TWO ITEMS BE DELETED IN THEIR ENTIRETY FROM THE PERMIT. WE PROPOSE TO REPLACE THEM WITH A REQUIREMENT THAT THE PERMITTEE MANUALLY RECORD LOWER AND UPPER CHAMBER TEMPERATURES AT SPECIFIED TIMES DURING THE OPERATING SCHEDULE. THE REASONS ARE AS FOLLOWS:

1. DUE TO A COMBINATION OF FACTORS THE INSTALLATION, MAINTENANCE AND OPERATION OF CONTINUOUS RECORDING PYROMETERS WILL ACCOMPLISH LITTLE OR NOTHING TOWARD THE IMPROVEMENT OF AIR QUALITY IN THIS COUNTY OR IN THE STATE OF OREGON.
 - A. INCINERATION EQUIPMENT IN USE IS SPECIFICALLY DESIGNED TO REDUCE POLLUTANTS TO A MINIMUM. SIMILAR EQUIPMENT IS IN USE IN THIS STATE, IN OTHER STATES, AND IN OTHER COUNTRIES, EVEN IN DENSELY POPULATED AREAS.
 - B. B E F INCINERATORS ARE LOCATED IN A RELATIVELY THINLY POPULATED SECTION OF A THINLY POPULATED COUNTY.
 - C. INSTALLATION OF THESE PYROMETERS IS NOT WARRANTED SINCE TEMPERATURE MONITORING EQUIPMENT MINUS THE AUTOMATIC RECORDING FEATURE IS ALREADY A PART OF THE MACHINERY.
 - D. COASTAL WINDS PREVENT AN EXCESSIVE BUILDUP OF STAGNANT AIR IN THE POPULATED AREAS.
 - E. IN PRIOR YEARS D E Q STAFF HAS INDICATED BOTH VERBALLY AT THE SITE AND BY LETTER THAT SUCH EQUIPMENT WAS UNNECESSARY.
2. INSTALLATION AND OPERATION OF SUCH EQUIPMENT [PAGE 3, ITEM 8] IS NOT COST EFFECTIVE AND WOULD WORK UNNECESSARY HARDSHIP ON PEOPLE OF CURRY COUNTY.
 - A. INCINERATION EQUIPMENT WAS PURCHASED BY CURRY COUNTY AND IS BEING OPERATED BY B E F BY A LEASE PURCHASE AND CONTRACT. ANY IMPACT ON THE OPERATOR WILL ALSO IMPACT ALL THE PEOPLE OF CURRY COUNTY.
 - B. CURRY COUNTY AND B E F ARE "PARTNERS" IN THE SOLID WASTE DISPOSAL BUSINESS. UP TO NOW NO MONEYS ARE BEING GENERATED BY THE OPERATION OF THE INCINERATION EQUIPMENT. THERE CAN BE NO REDUCTION IN MARGIN OF PROFIT SINCE THERE IS NONE! PURCHASE OF ANY UNNECESSARY EQUIPMENT IS MORE THAN B E F OR THE PEOPLE OF CURRY COUNTY CAN AFFORD UNDER PRESENT ECONOMIC AND BUDGETARY CONDITIONS. STRENUOUS EFFORTS ARE UNDERWAY TO INITIATE ENERGY RECOVERY WHICH MAY MAKE SUCH EQUIPMENT FEASIBLE.



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

May 25, 1984

Mr. Pete Smart, President
 Brookings Energy Facility, Inc.
 PO Box 1240
 Brookings, OR 97415

Re: Renewal of Air Contaminant
 Discharge Permit No.: 08-0039
 Application No.: 9047

Dear Mr. Smart:

The Department of Environmental Quality has completed processing your permit application. Based upon the material contained in your application, the additional submissions and comments made by you and the comments received in response to the public notice, the Department has issued the enclosed Air Contaminant Discharge Permit. This permit was issued to you pursuant to Oregon Revised Statutes 468.310 and 468.320 and Oregon Administrative Rules, Chapter 340, Divisions 14-005 through 14-050, and 20-140 through 20-185.

Comments on the proposed permit were received from you and from the Chairman of the Curry County Board of Commissioners. Both parties requested that conditions 8 and 10 of the proposed permit, requiring continuous recording pyrometers, be deleted in favor of manual temperature control verification.

Continuous recording pyrometers are required at the Brookings Energy Facility in accordance with Oregon Administrative Rule 340-21-027(2). This regulation was promulgated by the Environmental Quality Commission on January 6, 1984, as part of a package of regulations for small municipal waste incinerators in coastal areas. Prior to adoption, a public hearing on the proposed regulations was held on November 21, 1983. Written comments were also solicited.

DEQ notified you of the proposed rulemaking and the opportunity for comment in a letter dated October 4, 1983. However, DEQ received no comments, either written or oral, on the proposed regulations from any party associated with the Brookings Energy Facility. In particular, no objection to the requirement that continuous recording pyrometers be installed at Brookings was received.

Mr. Pete Smart
May 25, 1984
Page 2

In addition to the pyrometer requirement, the regulations adopted on January 6, 1984 relax the maximum allowable particulate emissions rate. This change was made in recognition of some of the factors highlighted in your letter, including the meteorological and population density characteristics of the coastal areas, and the difficulty in attaining the existing standard with the type of equipment in use along the coast. Temperature requirements were added to insure that the relaxed particulate standards would not result in increased emission of toxic organic compounds, such as dioxin. The continuous recording pyrometers are a necessary tool for insuring compliance with the temperature requirements and, as a result, preventing excessive emissions of organic compounds. On this basis, the contribution of the recording pyrometers to preventing the deterioration of air quality cannot be dismissed.

Not
Continuous recording pyrometers are the most effective way of collecting the required temperature data. They can provide continuous, accurate, and reliable data at an operating cost lower than that which would likely result from effective manual data collection. As a result, the requirement for installation of this equipment is retained in the enclosed permit.

If you wish to appeal any of the conditions or limitations contained in the permit, you may request a hearing before the Environmental Quality Commission or its authorized representative, pursuant to OAR, Chapter 340, Divisions 14-025(5), and 11-005 through 11-140, and ORS Chapter 183. If you have any questions, please contact John Odisio at 229-5057.

You are urged to carefully read the permit and to take all possible steps to comply with the conditions contained therein so as to minimize degradation to the environment of Oregon.

Sincerely,

Lloyd Kostow
Lloyd Kostow, Manager
Program Operations
Air Quality

WS:s
AS113
Enclosure

cc: Southwest Regional Office
Coos County Branch Office
EPA

BROOKINGS ENERGY FACILITY
BOX 1240
BROOKINGS, OR 97444

DISCHARGE PERMIT NO8-0039

FRED HANSEN, DIRECTOR
P O BOX 1760
PORTLAND, OR 97207

DEAR SIR:

DURING THE PAST SEVERAL WEEKS WE HAVE BEEN COMMUNICATING WITH VARIOUS PERSONS IN YOUR AGENCY BOTH BY LETTER AND BY TELEPHONE CONCERNING OUR DISCHARGE PERMIT NO. 08-0039. IN REPLY TO A LETTER FROM LLOYD KASTOW DATED APRIL 4, 1984 WE SUBMITTED CERTAIN COMMENTS WITH REGARD TO THE ABOVE MENTIONED PERMIT (COMMENTS ATTACHED). BOTH CURRY COUNTY AND THE CITY OF BROOKINGS SUBMITTED COMMENTS ABOUT THE PERMIT (ATTACHED). ALL OF THESE COMMENTS WERE FAVORING AMENDMENT OF THE PROPOSED PERMIT. AS WRITTEN, THE PROPOSED PERMIT REQUIRED CONTINUOUS RECORDING PYROMETERS (PG 3, PP 8, 10). ALL THOSE COMMENTING FROM THIS AREA REQUESTED THAT BEF BE ALLOWED TO MANUALLY RECORD EXHAUST TEMPERATURES. WE RECEIVED RENEWAL OF OUR PERMIT NO. 08-0039 WITH AN ATTACHED LETTER FROM MR. KOSTOW DATED MAY 25, 1984. THIS LETTER DENIED THE REQUESTS, RETAINING PP 8 AND 10 IN THE PERMIT.

WE DO NOT FEEL THAT THOSE SPECIFIC CONDITIONS SHOULD BE A PART OF THIS RENEWED PERMIT. PRIOR TO JANUARY 1, 1983, AS A CONCLUSION TO NEGOTIATIONS WITH AIR QUALITY OFFICIALS, OUR PERMIT WAS AMENDED ALLOWING US TO MANUALLY MONITOR AND RECORD THE UPPER AND LOWER CHAMBER TEMPERATURE AT SPECIFIED TIMES AND REPORT THEM ANNUALLY. WE ARE REQUESTING THAT YOU, AS THE AUTHORIZED REPRESENTATIVE OF DEQ, CONSIDER OUR REQUEST AND GRANT THE SAME KIND OF AMENDMENT OR VARIANCE TO OUR RENEWAL PERMIT. SOME REASONS FOR THIS REQUEST CAN BE FOUND IN OUR LETTER OF MAY 14 TO MR. KOSTOW (COPY ATTACHED). WE HAVE ESPECIALLY MARKED SOME STATEMENTS ON THAT COPY. WE ARE SUPPLYING ADDITIONAL INFORMATION AND EXPLANATION AS FOLLOWS:

1. GREAT PROGRESS TOWARD A GOAL OF CLEAN AIR IN CURRY COUNTY HAS BEEN MADE. THIS HAS BEEN AT LARGE INITIAL EXPENSE AS WELL AS LARGE CONTINUING OPERATION EXPENSE TO BOTH THE COUNTY AND THE OPERATORS. ONLY FIVE YEARS AGO ALL WASTE DISPOSAL IN THE COUNTY WAS IN OPEN BURNING DUMPS ("MATCH IN THE CANYON METHOD"). THEY WERE ALWAYS FILLED WITH SMOKE, WASTE PILES PROVIDING A BREEDING PLACE FOR RATS, SKUNKS, AND ALL OTHER TYPES OF VECTORS. NOW, NO PUTRESCIBLE WASTE IS DISPOSED OF IN ITS RAW FORM EXCEPT IN A SANITARY LAND FILL IN THE NORTH COUNTY AND BY A FEW HARD-CORE "DO IT YOURSELF" CITIZENS WHO REFUSE TO USE THE FACILITIES PROVIDED. CURRY COUNTY HAS GONE FROM AT LEAST FIVE OPEN BURNING DUMPS TO THREE WELL OPERATED TRANSFER STATIONS, ONE DEMOLITION AND ASH DISPOSAL SITE AND THE INCINERATOR SITE FOR THE CENTRAL AND SOUTH COUNTY PLUS ONE SANITARY LANDFILL FOR THE NORTH COUNTY AREA. WE ARE PROUD OF THESE ACCOMPLISHMENTS. EVERY RESOURCE THAT WE AND THE COUNTY CAN AFFORD IS BEING USED TO MAINTAIN A HIGH LEVEL OPERATION. FROM OUR VIEWPOINT, THE ADDITION OF EVEN ONE MORE COSTLY REGULATION IS EXTREMELY UNWISE, RISKING THE POSSIBILITY OF LOSING ALL THE PROGRESS THAT HAS BEEN MADE IN THE PAST FIVE YEARS. WHAT WE NEED IS SOME "BREATHING ROOM" TO LET RESOURCES CATCH UP WITH PRIOR PROGRESS WHICH WENT FROM ONE OF THE WORST TO ONE OF THE CLEANEST DISPOSAL SYSTEMS.
2. THE INCINERATOR PLANT HAS BEEN IN OPERATION FOR ABOUT FIVE YEARS WITH NO APPRECIABLE COMPLAINT FROM RESIDENTS IN THE AREA OF THE PLANT. SOME COMPLAINTS ABOUT ODOR AND SMOKE REGISTERED JUST AFTER OUR STARTUP WERE TRACED TO ILLEGAL OPEN BURNING BY RESIDENTS IN THE GENERAL AREA. MANY RESIDENTS OF THE AREA DO NOT EVEN KNOW THE LOCATION OF THE PLANT.

3. VIGOROUS EFFORTS ARE CONTINUALLY MADE BY THE OPERATORS TO KEEP EMISSIONS AT A MINIMUM BY MAINTAINING HIGH TEMPERATURES IN THE MACHINES. THIS IS ACCOMPLISHED BY TAKING CARE TO KEEP A GOOD MIX OF DRY WASTE AND WETTER MATERIAL, THEREBY KEEPING A HOT FIRE.

4. DEQ PERSONNEL INSPECT THE PLANT REGULARLY AND CHECK OPERATING TEMPERATURES OF BOTH THE UPPER AND LOWER CHAMBERS. THESE INSPECTIONS HAVE FOUND THE TEMPERATURES TO BE WITHIN THE PERMITTED TOLERANCES.

5. WE WERE CRITICIZED BY MR. KOSTOW FOR NOT ATTENDING PUBLIC HEARING HELD LAST NOVEMBER CONCERNING RULES FOR MODULAR PLANTS LIKE OURS. WE WERE NOTIFIED OF THE MEETINGS, HOWEVER, THE MATERIAL SENT TO US AND ALL PRESS RELEASES ON THE MEETINGS EMPHASIZED THE INTENT OF DEQ TO R E L A X RULES REGARDING EMISSIONS AND WE RECALL NO MENTION IN ANY NOTICE THAT EVEN HINTED THAT INSTALLATION OF CONTINUOUS RECORDING PYROMETERS WAS GOING TO BE DISCUSSED. SINCE THE EMPHASIS WAS ON RELAXATION OF RULES WE SAW NO NEED TO COMMENT AT THOSE HEARINGS.

WE UNDERSTAND THAT ACCORDING TO DEQ RULES WE NEED TO REQUEST A HEARING FROM THE AUTHORIZED REPRESENTATIVE OF THE AGENCY WITHIN A CERTAIN TIME FRAME. AS THAT REPRESENTATIVE, WE TRUST THAT YOU WILL REVIEW THIS INFORMATION AND TAKE WHAT ACTION IS NECESSARY SO THAT WE CAN CONTINUE TO OPERATE UNDER OUR PERMIT WITH THE SAME PROCEDURES AS IN THE PAST WITH REGARD TO TEMPERATURE MONITORING, RECORDING, AND REPORTING. WE UNDERSTAND THAT THIS LETTER MAILED JUNE 8, 1984 DOES MEET THAT DEADLINE FOR APPEAL.

SINCERELY,

PETE SMART, PRESIDENT
BROOKINGS ENERGY FACILITY, INC.



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

June 22, 1984

Mr. Pete Smart, President
 Brookings Energy Facility, Inc.
 PO Box 1240
 Brookings, OR 97444

Re: Air Contaminant Discharge
 Permit 08-0039

Dear Mr. Smart:

I have reviewed your letter of June 9, 1984 regarding Air Contaminant Discharge Permit 08-0039 for the Brookings Energy Facility. The letter requested that an amendment or variance be made regarding the permit requirement for continuous temperature recorders.

As the Air Quality staff has informed you, under Oregon Administrative Rules (OAR) 340-14-025(5), a permittee can appeal the conditions or limitations of a permit by presenting to the Director a written request for a hearing. However, deletion of permit conditions 8 and 10 regarding recording pyrometers would be a violation of OAR 340-21-027(2), and is consequently beyond the authority of the Director. An exemption from the rules would require a variance, which can only be granted by the Environmental Quality Commission.

The Commission considers specific variance requests in accordance with Oregon Regulatory Statute 468.345 (enclosed). A permittee must demonstrate that compliance with the rule being contested is inappropriate for one of the special circumstances listed in subsections (a) through (d) of the statute. If the variance request is being justified in part or in whole on financial grounds, cost information and other economic data must be provided.

Please note that variances may be limited in time. Historically, the Commission has granted variances only in cases where the permittee demonstrates a need for additional time to meet the permit conditions.

Condition 10 of permit 08-0039 contains a timetable for installation of the recording pyrometer. This condition is enforceable unless a request for a variance is pending before the Commission. Any request for a variance should be presented to the Commission, at the address given above, with the time frame required for submittal of pyrometer plans and specifications.

Sincerely,

Fred Hansen
 Director

FH:s
 AS173

Enclosure

cc: Air Quality Division
 Southwest Regional Office

DEQ/LRAPA Guidance to Applicants for
Air Quality Control Variances

State statutes authorize the EQC and LRAPA Board of Directors to deny, grant, modify or revoke specific variances to air contamination rules and standards, subject to the conditions and limitations of ORS 468.345.

The following requirements and criteria are applicable to all air program variance requests:

First, any variance must meet the conditions of ORS 468.345. If the Commission or Board approves a variance request, it must make a finding, based on the evidence presented, that strict compliance is inappropriate due to any of the conditions below:

- a) Conditions exist that are beyond the control of the persons granted such variance; or
- b) Special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause; or
- c) Strict compliance would result in substantial curtailment or closing down of a business, plant or operation; or
- d) No other alternative facility or method of handling is yet available.

The information, data, reports and documentations supporting at least one of these specific assertions must be submitted by the applicant.

If economic hardship is the basis for requesting a variance, to the extent practicable, the following information should be submitted:

1. Complete copy of most recent financial statement.

At a minimum, this should include a balance sheet and income statement, but any related schedules also should be obtained. (e.g., Statement of changes in financial position, supplemental schedule of administrative expenses, etc.)

2. Complete copies of financial statements for the prior two or three years.
3. Copies of tax returns for the prior two or three years.
4. Detail of ownership. (i.e., Is company owned by a single individual; a family; a wide variety of individuals; another company?)
5. Do the owners of the company in question own any other related companies/ If so, obtain financial statements and tax returns for all such entities.

6. Name and phone number of company's accountant or chief financial officer.
7. Name and phone number of company's outside accountants.
8. A clear, written evaluation and statement by the applicant of the financial consequences of failure to obtain the requested variance.

Secondly, in considering the merits of the request, the Commission or Board must evaluate the equities involved, the advantages and disadvantages to residents affected by the emissions, and to the person conducting the activity for which the variance is sought. The following criteria are typically used to make that evaluation:

- a) Demonstration of good-faith effort to comply prior to applying for the variance;
- b) How the situation of the applicant presents an unusual hardship in comparison with similar sources in the same general area;
- c) What alternate or interim control measures are to be implemented throughout the variance period;
- d) Whether the variance is properly conditioned to protect air quality to the fullest extent, including requirements for inter-

mediate compliance steps, and submittal of plans, specifications and progress reports;

- e) If the requested variance period is the shortest time practicable and compliance will be achieved at the end of it.

The information, data, reports and documentation pertaining to the operation for which the variance is sought must be submitted by the applicant.

The DEQ, or LRAPA staff report will also address these criteria and air quality impact, public health and welfare impacts, equities, advantages and disadvantages.

Under LRAPA rules, variances cannot be for a period of time longer than twelve months from the date of issuance.

Requests for variance must be filed, in writing, with the appropriate DEQ Regional Office, DEQ Headquarters or LRAPA Offices. The information contained in the written request should address the appropriate requirements and criteria listed above as fully as practicable. The request should include supporting documents, data, reports, or correspondence sufficient in scope to allow the Commission/Board to make a specific finding as required by ORS 468.345 and to rule on the request.

The DEQ or LRAPA Director will review the request and, based on the information and supporting material contained therein, will present recommendations including, but not limited to, approval, conditional approval, or denial of the request. The requestor should be prepared to appear at a regularly scheduled EQC or LRAPA Board meeting to support his request to the Commission or Board.

Permit Number: 08-0039
 Expiration Date: 2-1-89
 Page 1 of 5 Pages

AIR CONTAMINANT DISCHARGE PERMIT

Department of Environmental Quality
 522 Southwest Fifth, Portland, OR 97204
 Mailing Address: Box 1760, Portland, OR 97207
 Telephone: (503) 229-5696

Issued in accordance with the provisions of ORS 468.310

ISSUED TO:

Brookings Energy Facility, Inc.
 P.O. Box 1240
 Brookings, OR 97415

INFORMATION RELIED UPON:

Application No. 9047
 Date Received: 1-13-84

PLANT SITE:

3/4 of a mile off of Highway 101
 on Carpenterville Road,
 Brookings, Oregon

ISSUED BY DEPARTMENT OF ENVIRONMENTAL QUALITY

Fred Hansen
 FRED HANSEN, Director

May 25, 1984
 Dated

Source(s) Permitted to Discharge Air Contaminants:

<u>Name of Air Contaminant Source</u>	<u>Standard Industry Code as Listed</u>
Incinerator - 1000 pounds per hour and greater capacity	4953

Permitted Activities

The permittee is herewith allowed to discharge exhaust gases containing air contaminants only in accordance with the permit application and the limitations contained in this permit. Until such time as this permit expires or is modified or revoked, the permittee is herewith allowed to discharge exhaust gases from those processes and activities directly related or associated thereto in accordance with the requirements, limitations, and conditions of this permit from the air contaminant source(s) listed above.

The specific listing of requirements, limitations and conditions contained herein does not relieve the permittee from complying with all other rules and standards of the Department, nor does it allow significant levels of emissions of air contaminants not limited in this permit or contained in the permit application.

Performance Standards

1. The permittee shall at all times maintain and operate all air contaminant generating processes and all contaminant control equipment at full efficiency and effectiveness, such that the emissions of air contaminants are kept at the lowest practicable levels.
2. Particulate emissions from each incinerator shall not exceed 0.2 grains per standard cubic foot corrected to 12% CO₂.
3. Visible emissions from either incinerator shall not equal or exceed an opacity of twenty percent (20%) for a period aggregating more than three (3) minutes in any one (1) hour.
4. The permittee shall not use any distillate fuel oil containing more than:
 - a. 0.3 percent sulfur by weight for ASTM Grade 1.
 - b. 0.5 percent sulfur by weight for ASTM Grade 2.
5. The permittee shall minimize fugitive dust emission by:
 - a. Oiling, watering, or paving, or otherwise treating vehicular traffic areas of the plant site under the control of the permittee.
 - b. Soaking the ash from the incinerators with water prior to disposal in the landfill trench.

Plant Site Emission Limit (PSEL)

6. Emissions from the sources listed shall not exceed the following:

<u>Source</u>	<u>Particulate</u> <u>lbs/hr</u>	<u>tons/yr</u>	<u>CO</u> <u>tons/yr</u>	<u>NO_x</u> <u>tons/yr</u>	<u>VOC</u> <u>tons/yr</u>	<u>SO_x</u> <u>tons/yr</u>
Burner #1	10.2	11.8	59	5.1	2.6	4.2
Burner #2	10.2	11.8	59	5.1	2.6	4.2
Fugitives	Negligible		-	-	-	-
Totals	<u>20.4</u>	<u>23.7</u>	<u>118</u>	<u>10.1</u>	<u>5.1</u>	<u>8.5</u>

Special Conditions

7. The permittee shall maintain minimum exhaust gas temperatures and residence times as follows:

- a. Prior to the initial charge of wastes and for the first 30 minutes of incineration of the initial charge, 1600° F for 1 second.
 - b. For the period beginning 30 minutes after the initial charge of wastes to the time of the final charge, 1800° F for 1 second or 1700° F for 2 seconds or a temperature and corresponding residence time linearly interpolated between the aforementioned two points.
 - c. For a 2 hour period after the final charge of waste, 1600° F for 1 second.
8. The permittee shall install, calibrate, maintain, and operate according to manufacturer's specifications a continuous recording pyrometer. The pyrometer shall be located at a point within the incinerator exhaust system which has been approved by the Department.
 9. The permittee shall not incinerate any materials which may emit potentially poisonous or toxic substances. Materials which are not to be incinerated should include any significant identifiable quantities of pesticides and herbicides, electrical switching gear, or heavy metals such as zinc, cadmium, lead and mercury.

Compliance Demonstration Schedule

10. The permittee shall provide for recording pyrometers as specified in Condition 8 in accordance with the following schedule:
 - a. By no later than 60 days after issuance of this permit, the permittee shall submit detailed plans and specifications, to the Department of Environmental Quality for review and approval.
 - b. By no later than 120 days after issuance of this permit, the permittee shall complete the installation of and place in operation the recording pyrometers.
 - c. Within seven (7) days after item b above is completed, the permittee shall inform the Department in writing that the item has been accomplished.

Monitoring and Reporting

11. The permittee shall effectively inspect and monitor the operation and maintenance of the plant and associated air contaminant control facilities. A record of all such data shall be maintained for a period of two years and be available at the plant site at all times for inspection by the authorized representatives of the Department. At least the following parameters shall be monitored and recorded at the indicated interval.

<u>Parameter</u>	<u>Minimum Monitoring Frequency</u>
a. The amount of solid waste incinerated	Monthly
b. Fuel consumption (total)	Monthly
c. Secondary chamber temperature	Continuous

12. The permittee shall report to the Department by January 15 of each year this permit is in effect the following information for the preceding calendar year:

- Quantity of solid waste incinerated on annual basis.
- Maximum quantity of solid waste incinerated per day (calculated or actual).
- Quantities and types of fuels used on annual basis.
- Maximum quantity of fuel used per day.

Fee Schedule

13. The Annual Compliance Determination Fee for this permit is due on January 1 of each year this permit is in effect. An invoice indicating the amount, as determined by Department regulations, will be mailed prior to the above date.

P08003.9

General Conditions and Disclaimers

- G1. The permittee shall allow Department of Environmental Quality representatives access to the plant site and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to this permit.
- G2. The permittee is prohibited from conducting open burning except as may be allowed by OAR Chapter 340, Sections 23-025 through 23-115.
- G3. The permittee shall notify the Department in writing using a Departmental "Notice of Construction" form, or Permit Application Form, and obtain written approval before:
- a. Constructing or installing any new source of air contaminant emissions, including air pollution control equipment, or
 - b. Modifying or altering an existing source that may significantly affect the emission of air contaminants, or
 - c. Making any physical change which increases emissions, or
 - d. Changing the method of operation, the process, or the fuel use, or increasing the normal hours of operation to levels above those contained in the permit application and reflected in this permit and which result in increased emissions.
- G4. The permittee shall notify the Department at least 24 hours in advance of any planned shutdown of air pollution control equipment for scheduled maintenance that may cause a violation of applicable standards.
- G5. The permittee shall notify the Department by telephone or in person within one (1) hour of any malfunction of air pollution control equipment or other upset condition that may cause a violation of the applicable standards or within one (1) hour of the time the permittee knew or reasonably should have known of its occurrence. Such notice shall include the nature and quantity of the increased emissions that have occurred and the expected duration of the breakdown. The Departmental telephone numbers are:
- | | | | |
|----------|----------|-----------|----------|
| Portland | 229-5263 | Medford | 776-6010 |
| Salem | 378-8240 | Pendleton | 276-4063 |
| Bend | 388-6146 | | |
- G6. The permittee shall at all times conduct dust suppression measures to meet the requirements set forth in "Fugitive Emissions" and "Nuisance Conditions" in OAR Chapter 340, Sections 21-050 through 21-060.
- G7. Application for a modification of this permit must be submitted not less than 60 days prior to the source modification. A Filing Fee and an Application Processing Fee must be submitted with an application for the permit modification.
- G8. Application for renewal of this permit must be submitted not less than 60 days prior to the permit expiration date. A Filing Fee and an Annual Compliance Determination Fee must be submitted with the application for the permit renewal.
- G9. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
- G10. This permit is subject to revocation for cause as provided by law.



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

October 4, 1983

Board of Commissioners
Curry County
Curry County Courthouse
Gold Beach, OR 97444

Re: Public Hearing on Proposed
Coastal Incinerator Rule

Gentlemen:

Enclosed is the announcement of a public hearing on a proposal by the Department of Environmental Quality to adjust its rules for small municipal waste incinerators operated on the coast of Oregon.

The hearing will be considered for authorization at the October 7, 1983 Environmental Quality Commission meeting to be held in Portland at 9:00 a.m. at 522 S.W. 5th, room 1400.

The hearing is set for November 21, 1983 at 12:00 noon, the Monday of Thanksgiving week, in the City Council Chambers at Seaside's City Hall, 851 Broadway. See ATTACHMENT B of the enclosed for details. If you desire to testify at Seaside after 2:00 p.m., please notify the undersigned so that the hearing will not be adjourned before you are able to testify.

Your interest is understood and your comments will be taken into consideration.

Sincerely,

Peter B. Bosserman
Senior Environmental Engineer
Air Quality Division

FBB:a
AA3885
Enclosure: Complete Proposed Rule Package
(Agenda Item D)

cc: Coz Bay Office



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

October 4, 1983

Pete Smart
 Brookings Energy Facility
 Box 1240
 Brookings, OR 97415

Re: Public Hearing on Proposed
 Coastal Incinerator Rule

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Enclosed is the announcement of a public hearing on a proposal by the Department of Environmental Quality to adjust its rules for small municipal waste incinerators operated on the coast of Oregon.

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Sincerely,

Peter B. Bosserman
 Senior Environmental Engineer
 Air Quality Division

PBB:ia
 AA3885
 Enclosure: Complete Proposed Rule Package
 (Agenda Item D)



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

June 22, 1984

Mr. Pete Smart, President
Brookings Energy Facility, Inc.
PO Box 1240
Brookings, OR 97444

Re: Air Contaminant Discharge
Permit 08-0039

Dear Mr. Smart:

I have reviewed your letter of June 9, 1984 regarding Air Contaminant Discharge Permit 08-0039 for the Brookings Energy Facility. The letter requested that an amendment or variance be made regarding the permit requirement for continuous temperature recorders.

As the Air Quality staff has informed you, under Oregon Administrative Rules (OAR) 340-14-025(5), a permittee can appeal the conditions or limitations of a permit by presenting to the Director a written request for a hearing. However, deletion of permit conditions 8 and 10 regarding recording pyrometers would be a violation of OAR 340-21-027(2), and is consequently beyond the authority of the Director. An exception from the rules would require a variance, which can only be granted by the Environmental Quality Commission.

The Commission considers specific variance requests in accordance with Oregon Regulatory Statute 468.345 (enclosed). A permittee must demonstrate that compliance with the rule being contested is inappropriate for one of the special circumstances listed in subsections (a) through (d) of the statute. If the variance request is being justified in part or in whole on financial grounds, cost information and other economic data must be provided.

Please note that variances may be limited in time. Historically, the Commission has granted variances only in cases where the permittee demonstrates a need for additional time to meet the permit conditions.

Condition 10 of permit 08-0039 contains a timetable for installation of the recording pyrometer. This condition is enforceable unless a request for a variance is pending before the Commission. Any request for a variance should be presented to the Commission, at the address given above, with the time frame required for submittal of pyrometer plans and specifications.

Sincerely,

Original Signed by
Fred Hansen

Fred Hansen
Director

JUN 28 1984

FH:is
AS173
Enclosure
cc: Air Quality Division
Southwest Regional Office



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

August 3, 1984

Mr. Pete Smart, President
Brookings Energy Facility
PO Box 1240
Brookings, OR 97415

Dear Mr. Smart:

Your request for a variance from certain conditions of Air Contaminant Discharge Permit 08-0039 has been received by the Department. The request will be submitted to the Environmental Quality Commission for the September 14, 1984 meeting in Bend. You will be given the opportunity to provide comments to the Commission at that time.

A report is enclosed which explains the process used by the Commission to evaluate a variance request. It also highlights the responsibilities of the applicant for providing supporting information. Pages 2 and 3 detail the information which should be submitted if the basis for the variance request is economic hardship. Note that Item 8 requires an explanation of the financial consequences of not obtaining the variance, i.e., the cost of obtaining and installing the required equipment. The letter of June 22, 1984 from Fred Hansen, Director of DEQ, to you mentioned that this information is required.

You have also cited 468.345 (1)(b) in the variance request. This subsection applies to "special physical conditions." It would be helpful if you could document precisely what special physical conditions exist at your facility. In other words, what is the space restriction or other physical problem which prevents installation of the required equipment?

The information just described must be available to the Commission if they are to make an informed decision on your request. Failure to submit the information would not seem to be to your benefit. Because of the scheduling deadlines involved, it is important that we receive any further input from you by August 15, 1984.

If you have any further questions, please contact Wendy Sims of the Air Quality Division at 229-5259 or Reuben Kretzschmar of the Coos Bay Branch Office at 269-2721.

Sincerely,

Lloyd Kostow, Manager
Program Operations
Air Quality Division

WS:s
AS351
Enclosure
cc: Coos Bay Branch Office
Southwest Region Office

County of Coos

HIGHWAY DEPARTMENT
 COOS COUNTY COURTHOUSE
 COQUILLE, OREGON 97423

November 2, 1983

Department of Environmental Quality
 Attn: Peter B. Bosserman
 Senior Environmental Engineer
 Air Quality Division
 522 S.W. Fifth Avenue
 Box 1760
 Portland OR 97207

State of Oregon
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 RECEIVED
 NOV 08 1983

AIR QUALITY CONTROL

RE: Proposed Amended Rule

Dear Mr. Bosserman:

The Coos County Solid Waste Department supports the proposed change in the emission limits and requirements. The increase to .2 grains per cubic foot will allow us to operate without a variance to the permit.

The proposed requirements regarding temperature and time should present no problems as we are currently operating at these levels. The units are now equipped with pyrometers but not recorders.

A requirement for continuous recording would necessitate purchasing and installing this extra equipment. While this is not a great cost (est. of \$500.00 per unit x 4) it along with the continuing service and maintenance, does add another cost to the facility. We would therefore propose a requirement for the plant operator to log the temperatures, each 1/2 hour on start up and shut down, each hour during continuous operation.

Sincerely,
 COOS COUNTY HWY DEPT.

J. R. Perkins
 J. R. Perkins,
 Public Works Director

JRP/de

c.c. County Counsel
 Board of Commissioners

DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
AUG 13 1984

Brookings Energy Facility
Post Office Box 1240
Brookings, OR 97415

August 13, 1984

AIR QUALITY CONTROL
STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
AUG 17 1984

Environmental Quality Commission
Post Office Box 1760
Portland, OR 97207

OFFICE OF THE DIRECTOR

Dear Commissioners:

This letter is continuing our urgent request for a variance as described in our letter of July 14, 1984 (attached as Exhibit A).

Due to being allowed only a few days to submit certain information in preparation for your meeting September 14, 1984 in Bend (Exhibit K) we are forced to abbreviate this letter by referring to prior correspondence by "Exhibits." (copies all attached) We do this since we have no way to know that you have all the information we have sent previously.

Our request is being made on the basis of (1) Common sense, (2) ORS 468.345 subsections 1-4, and (3) Economic Hardship. These three items will be addressed individually although at certain points the discussion will overlap.

(1)Common sense: It is unreasonable to assume that the legislature meeting in air conditioned rooms in Salem or DEQ staff working in similar quarters can know more about the quality of the air in rural Curry County than the people who live, work, and breathe here every day. This facility has been in operation for five years yet no visitor to Brookings from anywhere has ever registered any complaint about pollution of the air. We see no need to change something that is working so well. (See Exhibits C and D). Also see page 2, Exhibit A, underlined in red. Please also note marked sections of Exhibit G. We repeat our statement of July 14, 1984 (borrowed from ORS 358.345); We believe that strict compliance to the rules of DEQ in this case to be unreasonable, burdensome, and impractical. . . "

(2)ORS 368.345: This statute gives authority to grant variances to OAR 340-21-027 to the Environmental Quality Commission if it finds strict compliance to be inappropriate. We believe subsection (1)(b) to apply particularly to Curry County's position and situation, with regard to both "common sense" and "economic hardship": see Exhibit B. Mr Kostow, in his letter (Exhibit K) interprets "physical" to mean "space restriction". We do not agree with that limited definition of "physical"condition." It could also be applied to environmental conditions which are also physical.

Subsection (4) has a bearing on Curry county's situation in that it obligates the body authorized to grant variances to give consideration to equities involved and to weigh advantages and disadvantages to residents of the area. At this point the discussion of ORS 368.345 certainly crosses into the economic situation.

115

(5) Economic hardship: As Commissioner Mayea explains in his letter to D E Q (Exhibit C) the arrangement for solid waste disposal in Curry County is a cooperative effort of public and private entities. At present county funds pay about 70% of solid waste disposal costs, meaning that increased costs could affect costs by all residents of the county. The impending shut-down of one of the largest employers in Curry County will make increased costs in the future even harder to take. As now operating, the system is doing the job well, particularly when compared to the situation only a few years ago (see Exhibit I, page 1-red marked). Brookings Energy Facility has continually operated at a loss even with everyone involved "chipping in". Anyone who has closely observed the operation can testify that it is run using the least expense as possible. If A N Y expense is added, everyone - - - Curry residents, Curry County Agencies, and operators of B E F will feel it. A negative margin of profit simply means that there is no room for any non-profit making expenditures. We know that the added equipment we are being asked to install and maintain and operate is not designed or expected to make any profit for anybody.

Since our time is limited (we work in solid waste disposal and do not have an office staff and secretaries), we will curtail our remarks here except to respectfully request that the commission carefully consider all the attached Exhibits. Our accountant is Jeff Kemp who may be reached at 247-7216 in Gold Beach. The County Commissioners can be reached in Gold Beach at 247-7011.

We will make every effort to be in attendance at your meeting in Bend although that could be difficult since we have no travel budget or replacement personnel for our everyday jobs. We have also asked county officials to attend.

Respectfully Yours,



Pete Smart, President
Brookings Energy Facility

LIST OF ATTACHED EXHIBITS

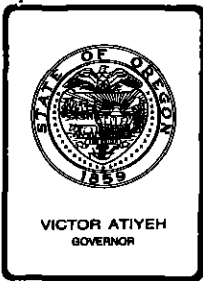
	<u>Location in Staff Report*</u>
A. letter to EQC from BEF-7/14/84	see Attachment A
B. ORS 468.345	see Attachment A
C. letter to DEQ from Curry County Commissioners-5/14/84	see Attachment A
D. letter to DEQ from City of Brookings-5/25/84	see Attachment A
E. letter to BEF from DEQ-4/4/84	see Attachment A
F. page 3 of Permit #08-0039	Attachment B
G. letter to DEQ from BEF-5/14/84	see Attachment A
H. letter to BEF from DEQ-5/25/84	see Attachment A
I. letter to DEQ (Hansen) from BEF-6/2/84	see Attachment A
J. letter from DEQ to BEF-6/22/84	Attachment E
K. letter from DEQ to BEF-8/3/84	Attachment F
L. Earnings statement for BEF 1983	attached
M. Detail of cost of purchase, installation, and maintenance did not reach us intime--can be supplied later	

* This column added by DEQ

Exhibit L

BROOKINGS ENERGY FACILITY
EARNINGS STATEMENT
1/ 1/83 TO 12/31/83

	QUARTER		YEAR-TO-DATE	
	\$	%	\$	%
REVENUE				
COUNTY ADVANCES	\$ 57,179.57	63.3%	\$ 228,409.21	75.9%
TIPPING FEES	32,396.66	35.9	71,450.78	23.7
CARDBOARD SALVAGE	790.32	0.9	1,104.08	0.4
TOTAL REVENUE	\$ 90,366.55	100.0%	\$ 300,964.07	100.0%
OPERATING EXPENSES				
WAGES & SALARIES EXP	\$ 16,147.13	17.9%	\$ 65,868.09	21.9%
PAYROLL TAXES EXP	1,388.85	1.5	6,580.21	2.2
SUPPLIES EXPENSE	1,038.98	1.1	1,639.16	0.5
REPAIRS-MAINTENANCE	6,130.71	6.8	2,941.03	1.0
ADVERTISING EXPENSE	48.01	0.1	58.01	0.0
UTILITIES EXPENSE	926.02	1.0	3,527.90	1.2
PROFESSIONAL FEES	729.00	0.8	1,804.00	0.6
VEHICLE EXPENSE	24.85	0.0	241.25	0.1
INSURANCE EXPENSE	2,042.69	2.3	7,270.02	2.4
TELEPHONE EXPENSE	1,154.39	1.3	2,432.00	0.8
DUES, LICENSES, FEES	340.00	0.4	360.00	0.1
PROPERTY TAXES EXP.	178.20	0.2	178.20	0.1
FACILITY LEASE \$1331	5,324.00	5.9	17,303.00	5.7
OFFICE EXPENSE	15.10	0.0	85.84	0.0
TRAVEL EXPENSE			235.00	0.1
RENT EXPENSE	750.00	0.8	750.00	0.2
FUEL EXPENSE			16.09	0.0
PROPANE	268.39	0.3	897.38	0.3
EMPLOYEE BENEFITS			600.00	0.2
HOUSING	750.00	0.8	2,970.00	1.0
LAND LEASE	1,350.00	1.5	5,400.00	1.8
TIRES	1,494.92	1.7	3,767.53	1.3
ORGANIZATION EXPENSE	(134.00)	0.1		
FREIGHT			353.92	0.1
TOTAL OPERATING EXPENSES	\$ 39,967.24	44.2%	\$ 125,278.63	41.6%
OPERATING PROFIT (LOSS)	\$ 50,399.31	55.8%	\$ 175,685.44	58.4%
OTHER INCOME				
SAIF DIVIDEND			\$ 85.00	0.0%
-W.C. DISPOSAL FEES	2,145.50	2.4	9,855.19	3.3
HORTON OVERCHARGE	6,501.00	7.2	6,501.00	2.2
TOTAL OTHER INCOME	\$ 8,646.50	9.6%	\$ 16,441.19	5.5%
OTHER EXPENSE				
INTEREST EXPENSE	\$ 1,081.30	1.2%	\$ 56,636.96	18.8%
BEF HAULING ASH	600.00	0.7	2,400.00	0.8
STATE EXCISE TAX	10.00	0.0	10.00	0.0
-W.C. HAULING	1,525.00	1.7	6,100.00	2.0
-W.C. LABOR	2,550.00	2.8	10,200.00	3.4
-W.C. CAT WORK	1,625.00	1.8	6,500.00	2.2
-W.C. SUPERVISION	675.00	0.7	2,700.00	0.9
DEPRECIATION EXPENSE	28,195.00	31.2	112,780.00	37.5
ORGANIZATION EXP.	272.00	0.3	540.00	0.2
TOTAL OTHER EXPENSE	\$ 36,533.30	40.4%	\$ 197,866.96	65.7%
NET PROFIT (LOSS)	\$ 22,512.51	24.9%	\$ (5,740.33)	1.9%



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. K, September 14, 1984, EQC Meeting

Informational Report: Status of Open Burning Solid Waste Disposal Sites

Background

Open burning of solid waste materials is generally considered to be an unacceptable practice. It is allowed only in cases where no other alternative is available. Of the approximately 200 disposal sites receiving municipal waste in the state at the passage of ORS 459 by the 1971 Legislature, over 70% were open burning dumps. Through a statewide solid waste planning process conducted in the 1973-75 period, and subsequent implementation, most of these open dumps have been converted to landfills or transfer stations, or closed. The Department has continued to exert pressure on open burning dumps with additional closures or upgrades occurring each year.

OREGON REGULATION

ORS 459 does not specifically prohibit open burning, but policy statements indicate that more sanitary, efficient and economical methods of disposal should be developed. The EQC adopted a policy statement in 1971 which includes the following:

" . . . when acting on questions of solid waste disposal, [the Department] shall place primary emphasis on salvage, recycling and reconstitution of solid waste. Incineration of solid waste shall be permitted only where no other method of disposal is feasible . . ."

Division 61 of the Department's rules states:

"OAR 340-61-040(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."

In spite of this negative attitude toward open burning garbage, the Department has supported variances to its rule to allow open burning in specific situations for cause. Two basic categories of open burning variance have been presented to and approved by the Commission:

(1) temporary variances to allow local officials time to plan for and construct replacement facilities or to upgrade open burning dumps (such as Seaside and Cannon Beach) and (2) long-term variances on small sites that have no significant impact on the environment and have no concerted planning for replacement (such as Adel and Plush). Twelve disposal sites are presently operating under variances granted by the EQC. Half of these would be termed temporary. There are additional rural sites in eastern Oregon which are unattended and burn regularly or occasionally without variances in violation of Solid Waste Disposal Permits. The Department has held open burning at rural disposal sites a low priority item. Impact on the environment is typically minimal and the amount of waste involved is also minimal.

The Department now intends to put all open burning disposal sites on some type of formal status approved by the Commission. Permits with reasonable, meaningful and enforceable conditions will be issued. This effort will require that all open burning sites be divided into categories of short-term correctable sites and long-term sites with no reasonable alternative.

An internal interdivisional task force is proposed to examine the open burning problem and develop the following:

1. Air quality impacts of open burning.
2. Groundwater impacts from disposal at site.
3. Identification of those sites which need upgrading to sanitary landfill operating standards.
4. Identification of sites which should be closed.
5. Identification of sites where open burning is the most environmentally suitable solid waste disposal option.

For those sites where the task force believes open burning should continue, some recommendations on how to accomplish this within the confines of federal law will be sought. If a scheme where limited open burning at disposal sites is possible which is legal under federal law, but not under existing Oregon law, recommendations on the necessary changes in state statutes will be made.

FEDERAL REGULATION

In October 1976, the Resource Conservation and Recovery Act (RCRA) was enacted by Congress. The two major provisions were Subtitle C - Hazardous Waste and Subtitle D - Solid Waste. Under Subtitle D, the Environmental Protection Agency (EPA) was directed to develop "minimum criteria for determining what solid waste disposal facilities and practices pose no reasonable probability of adverse effects on health or the environment."

The criteria were also to provide the standard to be applied by the federal district courts in determining whether parties have engaged in acts that violate the prohibition of open dumping.

The sanitary landfill criteria were published in the Federal Register September 13, 1979. Although the Regulation Preamble indicated findings of "no reasonable probability of adverse effects," the criteria are inflexible on open burning. 40 CFR Part 257 Subsection 257.3-7 states "the facility or practice shall not engage in open burning of residential, commercial, institutional or industrial solid waste."

During the initial years of RCRA (1976-80), the Department received grant funds from EPA under Subtitle D to develop a state solid waste management plan and conduct an open dump inventory. The state plan was adopted by the EQC in January 1981 and the open dump inventory was substantially completed. There are 28 Oregon sites on that list. Most of these are listed for open burning. It should be pointed out that this "state plan" under RCRA was a necessary activity to funding the state solid waste program and was separate from earlier DEQ-sponsored solid waste management plans.

EPA has no direct enforcement powers in solid waste; however, the federal law does provide for citizen lawsuit. Section 7002 of the Act provides that any person (very broadly defined in the Act) may commence a civil action in federal district court against any person "who is alleged to be in violation of any permit, standard, regulation, condition, requirement or order which has become effective pursuant to this Act." Disposal sites under a compliance schedule established by a state plan are protected from citizen suit. Original wording in the law gave protection for 5 years from the date of publication of the open dump inventory. This wording was used in the state solid waste management plan which was approved by EPA. The first open dump inventory was published on May 29, 1981; thus, the date the Department had been working against is May 29, 1986.

The Department has recently learned that the May 29, 1986 date was affected by an amendment to RCRA on October 21, 1980. The wording "5 years from the date of publication of the inventory" was changed to "5 years from the date of publication of the criteria." As the criteria were published on September 13, 1979, the final date for protection against citizen suit is September 13, 1984. For unknown reasons, EPA overlooked the state's proposed enforcement program, which clearly extended beyond 1984, when it approved the Oregon state plan June 22, 1981.

Open burning of most solid waste is prohibited by the criteria. Thus, after September 13, 1984, all sites which open burn domestic solid waste (or otherwise violate federal sanitary landfill criteria) are subject to citizen suit. There is no general agreement among the states and EPA as to the significance of this. Initial contacts with Kenneth Schuster, EPA-Washington, indicate that only the site operator is subject to suit in federal court. Mr. Schuster has the only active program authority presently at EPA. His indication was that as long as the state is receiving no funding for solid waste activity, the Department is not

subject to suit. It may be that the only suable remedy under RCRA is halting "open dumping" and/or closure of the open dump. EPA has played no role in domestic solid waste matters since 1981.

In regard to the open dumps listed in the inventory, the introduction to the latest EPA-written update, published in 1984, states:

"In EPA's view, the open dumping prohibition is a provision of Federal law which stands on its own, separate from the State planning program. The inventory of open dumps is a publication of State findings from State planning efforts to satisfy the requirement of Section 4003 [state program funding] of the Act. The inclusion of a facility in the list of open dumps is not an administrative determination by EPA that any particular parties are engaging in the prohibited act of open dumping.

"A determination for purposes of the open dump inventory need not precede an open dumping suit. However, before the results of the inventory may be used to support a legal determination that open dumping has occurred, the court would have to determine that the classification was a correct application of the criteria and that the defendant was responsible for actions violating the criteria. The court would be obliged to review the sufficiency of the State's classification of a facility and not simply defer to the State's decision."

In fewer words, EPA does not intend the appearance of a disposal site on the inventory to constitute any conclusive finding usable in a citizen-initiated lawsuit.

EPA Region 10 (Seattle) is aware of two citizen suits in the region. Cedar Hills Landfill, Seattle, and Tillamook Landfill, Tillamook, Oregon, are both being sued for "open dumping." Both cases have been in federal court for approximately two years and neither have come to trial (Tillamook trial is scheduled for September 5-7, 1984).

The questions of who is subject to citizen suit and what remedies can be pleaded for have been referred to the Attorney General's Office for investigation and clarification.

CONCLUSION

The Department proposes that no action be taken at this time in regard to those sites with outstanding variances. However, with the current status of federal law, new variances contrary to EPA landfill criteria should not be granted and other actions should be suspended until the proposed task force has had time to examine open dumping in general and to explore alternatives. The variance request on behalf of Seaside and Cannon Beach (Clatsop County) is unique and is proposed to be acted on at this meeting (see Agenda Item No. L).

The Department is notifying all sites listed on the open dump inventory plus any others that may be violating federal sanitary landfill criteria, of the current applicability of federal law to their activities.

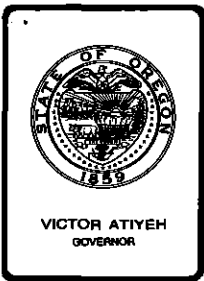
Director's Recommendation

It is the Director's recommendation that the Commission concur with the course of action outlined above by the Department.



Fred Hansen

Robert L. Brown:c
229-5157
August 22, 1984
SC1713



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, September 14, 1984, EQC Meeting

Request by Clatsop County for Extension of Variance from Rules Prohibiting Open Burning of Solid Waste at Seaside and Cannon Beach Disposal Sites (OAR 340-61-040(2))

Background

Two Clatsop County disposal sites (Seaside and Cannon Beach) have been granted a series of variances to allow for continued open burning of solid waste while the County established an adequate disposal system. When the last variance extension was granted (Agenda Item No. O, October 7, 1983 EQC Meeting, see Attachment I), the cities had joined with the County and provided money to fund a staff person to coordinate a program leading to closure of all existing disposal sites by November 1, 1984.

Since October 1983, staff and a local technical committee consisting of representatives of each city and the County have looked at the following options:

1. Construction of an incinerator.
2. Establishment of a landfill at the proposed Perkins Road site.
3. Upgrade and use of the Astoria disposal site for an interim period of time.
4. Construction of transfer stations and transfer of waste out of the County (to Raymond, Washington or McMinnville, Oregon).

The option of transfer of all Clatsop County garbage out of the County has been identified as the best option by the technical committee. Private collectors have negotiated a 15-year contract with a private disposal site operator in Raymond, Washington, and have begun design of transfer facilities at the Seaside and Astoria dump sites. The Department has agreed that transfer is a viable option.

The Department has received a request from the County through the County Solid Waste Coordinator on behalf of the operators of the Seaside and Cannon Beach disposal sites to extend the two variances past the

November 1, 1984 expiration date to allow for construction of the transfer stations (see Attachment II). The request is for an extension of nine months (until August 1, 1985). The Commission may grant a variance in accordance with ORS 459.225 if the following conditions are met:

"ORS 459.225(3) The commission shall grant a variance or conditional permit only if:

- (a) Conditions exist that are beyond the control of the applicant.
- (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."

One vital element of the system needs to be completed before construction begins. The two private operators proposing to construct the transfer stations need separate agreements with all cities in Clatsop County to assure the waste volume and revenue to make the system work. It is anticipated that Astoria, Warrenton and Hammond will sign in early September. However, Cannon Beach, Seaside and Gearhart have no firm schedule leading to an agreement, and most recently have been seeking cheaper options and alternative transfer station locations.

Alternatives and Evaluation

Progress has been reasonably good through this last variance period. The incinerator option was very seriously pursued, but finally proved too expensive. The alternative of going to Raymond was determined to be the most practical on about June 1. A continuous period of agreement negotiation then commenced.

Upon securing all agreements, a four- to five-month implementation period is projected. Even a normal agreement negotiation period (two months) would have carried the project beyond November 1. As it now stands, it is uncertain when all cities will sign up or if they will do so willingly. The variance request was made presuming that all agreements will be reached by early September.

Some citizens and elected officials in the Seaside/Gearhart/Cannon Beach area still think that a cheaper landfill option may exist in the County. A landfill has been pursued in Clatsop County for over ten years, without success. In the Department's opinion, it is very unlikely that a landfill location can be found which will be acceptable to all affected parties, significantly cheaper than the haul to Raymond, and established in a rapid time frame. There is also continued dispute over location of the transfer station at the Seaside dump.

There are two alternatives available to the Commission:

1. Grant a variance giving additional time to Cannon Beach and Seaside to allow for construction of the transfer facilities, assuming that they will agree to the project.
2. Deny the variance thereby letting the existing variance expire which will require the two site operators to cease burning after November 1, 1984, and to either upgrade to comply with Department rules or seek other short-term alternatives.

Under normal circumstances, the Department would recommend that a short-term extension be granted to allow for construction of the transfer facilities. It appears, however, that not all parties have officially agreed to the concept, and the probability of the necessary agreements being made soon is unknown. Without all the agreements, financing for the facilities cannot be obtained and construction cannot begin.

A short-term alternative to burning exists in the County. The Astoria Landfill has the capacity to receive all of the County's waste on a short-term basis. Such action would require the City of Astoria to allow receipt of the County's solid waste. The City has been opposed to such a program in the past, but there have been some recent negotiations between the private collector and the City.

Temporary transfer of solid waste from Seaside and Cannon Beach to Raymond, Washington, is available. Staff of the Clatsop County Solid Waste Service District has estimated a cost of approximately \$35 per ton which would include leasing equipment, haul costs and disposal fees. This is approximately the same disposal cost as anticipated after the permanent transfer station is completed. The private collector in the Seaside area has estimated that the monthly cost of service to residential customers will increase from \$4.25 to \$6.70.

The Department believes that either the use of the Astoria Landfill or transfer out of the County is a viable alternative and that ORS 459.225(3) (c), which states "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," has not been established.

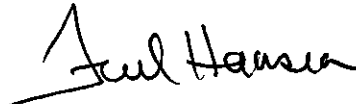
Summation

1. Clatsop County has requested a nine month variance to continue open burning of solid waste at Seaside and Cannon Beach.
2. Progress has been made in planning an alternative system for solid waste disposal. Private operators have a long-term contract for disposal at Raymond, Washington, and have begun design work on transfer stations.

3. Although negotiations commenced approximately June 1, 1984, agreements have not been signed between cities and private industry. Until agreements are signed with all cities, construction cannot begin and the program will remain at a standstill. It is uncertain when or if all agreements will be secured.
4. The Astoria disposal site is viewed by the Department to be an acceptable interim disposal site for Clatsop County's solid waste.
5. Direct transfer to Raymond, Washington, using temporary loading facilities and equipment, is possible and would cost approximately the same as haul from a permanent transfer station.
6. The Commission may grant a variance in accordance with ORS 459.225(3); however, an alternative disposal facility is available and the intent of ORS 459.225(3) (c) has not been met.

Director's Recommendation

Based on the findings in the Summation, it is the Director's recommendation that the variance request for Seaside and Cannon Beach be denied.


Fred Hansen

Attachments I. Agenda Item No. O, 10/7/83 EQC Meeting
II. Letter from Clatsop-Tillamook Intergovernmental
Council dated July 30, 1984

Robert L. Brown:c
229-5157
August 20, 1984
SC1714



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. O, October 7, 1983, EQC Meeting

Requests for Continuance of Open Burning Variances from
OAR 340-61-040(2) -- Seaside and Cannon Beach, Oregon

Background

On October 15, 1982, the EQC granted an extension of variances to allow continued open burning at three Clatsop County disposal sites (Elsie, Cannon Beach and Seaside). During the spring of 1983, the Elsie Disposal Site was converted to a landfill. As in the past, the remaining sites cannot be operated in compliance with the Department's rules and there is still no alternative disposal site established and available. Accordingly, the operators have requested another extension of the variances (copies attached). The Commission may grant variances in accordance with ORS 459.225(3).

Alternatives and Evaluation

The two open burning sites do not have sufficient suitable area to allow continued operation without open burning. Continued operation without burning would also create leachate problems with possible groundwater and surface water contamination.

The County has identified a potential regional landfill site (Perkins Road). A feasibility study has been completed and the Department has granted Preliminary Approval of the site in accordance with OAR 340-61-031. The project was interrupted because it was discovered that the County had made procedural errors during the land use approval process. The County withdrew its application in July 1982 and since that time has made no effort to reapply. In part, this failure to reapply is based on the opposition of the Cities of Warrenton and Hammond.

The County submitted a status report to the Department in January 1983. This report indicated that a consulting firm headed by Cary Jackson was exploring the feasibility of an energy recovery project. A report was to be submitted in January and, if a project was feasible, a funding election would be held in May. Cary Jackson reported in January that he could find no definite user for energy and the project was dropped.

During the January 14, 1983, EQC meeting, the Commission directed staff to work directly with the cities and private site operators to develop a solution. In February 1983, private operators in Seaside and Astoria contacted the Department regarding an incineration project. They had taken an option on four used incinerators in Guthrie, Oklahoma. Air Quality and Solid Waste staff met to determine feasibility of these incinerators. While working with the private operators, it was determined that these incinerators would not handle the present volume and probably would not meet emission standards. The option was dropped and the private operators have shifted their attention to an Olivine burner. There appears to be no operating plant of the Olivine design being considered and adequate engineering data for such a unit has not yet been provided. In a related but separate action, Air Quality is proposing alternative rules for coastal incinerators.

In June 1983, the Department staff met with representatives of the four Clatsop County cities having landfills. At that meeting, the cities were reminded that all sites were essentially operating in violation of Department rules. Seaside and Cannon Beach open burn, Warrenton is a significant contributor to groundwater pollution and Astoria has significant leachate production entering surface water. The cities were also informed that, if there was no significant progress toward solving the solid waste problems, the staff would probably recommend termination of the open burning variances.

Since that meeting, the Warrenton permit has been amended to require closure by December 31, 1983, and closure plans by October 1, 1983. The Department has received a request for a contested case hearing on the addendum. Department staff has also met with the City of Astoria and evaluated their disposal site for upgrading and either operation or closure. It appears at least physically possible to upgrade and operate for an interim period of time.

As a result of the Department's meeting with the cities, they have taken action to request the County Solid Waste Service District to hire a full-time employee for at least one year to coordinate the effort to locate an option. Each of the four cities and the County have provided funds to hire that person.

Initial options available to the area are:

1. Construction of an incinerator adequately designed to handle the volume and meet air quality standards.
2. Proceed with an attempt to site "Perkins Road" as a landfill (re-initiate the land use proceedings) or identify and site an alternate landfill.
3. Upgrade and use the Astoria disposal site for an interim period of time while a permanent solution is identified and established.

The cities have also formed a technical working group to coordinate with the Solid Waste District's staff person. This group has submitted a letter (attached) with support for continuation of the variances until fall of 1984, and a listing of items to be considered for implementation of a viable alternative (implementation to occur during the 1984 construction season). Representatives of the group should be available at the EQC meeting.

Summation

1. Operators of Seaside and Cannon Beach disposal sites have requested an extension of the existing variances which would allow for continued open burning at the disposal sites for one year.
2. The lack of suitable area at each site prevents their conversion to landfills. Denial of the variance extension would result in closure of the sites and there is currently no alternative site available.
3. Private operators have been actively pursuing an alternative method of disposal (incineration). However, a firm proposal has not been submitted.
4. Four cities and the County have provided funding to the County Solid Waste Service District to hire a full-time solid waste coordinator and have established a technical task force to assist the coordinator.
5. The Department finds that the applicants' request meets the requirements of ORS 459.225(3), by which the Commission may grant a variance, as follows:
 - a. Conditions exist that are beyond the control of the applicants.
 - b. Special conditions exist that render strict compliance unreasonable, burdensome or impractical.
 - c. Strict compliance would result in substantial curtailment or closing of the disposal sites and no alternative facility or alternative method of solid waste management is available at this time.

Director's Recommendation

Based upon the findings in the Summation, it is recommended that the Commission grant an extension of variances from OAR 340-61-040(2), until November 1, 1984, for Cannon Beach Sanitary Service and Seaside Sanitary Service, subject to the following conditions:

1. Progress toward establishment of a regional solid waste disposal program continues so that a viable alternative is in place by November 1, 1984.

2. Quarterly progress reports beginning January 1, 1984, be submitted to the Department. The first progress report shall contain a schedule of events leading to project completion.

Bill

William H. Young

- Attachments
- (1) Letter from Richard Walsborn dated September 8, 1983.
 - (2) Letter from the City of Seaside dated September 12, 1983.
 - (3) Letter from Pete Anderson dated September 13, 1983.
 - (4) Letter from John Crockett dated September 15, 1983.

Robert L. Brown:c
SC1201
229-5157
September 16, 1983

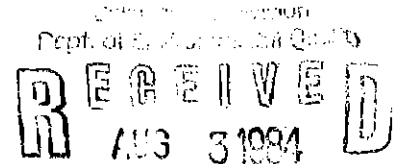
CLATSOP-TILLAMOOK INTERGOVERNMENTAL COUNCIL

Box 488 • Cannon Beach, Oregon 97110 • Phone 436-1156

Donald M. Fields, Director

Rainmar Bartl, Planner
Mike Morgan, Planner

July 30, 1984



Bob Brown
DEQ Solid Waste Division
P.O. Box 1760
Portland, Or 97207

Dear Mr. Brown:

RE: Clatsop County Solid Waste Disposal

As you know, the Cities of Clatsop County are presently in the process of implementing the program for disposal of solid waste as developed by the Advisory Committee to the Clatsop County Solid Waste District. This program consists of the construction of two Solid Waste Recycle and Transfer Stations, one to be located near the Cities of Seaside/Gearhart and the other in the City of Astoria. Initially it is planned the solid waste received at the stations will be transported to the "Rainbow" landfill near Raymond in the State of Washington. Separate negotiations are currently underway and nearing completion with Pete Anderson owner of Seaside Sanitary Service and Chuck Collins owner of X-L Services (the Astoria collector), for private ownership and operation of the transfer stations on an individual basis.

The Seaside/Gearhart or South Recycle and Transfer Station currently being developed with Pete Anderson would be located on the site of his existing solid waste disposal dump approximately one mile to the east of Gearhart. An adjacent piece of property owned by Gearhart is currently under option by Pete Anderson to augment the property and to improve the station's functional layout. The transfer station is planned to be a totally enclosed building with a "tipping" floor permitting either direct dumping or dumping on the floor for reloading. Current progress would indicate completion of negotiations and signing of the necessary agreements

MEMBERS: Astoria, Bay City, Cannon Beach, Clatsop County, Garibaldi, Gearhart, Hammond, Manzanita, Port of Astoria, Port of Tillamook Bay, Rockaway, Seaside, Tillamook County, Warrenton and Wheeler. ASSOC. MEMBER: North Tillamook County Sanitary Authority.

Letter to Bob Brown
July 30, 1984
Page -2-

by the end of August and based on a timely obtaining of the necessary permits construction will commence shortly thereafter and is slated for completion by March/April of 1985. Solid waste from the Cities of Gearhart, Seaside and Cannon Beach plus the south county area will be received at the transfer station for transport.

At this time the Cities of Seaside, Gearhart and Cannon Beach are considering the implementation of mandatory garbage collection service. While, to some extent mandatory garbage service will mitigate the increase in collection rates associated with the start-up and operation of the South Recycle and Transfer Station it's principal benefit would appear to be alleviation of the problem of illicit "roadside" dumping in the area.

Plans for the Astoria area or North Recycle and Transfer Station closely parallel those for the south station. It too will be an enclosed building with provision for either direct or indirect dumping. Again, current progress indicates completion in March/April of '85. The Astoria transfer station will receive solid waste from the City of Astoria, Warrenton and Hammond plus the north county area.

Now while the plans for the two transfer stations are real and definitive, the implementation program including contracting, financing, securing of permits and facilities construction will take some time and be beyond the expiration dates of the variances currently permitting open burning at the Seaside and the Cannon Beach dumps and the current operating permit of the Warrenton landfill. Therefore, this letter is to request the DEQ's extention of the open burning variances for the Cannon Beach and Seaside dumps and the operating permit for the Warrenton landfill. To ensure these extentions can be secured on a timely basis we request they be placed on the EQC's agenda for their September meeting which we understand is scheduled for the 15th in Bend, Oregon.

The "Rainbow" landfill is fully permitted by the Department of Ecology of the State of Washington and has ample capacity for extended operation receiving the solid waste from Clatsop County. Negotiations have been held with its private owner and the availability of long-term waste disposal ascertained.

In addition, a private developer is currently working on the possibility of a waste-to-energy project in Astoria and it is anticipated that this or a similar project will eventually displace the Raymond landfill as the Point of Disposal.

Letter to Bob Brown
July 30, 1984
Page -3-

We acknowledge there have been many extentions to these permits in the past with little to show in solutions but we now believe we are on track for a long-term solution to the Clatsop County solid waste disposal problem.

We trust this request will receive a favorable recommendation from the Department of Environmental Quality and the approval of the Environmental Quality Commission. Due to the ever present uncertainties in the construction schedule of any major undertaking we suggest these extentions be for a 9 month period to allow adequate contingency time.

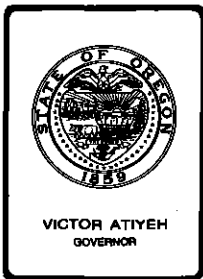
If you require more information or copies of specific documentation please let me know.

Very truly yours,



Roy Ruel,
Solid Waste Coordinator

RR/RG



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: Richard J. Nichols, Manager
Central Region, Bend

Subject: Agenda Item No. M, September 14, 1984, EQC Meeting

CENTRAL REGIONAL MANAGER'S REPORT SIGNIFICANT CENTRAL REGION ACTIVITIES

Martin Marietta Aluminum, The Dalles - Wasco County

Over the last year, the Department has become aware of groundwater contamination beneath Martin Marietta's primary aluminum reduction plant in The Dalles. The groundwater is contaminated with cyanide and fluoride leached from waste pot liners. Most of the pot liner waste is stored in a large pile adjacent to the plant. Some, however, is located in a landfill also located next to the plant.

The Department has ordered the waste to be moved onto an impervious pad. This should be completed by the end of the year. The landfill is also being upgraded to reduce the generation and escapement of contaminated leachate. This should be completed this summer.

The company will be applying for a Hazardous Waste Management permit pursuant to the Department's regulations. This application will include a comprehensive groundwater monitoring program.

Deschutes Valley Sanitation, near Terrebonne - Deschutes County

About a year ago, the Department discovered that hazardous and radioactive wastes were being stored at an abandoned industrial waste disposal site near Terrebonne. The wastes had been hauled to the site for disposal in 1975-76 under a Solid Waste Disposal permit. The site was abandoned when the Department refused to renew the permit because of apparent errors in the permit application.

Companies responsible for the wastes removed them during this past winter. The hazardous wastes were disposed of at the Arlington hazardous waste disposal site. Radioactive wastes went to the Hanford disposal site in Washington. A final inspection of the site showed some minor amounts of

lead remaining in a disposal lagoon. At the time of this meeting, these deposits should have been removed and the site should be deemed "clean."

Malheur Lake Flooding - Harney County

The Department is collecting and analyzing water samples from Malheur Lake and Malheur River basins throughout the summer. This information will be used to make water quality judgments, if the Corps of Engineers determines that a canal to drain the lake is feasible. It will also be valuable data for predicting impacts, should the lake rise high enough to overflow into the Malheur River system. Primary water quality concerns with Malheur Lake are salinity and its possible impacts on agriculture irrigation. Erosion and resulting sedimentation are also a concern.

City of Bend

The city of Bend completed the last phase of its sewerage facility construction this summer. The city now has a facility capable of handling up to six million gallons of sewage flow. Currently, the plant handles about two million gallons per day. The Department now will work with the city of Bend to extend sewers to phase out existing waste disposal wells and serve new growth.

Hood River Landfill

In November 1981, the Hood River Landfill stopped accepting solid waste. Garbage from the Hood River area is being hauled to the North Wasco County Landfill near The Dalles. Since November 1981, the county has improved the site by adding soil cover and by diverting uncontaminated storm water away from the leachate collection system. Additional improvements will be made this summer. These improvements include: construction of a leachate irrigation system; adding soil cover; lining the leachate collection and storage ponds; and expanding the capacity of the leachate pumping. The Department has been involved with two legal actions undertaken by residents downstream from the landfill. The first was settled out-of-court in April 1984. In the most recent case, the Department has been named as a third-party defendant by the defendant, Hood River County.

Odell Sanitary District - Hood River County

Odell Sanitary District will be expanding its sewerage system over the next year. The Department will be buying general obligation bonds from the District to help finance the project. The proposed expansion will almost triple the capacity of the Odell Sewage Treatment Plant to 0.500 million gallons per day (MGD). It will upgrade the quality of plant effluent to meet basin treatment standards and will also refurbish a treatment system

that has operated seventeen years without major overhaul. Finally, the new plant will provide more operational flexibility should various components break down or require maintenance.

Pesticide Washdown

The Region has made substantial effort to contact commercial pesticide applicators over the last year. While there are several that have not been contacted, the disposal and reuse of pesticide washdown at most locations has been upgraded to meet the Department's rules. Past disposal practices mostly consisted of draining washdown onto the ground. These past practices have probably contaminated soils and, perhaps, local groundwater. The Regional office intends to evaluate and prioritize the sites within the region and require cleanup where necessary and as allowed by budgetary constraints.

Anadromous Fish Hatchery - Klamath County

In 1983, under a National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit issued by the Department, Anadromous, Inc. constructed and began operating a salmon rearing facility on Fort Creek near Fort Klamath. The initial construction consisted of temporary rearing ponds followed by settling ponds. In May 1984, the temporary rearing facility was shut down and a permanent facility is being constructed pursuant to plans approved by the Department.

Earlier in 1984, staff biologists noted an increase in aquatic growth in Fort Creek below the hatchery outfall. Presumably, these growths are due to nutrient contained in the hatchery effluent. The Department expects the new facility to better control the discharge of nutrient and hopes this will control aquatic growth. If not, the company has been notified that additional permit requirements may be imposed.

Particle Fallout in Southwest Bend

Heavy, fine wood dust and black soot fallout has occurred near the DAW Forest Products-Willamette Industries wood products complex for several years. The source of this nuisance has been difficult to identify and regulate because at least three industries could contribute to the problem. Staff has focused its efforts on resolving this fallout problem during the last year. Presently DAW Forest Products is upgrading its wood dust handling system and preparing to shut down its older hog fuel boilers to eliminate the black soot fallout. Willamette Industries is also modifying wood dust transfer equipment. These industries and Cascade Forest Products will begin a detailed monitoring program to check progress on fallout reduction.

Visibility Impacts in Central Oregon

Impacts from summer field and slash burning, and winter use of wood stoves, impact visibility in Central Oregon. Good air quality is very important to Central Oregonians and smoke and haze impacts are very noticeable. Summer smoke impacts are particularly upsetting. Winter smoke impacts from wood stoves are not as visible, but are much more frequent and severe.

Elimination of Waste Disposal Wells at DAW and Willamette Industries - Bend

Oregon Administrative Rule 340-44-015 requires sewage disposal wells to be abandoned and connection be made to sewer if a property is available to a municipal sewer service. Both the DAW Forest Products and Willamette Industries properties on the southwest edge of Bend meet the availability definition. Connection has been delayed for two years as the city of Bend developed an industrial policy. Both industries have the option to request a waiver from connection to sewer, if such connection is impracticable or unreasonably burdensome.

Crook County Landfill

During the June Commission meeting in Newport, Crook County was granted a variance to open burn selected industrial wood waste at its landfill. The county and the local garbage hauler have worked with the mills to separate the pallets soaked in wood preservative. The moulding plant that was using the vinyl coating has changed its process and is now using a cellulose base coating.

The county is currently deciding what to do with the existing accumulation of wood waste. It may separate out the burnable material if that is practicable. The Department has required establishment of a new burn area at the landfill to insure that the existing landfilled wood waste does not catch fire.

Biggs Sewage Disposal - Wasco County

The Department is currently evaluating sewage disposal practices at Biggs, an unincorporated area of Wasco County where Highway 97 crosses the Columbia River. The area is a commercial development with numerous restaurants, motels and service stations. Sewage disposal is accomplished primarily through seepage pits. One large restaurant made a drainfield repair about three years ago. Small lot sizes and large wastewater flows make drainfield repairs impossible for most businesses.

There is a sewage lagoon system in Rufus approximately five miles to the east. In the mid-1970s it was proposed that Biggs be sewerred and connected to the Rufus lagoon system. That alternative may again be closely evaluated.

Precision Pine Company, Lakeview - Lake County

This company has a couple of unpermitted wood waste sites which it has been using for about one year. These sites are located on its property in an area used for uranium waste disposal by a previous owner. Much of the property was used for the disposal of uranium waste which now must be cleaned up.

The federal and state Departments of Energy (DOE) designated an area which the mill could use for wood waste disposal but did not inform DEQ of its action. The mill is using this site now. The site would be suitable for wood waste disposal with some modifications to channel springtime surface water around and off the site. However, until the site is cleaned up, the DOE does not want any water channeled off site. The Department is working with the company and DOE to resolve the problem.

Groundwater Contamination Problems in Prineville and Silver Lake

Gasoline from leaking underground fuel storage tanks has contaminated a yard irrigation well in Prineville and a domestic well in Silver Lake. In both cases monitoring wells have been installed around the suspected service stations to determine the direction of movement of the groundwater and to collect samples. The data from our measurements and samples shows the sources to be the stations we suspected.

The owner of the station in Prineville plans to have his tanks tested to determine which tank is leaking. It appears that removal of some of the contaminated soil will be required, although the extent of necessary cleanup has not been determined.

The owner of the station in Silver Lake has replaced his tanks. He did not inform the Department until after the fact. Consequently, the staff did not see the condition of the soil under the tanks and is not convinced that replacing the tanks has corrected the problem. The Region continues to investigate this problem.

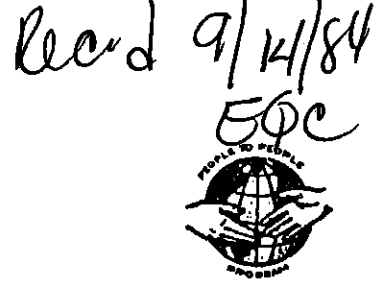
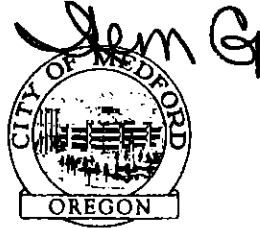
Waste Disposal Wells

Beginning in 1969 and continuing throughout the 1970s, the Department vigorously pursued the elimination of waste disposal wells in Central Oregon. By 1979 the Department's efforts had resulted in the sewerage of Madras, Redmond, Metolius and Culver. Bend was at that time constructing its sewerage facility and completed it in early 1981. Waste disposal wells located outside sewerage areas were not pursued by the Department, although the original rules required their elimination by 1975.

In December 1979, the EQC adopted revised rules on waste disposal wells. These rules recognized that waste disposal wells should be eliminated, but allowed their continued use until sewers were extended to the individual properties. It was expected that extension of sewers would follow in a reasonable time as the cities grew. While most, if not all, drill holes around Culver, Metolius and Redmond have been eliminated, there are many outside Bend and Madras. Further, there appears to be little effort by these latter cities or their respective counties to extend sewers.

At this time the Department continues to observe the situation but is evaluating other alternatives that may be available to the Department for phasing out urban area waste disposal wells.

Richard J. Nichols:b
388-6146
August 15, 1984
GB3714



OFFICE OF THE MAYOR

CITY OF MEDFORD
MEDFORD, OREGON 97501

MEDFORD'S SISTER CITY:
ALBA, ITALY

September 12, 1984

Mr. Fred Hanson, Director
Oregon Department of Environmental Quality
PO Box 1760
Portland, Oregon 97207

Dear Mr. Hanson:

Due to a long standing commitment to participate in a centennial dinner for the oldest church in Medford, it is not possible for me to appear before the EQC meeting on September 14, 1984.

My testimony of August 8, 1984 before your hearings officer pretty well covered my position and I hope that full consideration will be given to those remarks.

It is difficult for me to determine that the parking lot permit system will contribute to better air quality in any way. I have had some indication that it is to fill a need for some sort of monitoring of traffic growth in the future. How that would be accomplished by this system escapes me. However, if monitoring is the real aim, why don't we discuss a monitoring plan directly and see if something can be worked out.

It is my understanding the representatives of the Greater Medford Chamber of Commerce will be making a presentation and their testimony should be given much weight as there has been a real sense of unity and cooperation in the city as we all strive to find answers that will be in the best interest of the city and the health of its people.

In closing, I would like to make it clear that there has been good cooperation between City of Medford staff, Jackson County staff, and DEQ staff, and we appreciate this cooperation.

Included in the packet for your consideration, is a copy of an editorial in the Medford Mail Tribune on this subject, written by their distinguished and well known editor Eric Allen. This gives you an independent view from a trained observer of community activities and concerns.

Sincerely,

Lou Hannum
Lou Hannum
Mayor

LH:bs
Attach.

The Mail Tribune

An Independent Newspaper — Founded 1906

Page 4A

Medford, Oregon 97501

Sunday, September 9, 1984

Parking lots and pollution

We wish some wise man would explain why the Department of Environmental Quality has ruled that parking lots are villains when it comes to the generation of automobile emission pollution.

It is true that a number of automobiles are concentrated in a small area in a small parking lot, and more are concentrated in a larger area in a large parking lot. That's obvious.

But what is not so obvious is whence comes the threat of undue emissions. If all the cars arrive at the same time, or leave at the same time, there would be a considerable, though brief, concentration of emissions. But except at entertainment events, it is seldom that all cars arrive or depart at the same time.

Most of the time, they are just sitting there, engines off, emitting nothing. Some large lots attract more patronage than others, and in some of them the coming and going of cars is a fairly constant thing. But it is seldom more, or even as much, as the traffic on nearby streets.

In fact, instead of being classed as an "indirect source" of pollution, it could be said that parking lots contribute to cleaner air, simply because they afford a place to get vehicles off the streets where their engines can be turned off.

Rather than parking lots

themselves, what may be sticking in the craw of the DEQ is the reason FOR the parking lots, and not the parking lots themselves, which is to say the store or shopping center served by the parking lot.

If that is so, the DEQ would be a lot more honest — and understandable — if they came right out and said they are against any more growth or development at all that would generate more traffic.

But they're not saying that, in so many words. Instead they're aiming their fire at parking lots, which for the reasons outlined above we think is a phony argument.

The city of Medford is getting mixed signals from the state. The DEQ says one thing, the Department of Transportation says something else, and the Department of Energy, which seeks to minimize traffic and thus is in favor of parking lots, says something else. This leaves the city in a no-win situation, particularly if it is not entirely against growth and economic development.

If we're wrong about parking lots, we hope someone explains why and how. Until they do, we'll continue to believe that they serve a useful function in the development of the city, and are, of themselves, non-polluting.

— E.A.

TESTIMONY 8/8/84 BEFORE DEQ HEARINGS OFFICER

I am Lou Hannum, Mayor, City of Medford, and a long time and constant supporter of efforts to clean the air in Jackson County.

First appointed to Jackson County Air Quality Committee in 1977 and a member of all subsequent committees including a two year period as chairman of the committee that made the recommendation, currently used as the basis for the SIP. The City of Medford has also supported efforts toward attaining clean air. The Council has supported all requested action and more - including:

- a. Ban on backyard burning, later modified to agree with county ordinance;
- b. Ban on sale of coal;
- c. Passed aggressive particulate strategy.

Your proposal to make permanent the review cutoff at 50 spaces for parking lots in the city of Medford and highway projects at 20,000 vehicles per day within 10 years, does indeed affect land use as stated in your land use consistency statement.

However, I strongly disagree with the conclusion that the proposed rule is consistent with statewide planning goals. Your statement refers only to Goals 6 and 11 without providing supporting data for either and totally ignoring Goals 9, 10, 12, 13 and 14, all of which will be affected.

The city of Medford has spent years of effort and large sums of money to consider all of the statewide goals as well as local needs and has developed a comprehensive land use plan which has been approved and acknowledged by LCDC. This plan identifies an estimated growth to 60,400 population by the year 2000. This is our best estimate of what to expect based on known past and current information.

The plan then identifies those areas where future development is expected to occur, the location of commercial and industrial areas, establishes an arterial street plan to guide traffic flow and bases public facility development on those plans. This is a carefully fabricated total plan, based on all statewide goals. Great damage could be inflicted to this plan by considering only a single factor (air quality) in making changes.

Rather than look at a single factor, our statewide planning defines a comprehensive plan as - "a set of public decisions dealing with how the land, air and water resources of an area are to be used or not used. These decisions are reached after considering the present and future of an area.

Being comprehensive in scope, the plan provides for all the resources, uses, public facilities and services in an area."

With that definition from LCDC, let me again focus your attention to the other goals that have been considered in our approved plan.

Goal 9 - Economy. To diversify and improve economy of State.

This proposed DEQ rule would discourage economic development potential. It would also appear to encourage less efficient, scattered small uses rather than larger more efficient integrated uses. I haven't heard of any analysis of CO impact of five scattered commercial uses with 10 spaces each versus one 50 space integrated use, considering the additional vehicle miles traveled.

Goal 10 - Housing. To provide for the housing needs of citizens of the State.

The DEQ definition of indirect sources includes apartments and mobile home parks. How can you ignore the impact on those housing types for which we have identified the greatest need (ie. low medium income apartments and mobile home parks)?

Goal 11 - Public Facilities. To plan and develop a timely, orderly, and efficient arrangement of public facilities to serve as framework for urban and rural development.

You state this goal is unaffected by the rule. I disagree - clearly it will affect arterial street development directly through your 20,000 ADT limit and indirectly by discouraging commercial/industrial projects which would be able to make required major street improvements. Often these improvements would mitigate some of the CO impacts. Other public facility plans would be affected if location of future development is changed.

Goal 12 - Transportation. To provide and encourage a safe, convenient, and economic transportation system.

Surely the 20,000 ADT limit will impact on ability to implement our arterial street program.

Goal 13 - Energy Conservation. To conserve energy.

By encouraging scattered, small scale commercial development instead of integrated centers, we violate several premises of our adopted plan. We would increase vehicle miles traveled and discourage integration of functionally related uses, thereby increasing fuel consumption.

Goal 14 - Urbanization.

Many of above comments could also apply here. However, my main point is that your rule will tend to force urban uses into the unincorporated area which flies in the face of not only this rule, but the ability to provide needed urban services at a reasonable cost.

I have not attempted to list all of the potential conflicts with various statewide goals but hope that I have given you enough to indicate that the question has not been adequately considered and furthermore is one that could cause serious problems if not addressed.

A final question about land use planning - What if an applicant appeals to LUBA because of parking lot restrictions? Who handles the appeal? Are you prepared to do so?

Many of these comments also refer to increased costs that are not addressed in your fiscal and economic impact statement.

My other concerns relate to the fact that the CO problem is much more than a city problem, and cannot be solved by the city alone. Various studies have shown that considerably more than half of the cars in downtown Medford are from outside the city. Some of these studies show as much as 70% from outside. This relates to the fact that the City of Medford is the service center for a large area of the state and restriction would affect our ability to properly service that large segment of Oregon. An item of concern in this connection is the affect it could have on overall health since we are a major health service area with major hospitals that have plans for future expansion that would be affected.

I therefore request that your order not be made permanent for the following reasons:

- To do so would provide little incentive for the city to take other action to avoid sanctions as these are the most restrictive of all.
- It takes planning out of local authority and puts it in a state agency - but does not take responsibility with it.

- Seriously damages our ability to serve a large part of the state.
- DEQ has a responsibility to demonstrate that parking lots and highway construction standards for air quality can be established, and if they can be established, a better place for this consideration would be in local comprehensive land use planning.

Under pressure to do something fast and to avoid federal sanctions without the I&M Program, I get the feeling that health factors and real air quality improvements are being lost in a numbers game to get credit for purely theoretical possibilities that may or may not happen, and that these numbers may have become a substitute for thought or program.

Both DEQ statements of Fiscal and Economic Impact, and Land Use Consistency are inadequate and fail to address several major questions.

OUTLINE

PRESENTATION TO: Environmental Quality Commission

LOCATION: Bend, Oregon

DATE: September 14, 1984

I. INTRODUCTION

- A. Speaker self introduction, credentials
- B. Purpose - to provide EQC members with an overall viewpoint of the technical and enforcement aspects of the CO problem, with respect to the matter at hand.

II. OVERALL VIEWPOINT

A. Jackson County Work Summary:

- 1. Planning Dept. work over a period of several years, in compliance with the Clean Air Act.
- 2. Medford Transportation Plan, contracted by City of Medford.
- 3. I/M Program put to vote of Jackson County residents in November 1983. Result, failure.

B. City of Medford Work Summary:

- 1. With its failure at the poles for an arterial street program, and a "NO" vote on I/M, the City was given an extremely small time to come up with additional program to comply with the CO 8-hour standard.
- 2. The result, as I believe could be realistically expected, was small traffic and circulation changes which are projected to meet the standard downtown, but not at the north end of town where increased commercial growth has and is occurring.

C. Resources:

- 1. Big city CO effects, small source fleet with inadequate resources to combat problem.
- 2. Traffic changes with enough impact to make the required CO decrease are very expensive.
- 3. Summarize long term experience in Portland area.

D. Climatological:

- 1. Rogue Valley pollution problem reflects a climatological phenomenon designated as an "inversion". Describe!

2. Potential, peculiar to this region, was described in Holzworth and fellow staff members in an EPA summary (1972) of 5 years worth of meteorological data from a nationwide network of upper air observation stations.
3. Review of this report and experience indicate to me that regional air stagnation, which will occasionally be severe enough to cause episode levels, may continue to cause problems well into the future.

E. New CO Exposure Information:

1. A 1983 EPA study measured time-averaged personal exposures to CO under wintertime conditions in four cities (where CO levels exceeded NAAQ standards).
2. Portable monitors collected air samples from three microenvironment categories:
 - a. Indoor
 - b. Commuting
 - c. Residential Driving
3. Results:
 - a. Indoor exposures were lower than fixed site outdoor exposures, except in Denver (high altitude city).
 - b. None of the indoor exposures were estimated to be over the standard.

F. CO Concentrations:

1. Medford CBD days of violation per year are decreasing.
2. New CO monitor at north end just installed; need time to evaluate.

G. EPA Action to Remove Lead:

1. Significant improvements (misfueling and catalyst categories) expected according to a 1983 EPA study.
2. Not in the newest calculations by ODOT/DEQ.

H. Proposed Rules:

1. Too sensitive; other unpredicted changes will prove to be orders of magnitude greater than the impact of 50 space parking lots.
2. Recommend increasing limits to 250, 500, 1,000 spaces.
3. Costs of doing thorough analyses is great.

I. Moving in Direction of Finding Solutions:

1. Federal sanctions provide a clearer picture to all the community, and it's legislators, of the overall stringency of the CAA.

2. I/M Receiving Reconsideration:

a. Cost of effective revisions at individual intersections is high.

b. Summarize Blue-Sky Solutions:

(1) McAndrews/Biddle

(2) McAndrews/Riverside

(3) McAndrews/Court

J. Violations in North End are Mathematical Projections:

1. None will be entirely correct because changes will take place.

2. CB projections are looking better all the time because of changes at the north end.

3. Time will tell.

K. Regional Problem Emphasis:

1. Exemplified in recent proposal of a non-attainment area in Grants Pass.

2. More backup for regional solutions and regional/state assistance and resources.

3. Legislators will begin to understand the problem.

III. SUMMARY

A. Work is underway, and solutions are coming.

B. Resources are slim.

C. Additional time is needed.

D. Don't burden the Rogue Valley with overly sensitive, inefficient rules when progress is under way.