

12/14/1984

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

December 14, 1984

Room 602
Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, Oregon

AGENDA

9:00 a.m. CONSENT ITEMS

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

- A. Minutes of November 1, 1984, Work Session, and November 2, 1984, EQC meeting.
- B. Monthly Activity Report for September and October, 1984.
- C. Tax Credits.

9:05 a.m. PUBLIC FORUM

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

HEARING AUTHORIZATIONS

- D. Request for authorization to conduct a public hearing on proposed rule revisions to the Motor Vehicle Emission Inspection Program, rules OAR 340-24-300 through 340-24-350.
- E. Request for authorization to conduct a public hearing on Pollution Control Tax Credit Rule amendments, OAR Chapter 340, Division 16.

ACTION AND INFORMATION ITEMS

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

- F. Sewerage operator training and certification in Oregon--past, present and proposal for the future.
- * G. Proposed adoption of Hazardous Waste Generator Fees, OAR 340-102-060.
- H. Proposed adoption of Opportunity to Recycle Rules, OAR 340-60-005 through 340-60-085. (Postponed from November 2, 1984 EQC meeting.)

- I. Informational Report - Request by Lapine Sanitary District for extension of submittal of facilities plan.
- J. Proposal for EQC to declare a threat to drinking water in a specifically defined area in mid-Multnomah County pursuant to the provisions of ORS 454.275 et. sec.--summary and evaluation of hearing record.
- K. Request for authorization to conduct a public hearing on proposed rule amendments to the hazardous waste management rules to provide that only those liquid organic hazardous wastes which can be beneficially used will be banned from landfilling after January 1, 1985 (OAR Chapter 340, Division 104).

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 have breakfast (7:30 a.m.) at the Portland Motor Hotel, 1414 SW Sixth Avenue, Portland. Agenda items may be discussed at breakfast. The Commission will have lunch at the DEQ Offices, 522 SW Fifth Avenue, Portland.

The next Commission meeting will be January 25, 1985 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, PO 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 SIXTY-FIRST MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

December 14, 1984

On Friday, December 14, 1984, the one hundred sixty-first meeting of the Oregon Environmental Quality Commission convened in room 602 of the Multnomah County Courthouse, 1021 SW Fourth Avenue in Portland, Oregon. Present were Commission Chairman James Petersen, and Commission members Wallace Brill, Mary Bishop and Sonia Buist. Commission Vice Chairman Arno Denecke 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 Portland Motor Hotel in Portland. Commission members present were James Petersen, Mary Bishop, Wallace Brill and Sonia Buist. Commissioner Denecke was absent. Also present were the Department's Director, Fred Hansen, and several members of the Department staff.

Cesspools in East Multnomah County

Director Hansen and Harold Sawyer, of the Department's Water Quality Division, reviewed the history that led up to an imposition of a ban on construction of cesspools in Multnomah County. Effective January 1, 1985 installation of new cesspools and seepage pits is prohibited. Multnomah County has requested an extension of time on this ban until the threat to drinking water issue is resolved.

Legislation

Stan Biles, the Department's Legislative Coordinator, reported to the Commission that no bills had been filed as yet to overturn the ban on backyard burning. However, he said that there might be a bill introduced to limit or ban field burning.

Slash Burning

Tom Bispham, of the Department's Air Quality Division, reported that the staff had met with the State Department of Forestry to discuss development of improvements to slash burning and the smoke management program.

FORMAL MEETING

AGENDA ITEM A: Minutes of the November 1, 1984 work session and November 2, 1984 EQC meeting.

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

AGENDA ITEM B: Monthly Activity Reports for September and October 1984.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed unanimously that the Monthly Activity Reports for September and October 1984 be approved.

AGENDA ITEM C: Tax Credit Applications.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously that the Tax Credit Applications be approved, with the exception of Tax Credit Application T-1694, The Amalgamated Sugar Company, which was withdrawn from consideration because it had previously been certified.

PUBLIC FORUM:

Robert Forthan, who is one of the Department's Vehicle Inspectors, questioned why the Department did not hire minorities in the Vehicle Inspection Program. He said he had been with the program for 8 years and in all that time only five minorities had been hired. Mr. Forthan said that without minorities being represented on the Vehicle Inspection staff it affected the way that cars were tested.

Chairman Petersen asked Director Hansen to return to the Commission at its next breakfast meeting with a report on the Department's Affirmative Action program.

AGENDA ITEM D: Request for authorization to conduct a public hearing on proposed rule revisions to the Motor Vehicle Emission Inspection Program, Rules OAR 340-24-300 through 340-24-350.

The Commission is being asked to authorize public hearings on proposed revisions to the Motor Vehicle Inspection Program Rules. Three rule revisions are proposed:

1. That the special test procedure currently limited to 1981 through 1983 model year Ford vehicles be extended indefinitely to maintain conformity with Federal regulations;
2. That a procedure be provided through an alternative test criteria when proper pollution control equipment is unavailable; and
3. That the exhaust gas analyzer calibration procedures and requirements for licensed self-inspecting fleets be tightened.

In addition to these items, the Department wishes to solicit comments on the appropriateness of including heavy duty diesel vehicles and motorcycles in the vehicle inspection program. While no rules or test procedures are being proposed, comments on the air quality benefits and possible procedures or standards would be requested. Traditionally, for those hearings all of the Program's rules have been open for comment. It is proposed that this policy again be followed.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the public hearings be authorized to take testimony on the proposed rule modifications and related items. The public hearings are tentatively scheduled for February 19, 1985.

Chairman Petersen asked about the Chrysler Corporation comments. William Jasper, of the Department's Vehicle Inspection Program, said that Chrysler had requested a special test procedure for a certain model of car. There are only about 250 of those cars in the Portland metropolitan area. The procedure requested was to test the vehicle in drive rather than in neutral and the Department has safety concerns about such a test. Mr. Jasper said the Department had received a request from EPA that states consider Chrysler Corporation's request. Mr. Jasper continued that by the end of the year replacement parts would be available for these particular vehicles that would allow for testing in neutral, and at this time the staff did not feel that it would be a wise thing to modify the test procedure for these vehicles.

Commissioner Buist asked why the failure rate of diesel vehicles in the State of New Jersey was so low. Mr. Jasper replied that New Jersey had buses that were newer than those in the Tri-Met fleet, they were also burning cleaner fuel, and they had an inspection/maintenance program that covered the diesel vehicles.

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

AGENDA ITEM E: Request for authorization to conduct a public hearing on Pollution Control Tax Credit Rule Amendments, OAR Chapter 340, Division 16.

This item asks for authorization to conduct a public hearing on proposed amendments to the Pollution Control Tax Credit Rules which would address problems raised by Legislative Counsel related to refunding fees and problems found by the staff in administering the rules.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Commission authorize public hearings to take testimony on the proposed Pollution Control Tax Credit Rule amendments, Chapter 340, Division 16.

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

AGENDA ITEM F: Sewerage Operator Training and Certification in Oregon--past, present, and proposal for the future.

For years the Department has participated in training and certification programs for operators of sewage treatment plants. Much of the participation with other agencies and institutions has been on an informational basis. Changing conditions, particularly with Oregon State University, create a need for more formalized support and direction of these programs for the future.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Commission:

- (1) Provide an expression of support for continuation of the training and certification programs for wastewater treatment plant operators.
- (2) Authorize the Department to seek an Executive Order to designate a statewide training committee to provide overall direction and coordination of state training programs.

Commissioner Bishop asked what other states were doing in this regard. Harold Sawyer, of the Department's Water Quality Division, said that substantial coordination went on between northwest states and British Columbia, but in general each state has to have some program to meet EPA requirements. Oregon has a successful program that the Department is simply seeking to keep going.

Commissioner Brill asked if this training program would apply to all operators, even those in smaller treatment plants. Mr. Sawyer replied that the resources are available to the operators of small community systems, but DEQ mostly works on a one-to-one basis with those operators because it is sometimes difficult for them to get away from their plants for training.

Commissioner Bishop asked what was involved in seeking an Executive Order. Mr. Sawyer said the Department would draft the Order and ask the Governor's Office for approval.

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

At this time, Chairman Petersen recognized Professor Martin Northcraft, of Oregon State University, with a plaque of appreciation from the Department for his many years of involvement in the sewerage operator training and certification program.

AGENDA ITEM G: Proposed adoption of Hazardous Waste Generator Fees, OAR 340-102-060.

The Commission is requested to adopt a schedule of Generator Fees which are estimated to raise \$180,000. The fees, to be assessed directly on generators, are based on the volume of waste generated and are believed to best reflect the actual compliance and enforcement efforts that are required of the Department.

The monies collected will be dedicated to off-setting a deficit and maintaining current staffing in the Hazardous Waste Program (14.9 FTE) as well as adding 2.0 FTE for permitting activities.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the proposed Hazardous Waste Generator Fee schedule (OAR 340-010-060).

Commissioner Buist asked if the Hazardous Waste Program was going to get larger. Richard Reiter, of the Department's Solid Waste Division, replied that RCRA had been authorized for another five years and Congress was planning on bringing more and more sources under regulation. In Mr. Reiter's estimation the program would continue to expand.

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

AGENDA ITEM H: Proposed adoption of Opportunity to Recycle Rules, OAR 340-60-005 through 340-60-085. (Postponed from November 2, 1984 EOC meeting.)

At the November 2, 1984 EOC meeting, the Commission postponed adoption of Agenda Item G, the Opportunity to Recycle Rules, OAR 340-60-005 through -085. At the Commission's request, the staff, with the assistance of the Solid Waste Advisory Task Force, has developed language to address outstanding issues. The staff submitted revised proposed rules and a separate Commission guidance document for adoption.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission adopt the proposed rules, OAR 340-60-005 through -085 as amended and it is also recommended that the Commission adopt the policy guidance document.

Charles Hales, Multifamily Housing Council, Home Builders Association of Metropolitan Portland, testified that in general they thought the draft rules were excellent, but suggested the following changes be made in order to make it clear that existing private sector recycling efforts underway in multifamily complexes where a contractor provides a multimaterial collection from those complexes can continue under the new rules. He presented suggested amendments as follows:

340-60-010

- (4) "Collection service" means a service that provides for collection of solid waste or recyclable material or both. "Collection service" of recyclable materials does not include a place to which persons [not residing on or occupying the property] may deliver source separated recyclable material.
- (11) "Generator" means a person who last uses a material and makes it available for disposal or recycling[.] , or a person who provides a depot for such material.

340-60-015

- (7) (b) Commercial [and], industrial, and depot sources.

William Bree, of the Department's Solid Waste staff, responded that he had not had an opportunity to review these amendments until this time. He said that these particular amendments were not affecting the Department's role in solid waste management, but rather the local government and the multifamily unit recycler relationship.

Ernest Schmidt, Administrator of the Department's Solid Waste Division, said the Department had proposed in the rules to not call drop boxes at shopping centers and so forth a part of the collection service. The issue with the multifamily dwellings had to do with whether or not the Commission in the rules would preclude local governments from making a decision as the best way to get the most materials from the most complexes. He said that Mr. Hales was suggesting to protect existing, largely newspaper-only collection services, and the Commission needed to decide if they wanted to interfere with the local decision making process.

Fred Neal, League of Oregon Cities, thanked the Commission for delaying adoption of the rules to allow further discussion by members of the Solid Waste Advisory Task Force, Recycling Rule Subcommittee. He said discussions since the last Commission meeting on some controversial issues were very constructive and brought about a general consensus along the guidelines the Commission provided to the Department. Mr. Neal testified to two amendments that he understood would be brought to the Commission. He was concerned about the proposed amendments from the Multifamily Housing Council as he felt that those decisions should be made on the local level. He said he felt that the Legislature's intent under Senate Bill 405 was that the opportunity to recycle be provided by each local government.

Mr. Neal also testified about a proposed amendment from the Oregon Environmental Council regarding "due consideration." He said the law provided that in determining who shall provide the opportunity to recycle, a city or county shall first give consideration to anyone lawfully providing recycling or collection service on June 1, 1983. The Task Force agreed that due consideration was a stricture to local government for providing the opportunity to recycle. Mr. Neal advised the Commission against following the suggestion of the Oregon Environmental Council to require local government to go beyond the mere responsibility to give due consideration to persons already providing recycling or collection service to the extent of

- (1) publishing at least 30 days' notice of intent to franchise and
- (2) allowing those persons to consider and apply for a franchise.

By so doing, the Commission would risk going beyond the intent of the Legislature by creating a state agency intrusion into local government procedure.

In closing, Mr. Neal said that they supported the Department's present rule draft and would not support any of the suggested alternatives. He said they thought the Department and Mr. Hansen had done an admirable job of bringing the affected parties together on this subject and urged the Commission to adopt the rule as proposed by the Department and get recycling on the road.

Lorie Parker, Oregon Environmental Council, stated that "due consideration" should be explained in the rule itself because having it only in the guidance document would do nothing. She proposed language somewhat more explicit than what was in the guidance document. Ms. Parker said local government was just as happy to have due consideration in the guidance document instead of in the rule because they know they would not have to follow it. She was proposing that the requirement for public notice in the guidance document be put into the rule to make sure that it gets done.

Angela Brooks, Publishers Paper Company, was concerned about the effect the present rule proposal would have on door-to-door collections by nonprofit charitable and educational organizations. She said the policy statement in 340-60-015 appeared to limit charitable and other groups that currently use recycling as a fund raiser, while not allowing groups that may want to do this in the future to be involved. Ms. Brooks presented the following language:

340-60-015

(7) To encourage local governments to develop programs to provide the opportunity to recycle in a manner which increases the level or scope of recycling and does not regulate, limit, adversely impact, or disrupt directly or indirectly the recycling activities or results thereof, of:

(A) Charitable, fraternal, and civic groups, and

(B) Recycling collection from commercial and industrial sources.

Ms. Brooks also had a concern with the fair market value exemption (340-60-015(2)). By grouping newspapers with other recyclables, Ms. Brooks believed the Commission would actually reduce the amount of waste newspaper currently collected. As an example, waste newspaper is currently collected at multifamily housing units. They would be required to recycle a number of other items that could result in less actual collections. Further, Ms. Brooks believed that the law itself did not allow for grouping of recyclables as proposed in the rule.

Roger Emmons, Oregon Sanitary Service Institute, strenuously opposed any attempt to put in a nonprofit exemption. He said in all of their local franchise proposals an exemption was written in for civic, charitable, and benevolent groups, particularly for such groups as scouts and churches who are doing newspaper drives. He suggested the Commission would have some problems in writing an exemption into a rule because of the question as to what is a civic, charitable, or benevolent group. He said he did not know of a community in which he had dealt with franchises that had run into difficulty in dealing with groups such as the Lions Club, Kiwanis, and churches who conduct newspaper drives for fund raising.

Mr. Emmons said that the proposal by the Multifamily Housing Council would provide for the creaming of newspapers. Chairman Petersen asked Mr. Emmons to explain what creaming of newspapers meant. Mr. Emmons replied that one of the questions before the Commission and the Task Force in providing the opportunity to recycle was how to get residential materials together where newspaper could carry the recycling of the other materials such as glass and tin. Basically, newspaper is the only recyclable with a ready market. There might be some cardboard and waste oil that has a market also, but the value that supports residential recycling is newspaper. Mr. Emmons said the proposed rules allowed for the grouping of materials together under the fair market value exemption. Mr. Emmons believed that was the only way that long-range services would be provided. He said the Task Force had spent a great deal of time with the Multifamily Housing Council and had considered their proposals, but asked that the Commission stay with the rules as currently proposed.

Regarding the notice requirement proposed by the Oregon Environmental Council, Mr. Emmons said there was not one single case in the state where anybody had been disadvantaged. The one case that had been previously cited to the Task Force was a recycler in North Bend who apparently complained that a franchise was given without notice to him. In investigating that franchise, it was determined that it did not deal with recycling.

Mr. Emmons urged the Commission to stay with the Task Force recommendations and the Director's Recommendation. He said he thought they adequately protected the public.

In anticipating the next witness who was a representative from the Boy Scouts of America, Chairman Petersen asked Mr. Emmons to explain in more detail how exemptions would be provided to nonprofit groups through local franchise proposals. Mr. Petersen said in the last several weeks he had heard personally from several scouting organizations that were concerned that in order for them to continue their existing collection and fund raising efforts, they were going to have to get some kind of a city or county permit. Mr. Emmons replied that there were one or two local governments that may require some sort of permit, usually without charge, just so groups would know what the recycling regulations are in the community and what services are available. Normally, however, there was an exemption clause in franchise agreements for people who haul their own waste and people who have repairable discard businesses, such as Goodwill and St. Vincent DePaul, and usually another exemption for civic, charitable, or benevolent organizations who are not organized for solid waste collection. Mr. Emmons said that normally there was a total exemption for fund raising drives and he did not know of a case where there has been a problem. In response to Chairman Petersen, Mr. Emmons said that there was no intent by the Advisory Committee to include those types of activities in any sort of regulation. He said that local government was better able to sift through those organizations who are legitimate that would fall under these civic, charitable, or benevolent exemptions in the franchise. Mr. Emmons said he did not feel that these regulations would be cast in concrete

and that if, in the future, there is a substantial violation of people's rights, or there is a substantial violation of the intent to provide more recycling by more people, or to really injure those people who are providing those types of services, the rules could be amended. But he would not like to see that sort of an amendment happening before the Commission at this time. Chairman Petersen asked if Mr. Emmons would consider those types of nonprofit collection activities would fall under the heading of existing recycling programs. Mr. Emmons replied that he was not sure the word "existing" necessarily had to be in the rule with respect to those programs because there would be a number of programs that would come in and out of the recycling effort in the future, and that he did not think the Commission would want to preclude new fund raising activities. He urged the Commission not to use the word "nonprofit" because it could be very violently abused under the circumstances.

Craig Reide, Boy Scouts of America, said he was pleased that the Commission had heard from a lot of civic organizations, particularly youth groups. He said the scouting program has long stood for conservation of all the Nation's natural resources. They were concerned about what they felt were rules that could potentially effect youth organizations and the way they raise substantial amounts of money to fund their programs. He said Director Hansen had spent considerable time trying to explain that he did not believe that these rules would affect nonprofit organizations. Mr. Reide, however, said he differed with Mr. Hansen because once a local government is mandated to provide collection of recyclable materials they would not be able to take an easy attitude, which they have now, to allow youth organizations just to go out and use recycling of materials as profit making ventures. Once it is mandated, Mr. Reide continued, then a city has to take a harder look at who they have going door to door doing collections. He said he realized that in some cases this would mean creaming newspapers; however, some groups do collect other items. Mr. Reide asked for a specific exemption in the rules that would allow nonprofit organizations to continue door to door collection of recyclable materials without having to obtain special permits. Chairman Petersen asked if Mr. Reide thought that local governments wouldn't be in the best position to determine who should have these exemptions and privileges as the term "nonprofit" could be abused. Mr. Reide replied that he basically agreed local control was very important, but that as local governments come under a crunch to provide the opportunity to recycle they would have pressure from individual recyclers who are in the business of recycling to grant them exclusive rights. It would then become very difficult, community by community, to take an individual approach.

Chairman Petersen asked the Assistant Attorney General to comment on the statutory authority the Commission would have if they desired to adopt a rule exempting certain organizations.

Robert Haskins, Assistant Attorney General, replied that the act itself directed the Commission to implement a program that would assure the opportunity to recycle is implemented through local governments. The question was, would it be proper to take something out of that system. Mr. Haskins said he could not find authority to take this small section and say it was exempt from the act. He suggested the Commission could do as proposed and put a statement in the policy guidance document encouraging local governments to take a particular approach. Mr. Haskins thought the Legislature had given local governments, subject to the Commission's guidelines, broad authority to put together programs in individual communities giving due consideration to existing programs, but that he could not find statutory authority to pull something out of the act completely.

Director Hansen said that, as an example, there was a list of four items that would be recycled out of a particular community with the most valuable item being newspaper which would carry the other three items. Mr. Hansen said, as Mr. Reide indicated, if the newspaper is allowed to come out, either those other items would not be recycled because they would no longer be economically feasible, or to be able to recycle them there would have to be an additional charge built back into the rate base to cover collection. Director Hansen said what the proposed rule does is allow the decision to be made by local government. If local government allowed certain groups to collect only some recyclables, they would still have the obligation to provide for the recycling of all the items the Commission says must be recycled.

Bruce Bailey, Chairman of the Solid Waste Advisory Task Force, was pleased that his group had been able to arrive at a consensus. He said the rules weren't perfect and appreciated the Commission's willingness to let the Task Force spend some additional time to resolve certain issues. He said he thought the time was here to move forward and hoped the Task Force would be able to resolve any remaining issues that may come forward in the months ahead.

Chairman Petersen thanked the Committee for its efforts and the hundreds of hours spent in trying to help draft these rules. The Commission then went through the proposed guidance document and rules making the following changes:

Policy Guidance, page 2:

- (1) (g) Regulatory intervention in recycling systems [for commercial and industrial sources] should be kept to the minimum necessary to accomplish the purposes of the act.

Policy Guidance, page 3:

- (3) (b) . . . The final result of local government action should be to provide for effective [residential] recycling systems . . .

Policy Guidance, page 5:

- (6) . . . The representative should act on behalf of and represent to the Department the diverse views of all affected persons in the watershed.

Policy Guidance, page 9:

- (10) (f) The Department shall make [a periodic] at least an annual review of the principal recyclable material lists and submit any proposed changes to these rules to the Commission.
- (11) (a) The [Department] Commission is aware . . .

Proposed Rules, page 6:

340-60-015(7) (a) [Existing] recycling efforts, . . .

Proposed Rules, page 21:

340-60-055(3) . . . Costs [may] shall include fees charged, taxes levied or subsidy to collect and to dispose of solid waste. Costs [may] shall also include . . .

Commenting on the proposal by the Multifamily Housing Council in regard to the definitions of collection service and generator, Chairman Petersen said the due consideration provisions in the rule were as far as the Commission wanted to go in guiding local governments in this particular area. He said he felt the Commission needed to give as much freedom to local government as it could, so Chairman Petersen was inclined not to go along with the Multifamily Housing Council's proposal. The rest of the Commission agreed.

In deleting the word "existing" from 340-60-015(7) (a), Chairman Petersen commented that the Commission was wanting to encourage local governments to provide for the recycling activities of charitable, fraternal, and civic groups and to provide a minimal amount of disruption to these organizations. Chairman Petersen felt that this amendment would make the rules strong enough to make that provision. In doing this, he assumed that cities were not going to require these organizations to ask for special permits and was expecting that this would be a matter of franchise. The rest of the Commission agreed.

Commissioner Bishop commented that as yard debris was not currently in the rules as a recyclable material, she wanted it to be considered in the future. She asked to discuss this matter so that the Commission would be sure it would come up again and that yard debris would be considered as a potential recyclable material. William Bree presented testimony from the City of Portland and the Advisory Committee with a strong recommendation that the Commission not put yard debris on the principal recyclable material list because yard debris was unique as compared to some other recyclable materials.

Other materials are presently being purchased by their market. People are generally paying to have yard debris hauled away. Yard debris is a recyclable material for the individual who self-hauls, but the margin is very small. Commissioner Bishop commented that she understood why yard debris was not considered in the list of recyclable materials at this time, but that there was a problem out there that the Commission was going to have to address at some point in time. Commissioner Buist also expressed concern about the yard debris issue. She felt that not enough education was being done to inform people about the alternatives to backyard burning and the availability of those alternatives. She asked the Department to report within 12 months on alternatives. Mr. Bree commented that the Commission would have, at its next meeting, a report on the status of the backyard burning ban. Chairman Petersen suggested that the next meeting would be the time to discuss the yard debris issue.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop that the proposed rules and policy guidance as amended be adopted. The motion passed unanimously.

Mr. Bree asked the Commission if it was their intent that the policy guidance should carry weight similar to the rules, or that the policy guidance be only suggestions to local government. Chairman Petersen replied that the policy guidance obviously did not have the force of rules because it was not rule, but that, hopefully, it would give local government enough guidelines to answer most of their questions and that local government should weigh those guidelines accordingly.

Presentation to Robert L. Haskins, Assistant Attorney General

Robert Haskins, Assistant Attorney General, had served as legal counsel to the Department and Commission for the past 13 years. Mr. Haskins has recently been reassigned to other duties in the Justice Department. In recognition of Mr. Haskins many years of outstanding service to the Commission and the Department, Chairman Petersen presented him with a plaque and wished him well in his future endeavors.

AGENDA ITEM I: Information Report--Request by LaPine Sanitary District for extension of submittal of facilities plan.

In May 1983, the Commission adopted rules requiring a facilities plan report by January 1, 1985 for sewerage the LaPine core area by January 1, 1987. Due to delays obtaining financing and hiring a consultant to prepare the report, the LaPine Sanitary District will not meet the January 1, 1985 date and has requested an extension. The Department proposes to allow the District until June 1, 1985 to submit the report.

The Commission thanked the staff for this informational report and accepted it.

AGENDA ITEM J: Proposal for EQC to declare a threat to drinking water in a specifically defined area in mid-Multnomah County pursuant to the provisions of ORS 454.275 et seq.-- Summary and Evaluation of Hearing Record.

Based on hearings held August 30 and September 11, 1984, and written testimony submitted through September 11, 1984, the Department staff have prepared an evaluation and report pertaining to a threat to drinking water in mid-Multnomah County.

The report focuses on several specific questions and issues:

1. Does a threat to drinking water exist in the affected area;
2. If a threat is found to exist, are the boundaries appropriate;
3. If a threat is found to exist, can it be eliminated or alleviated by treatment works; and
4. Are proposed treatment works the most economical method to alleviate the threat.

The staff evaluation endeavors to answer those questions.

Three alternatives for Commission action were identified and discussed in the report, and the staff prepared a recommendation.

Director's Recommendation

It is recommended that the Commission proceed to implement alternative three (3) in the staff report as follows:

1. Review the staff evaluation of the record and preliminarily conclude that:
 - a. A threat to drinking water as defined in ORS 454.275(5) exists in the affected area in that at least three of the conditions necessary to find a threat to drinking water, conditions (a), (b), and (c), exist in the affected area;
 - b. The affected area as defined by the local governing bodies is appropriate and should not be modified;
 - c. Construction of treatment works is necessary to alleviate the conditions in the affected area that result in a finding of a threat to drinking water;
 - d. Additional information is needed before findings and recommendations can be adopted.
2. Delay adoption of findings and recommendations until additional information is received.

3. Direct each of the affected local governing bodies to develop and submit, by no later than July 1, 1985, information to address the following:
 - a. Revised treatment works plans, specific schedules, and implementation programs to provide assurance that all discharges of sewage to the groundwater from cesspools or seepage pits in the affected area will be eliminated by no later than December 31, 2005.
 - b. Complete cost estimates for implementing the revised plan including a display of the total costs to be borne by typical residential and commercial property owners.
 - c. Equitable and affordable financing options for the costs to be borne by property owners.
4. Establish a date in July 1985 for reconvening the hearing to receive additional testimony on the revised plans and information submitted by the local governing bodies.

Chairman Petersen said that it was the Commission's feeling that at this time they had taken all the testimony they could. Several public hearings had been held and a hearing record had been developed on the issue. The Commission had reviewed the hearing record and did not believe any further rehashing of those particular issues was necessary in order to aid them in their decision at this time. He pointed out that if the Commission adopts the Director's recommendation, there would be a future time when more public input would be appropriate, and after an order and findings are issued, if that were the action taken by the Commission, there would be still another opportunity for the public to respond to the order and the findings. Because of these opportunities, the Commission did not believe they were unfairly cutting off any testimony on this issue at this time. Chairman Petersen said he had had a brief discussion during the recess with one of the legal representatives for some of the groups who had been vocal on this issue and before the Commission moved on the Director's recommendation, he would allow their attorney, Mr. Henry Kane, to have five minutes to address the Commission and set forth whatever points and arguments he wanted to make at this time.

Henry Kane, Attorney for United Citizens in Action. Mr. Kane made the following points:

1. Notice in the East Metro edition of The Oregonian said that this hearing of the Commission would be in the Yeon Building. That was an error.

2. On page 35 of the staff report there is a statement that boundaries are not in dispute. Mr. Kane believed the record would show that they are in dispute and it was his personal view that if there is a threat to drinking water, the boundary should be the entire east Multnomah County including areas within cities such as Portland. Mr. Kane said that part of those areas are not sewerred.
3. He submitted that the Commission should obtain opinion of its Counsel as to whether ORS 454.010(5) (b) permits the most economical method of reducing this alleged threat to drinking water, and that is to simply direct the water districts to obtain 100 percent of their water from Bull Run or treat their water. The documentation Mr. Kane has seen indicated that all but two of the districts obtain 100 percent of their water from Bull Run, and the others say that they passed the water quality tests.
4. It was Mr. Kane's understanding that the hearing record had not been transcribed. He believed it should be, particularly since one of the hearings was conducted by but one member of the Commission. Mr. Kane said there was a question as to whether a summary would be considered legally adequate.

Mr. Kane said his clients were in favor of clean drinking water. They certainly think that they have it and when they are finished with their research they would submit an analysis of this recommendation which they suspected would support their view that the statutory requirements have not been met. Parenthetically, Mr. Kane said he was preparing an ORS Chapter 183 petition for adoption of a rule by the Commission that would permit interested parties to cross-examine witnesses. He said that at the first hearing there was a great deal of very broad statements made with no opportunity for cross examination. He believed that in the future the opportunity for cross examination would enable the Commission to get to the truth of the matter. Mr. Kane said that the Chairman, as an attorney, was aware that the Supreme Court had been raising the standards of procedure and proof that must be followed by the Commission or a body of this nature if the action is to be upheld. He submitted that his group's analysis would show that the standards that the Supreme Court is proposing have not been met. Mr. Kane said he understood that his group would have an opportunity to present a more detailed analysis.

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

Chairman Petersen said he would be writing a letter to local governments to give them further information and guidance on what the Commission expected them to provide in the next six months.

In a related matter, the Commission heard from two Multnomah County Commissioners regarding the ban on further construction of cesspools and seepage pits which was set to be implemented January 1, 1985.

Multnomah County Commissioner Caroline Miller read the following letter into the Commission's record:

Dated December 13, 1984, to the Environmental Quality Commission.

"This letter concerns the threat to drinking water in mid-Multnomah County. One of the topics to be addressed at your meeting on December 14th.

Initially, you are to be commended for your recent decision to require a more detailed examination of the potential financial burden sewers will place on the residents of mid-Multnomah County. As you know, another potential crisis the ban on the installation of cesspools and thereby a moratorium on all development takes effect on January 1, 1985.

As your body has established a deadline of June 1985 for submission of more detailed financial plans on the sewerage of mid-Multnomah County, we request a similar extension of that County's exemption from the operation of OAR 340-71-335. At that time, when the EQC will likely establish a sewerage plan for the mid-County region it could simultaneously address the process by which the use of cesspools could be phased out as sewers were constructed between the present and the target completion date of 2005.

If you find the above suggestion unworkable, we would at least hope for a 30 day delay of the expiration of our exemption on cesspool construction during which time we could develop a plan for establishing a continuously decreasing cap on the number of cesspools allowed in mid-County.

We appreciate the difficult job you face and the consideration our suggestions will be given."

Sincerely, Caroline Miller, Richard Levy, Gordon Shadburne.

Multnomah County Commissioner Earl Blumenauer presented a similar letter signed by himself, Commissioner Arnold Biskar, and Dennis Buchanan.

Commissioner Blumenauer preferred some sort of an interim activity that would not allow for further pollution, but would allow for an interim trade off of cesspool installation for sewer hookup. Commissioner Blumenauer said that industry would not site in an area where sewers were not available, therefore, an extension of this date would not hurt economic development. He said that governments had dallied too long on this issue and that the costs were going up along with the pollution. He appreciated the time the Commission and the DEQ were spending and the work that they have done to solve this problem.

Chairman Petersen presented the following proposed temporary rule.

OAR 340-71-335(2) (c) shall be modified to read as follows:

- (c) Effective January 1, 1985 and until the EQC takes final action on the proposal to find a threat to drinking water in mid-Multnomah County, installation of cesspool and seepage pit sewage disposal systems shall only be allowed subject to the following conditions:
 - (A) A cesspool or a seepage pit system to serve a new sewage load may only be installed if an equivalent loading of sewage to an existing cesspool (or cesspools) has been removed from discharge to the groundwater by connection to a sewer.
 - (B) A cesspool or a seepage pit system may be installed to repair an existing failing system only if connection to a sewer is not practicable and no other alternative is available.
 - (C) Any new or repair cesspool or seepage pit system installed shall be located between the structure and the location of the point where the connection to a sewer will eventually be made so as to minimize future disruption and costs of sewer connection.
 - (D) Cesspool or seepage pit systems shall not be allowed on any lot that is large enough to accommodate a standard on-site system.
 - (E) Any new subdivision or development that involves construction of streets shall be required to install dry sewers at the time of development.
- (d) Subsection (c) above shall be administered in a manner so as to preclude any net increase in cesspool or seepage pit discharges into the ground. The agent of the Department of Environmental Quality responsible for the implementation of on-site sewage disposal rules in Multnomah County shall, prior to issuing any further cesspool or seepage pit installation permits, develop and implement a system to account for discharges removed, cesspools properly abandoned and new permits issued. Accounting shall be on an equivalent single family dwelling unit (EDU) basis. The accounting system shall be submitted to DEQ for approval. Monthly reports shall be submitted to DEQ on or before the 5th day of the following month.

Both Commissioner Blumenauer and Commissioner Miller agreed that this would be an equitable solution.

It was MOVED by Chairman Petersen, seconded by Commissioner Bishop and passed unanimously that the temporary rule be adopted, including the findings necessary under ORS 183.335(5).

Dick Cooley, a developer in the area, testified that he had not had an opportunity to see the draft rule and would like a normal hearing process to make his views clear. Chairman Petersen replied that the Commission would be setting a hearing within the next six months.

Louis Turnidge, testified in the matter of further information. He said that in the Commission's report they had taken almost for granted projected population increases, and suggested that the Commission look into that matter. He also testified on the information in the report on nitrate levels and the clarity of the water. He said that nitrate and nitrogen had been lumped into some of the Commission's basic data and asked the Commission to look into it. Finally, he said that the basic data regarding methemoglobinemia was scanty and was not available in the Multnomah County library, and asked that the Commission also look into that.

Chairman Petersen asked that the records show that Mr. Turnidge had testified on the same subject before the Commission several times before.

AGENDA ITEM K: Request for authorization to conduct a public hearing on a proposed rule amending Hazardous Waste Rules to provide that only those liquid organic hazardous wastes which can be beneficially used will be banned from landfilling after January 1, 1985.

At the Commission's April 20, 1984 they adopted comprehensive hazardous waste rules dealing with a series of practices affecting all aspects of hazardous waste management from generation of such wastes to their eventual disposal. A key approach to the management of hazardous waste has been the intent to find ways to handle those wastes in the most environmentally sound fashion.

The Hazardous Waste Rules adopted by the Commission are identical in most regards to the federal law. However, there are several areas which the Department felt were particularly significant to protect Oregon's environment that the federal program did not address. One of those areas deals with the landfilling of certain liquid organic hazardous wastes. The Department believes that the most desirable methods, in order of preference, to properly manage hazardous wastes is as follows:

1. Nonproduction;
2. Treatment to render nonhazardous;
3. Reuse or recycle;
4. Incineration; and
5. Land disposal.

Landfilling of liquid organics is particularly critical due to two concerns. First, as a result of their liquid nature, there is a greater possibility that those hazardous wastes can migrate offsite through soils, and potentially contaminate ground and surface water.

Secondly, many hazardous waste organic materials do not break down in the environment and, consequently, once put into a landfill pose a continuing threat.

As a result of these concerns, the Department recommended and the Commission adopted a ban on the landfilling of liquid organics at Arlington as of January 1, 1985. Since the time of adoption of these rules in April, several important developments have taken place. There have been no additional hazardous waste incinerators authorized to operate in the United States. Consequently, the three existing hazardous waste incinerators have had trouble keeping up with the amount of waste desired to be incinerated. Additionally, new data has been developed on what alternatives were available to landfilling.

From this additional information it was concluded that certain organics, particularly those that were heavily chlorinated, would not be able to be beneficially used. Consequently, the options available to industrial generators of these chlorinated liquid organics would be to send them either to one of the three incinerators for permanent destruction or send them to another hazardous waste landfill.

Director's Recommendation

It is recommended that the Environmental Quality Commission authorize the Department to conduct a public hearing for the purposes of accepting testimony on a proposed rule amendment to OAR Chapter 340, Division 104, which would allow the Department to determine in what circumstances hazardous waste material should be banned from landfilling at Arlington.

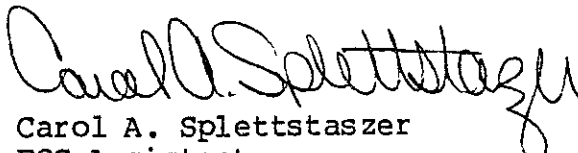
It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's Recommendation be approved.

This ended the Formal Meeting.

LUNCH MEETING

The Commission had lunch in the Department's offices at 522 SW Fifth Avenue in Portland. Present were Commission members Petersen, Bishop, Brill and Buist. The threat to drinking water in mid-Multnomah County was briefly addressed and Chairman Petersen asked the staff to draft a letter for him to local governments asking for additional information the Department would be needing in the next six months on this matter.

Respectfully submitted,


Carol A. Spletstaszer
EQC Assistant

CAS:d

TRANSCRIPT OF 12/14/84 EQC MEETING - Public Forum

Petersen: We now come to the public forum portion of the meeting where--this is the time where citizens who want to address the Commission on items that aren't on the agenda should come forward. We do have one request from a Robert Forthan, but if I mispronounce your name I apologize, apparently works for the Department. Right over there is where you go, sir.

Forthan: What am I supposed to do? Just speak what's on my mind?

Petersen: Sure, just tell us what's on your mind and why you wanted to address us.

Forthan: Well, I've been with the Department with the Vehicle Inspection Division for about eight years and within those eight years I've probably seen, well, for employment, probably five minorities in eight years.

Petersen: Um.

Forthan: And three of those five--see there was two Mexicans when I first started and three blacks counting myself. That was the whole minority--one Chinese. The Department just doesn't hire minorities--uh with the Vehicle Inspection Division. And it does have an impact on the way we test cars. There is no way without equal representation that you can test cars fairly. I don't know if you've ever been to a test center. Have you?

Petersen: Yes.

Forthan: Have you ever had a disconnect or did you just breeze through, or-- you probably have a newer car. It looks like you're well established like the rest of the group--there's no problem. I'm not smart at all, but I'm here. And I'm representing black people. Black people are here. We're going to stay here. Unfortunately, the State of Oregon does not represent black people or minorities. Vietnamese people. I can't see how they should be exempt from the test because no matter if their car's passing, because they're Vietnamese, they might not pass, because it's the discretion. It's up to the individual inspector. So far just all white people and they're the ones who say, "well he can't speak English, he got \$25,000 just for coming over here." Oregon needs to do something with minorities.

Petersen: Let me ask you a question.

Forthan: Ok.

Petersen: When you test cars do you discriminate?

Forthan: Do I?

Petersen: Between a white man's car and a black man's car?

Forthan: Unfortunately, I do. I'm going to be honest. It's not computerized. The only thing I can do is--you've got so many white people fillin' out black people, indians, out for anything. I don't know if you know what a preheat tube is, but it's a matter of just hooking it up. It's up to the individual inspector's

discretion to hook it up. If he doesn't want to hook it up he can fail the person and send him back 45 minutes of a wait just to take a test to hook this thing that the inspector could've did. The reason why I say I do discriminate cuz it's my discretion too to hook it up or not. If I don't feel good I won't hook it up. Now this noise test we're getting ready to take. It's going to be a subjective test I believe. You're just going to listen. If you think the car is loud, you're-- probably be acceptable.

Petersen: When you discriminate, do you--is it that you are tougher on a white man or easier on a black man?

Forthan: It's not being tough or easier. I wouldn't say that.

Petersen: I see.

Forthan: Color doesn't--it could be age. If a person too old I might fail them. It's up to the individual inspector's discretion.

Petersen: I see.

Forthan: And believe me I'm not the only one. I'm not the only one. It took eight years for me--I was a alcoholic 18 months ago. Why I stayed on--why they kept me I don't know. I hope I'm doing a good job. And I'm here to represent black people. I'm going to the Legislature too. Supposedly I've been invited by State Representative Ron Chase to tell them the same thing. Black people, minorities of all races, especially Vietnamese--I can't see--I don't know--you probably--you don't know me but I can show you some of my writings and you'd be embarassed. I have two years of college too, and you'd be embarassed at how

I write.

Petersen: Let me say this, I'd like to ask the Director if he would please report back to the Commission at our next breakfast meeting which is prior to our January meeting, and maybe ask Sue Payseno to give us a summary of our affirmative action program and also comments on other comments that this gentleman raised here today. I don't think--obviously you weren't prepared for that. I don't think it would be fair to you to ask you to respond right now, but I would like you to get back to us at our next meeting. Thank you very much.

Hansen: We will be.

Forthan: They said you guys do it fast. You do it fast. I appreciate--at least. Black people are here. Minorities are here. Vietnamese are here. Chinese. You name it. We're going to test cars or whatever else the State of Oregon's got to do, we're going to do it.

Petersen: I believe that. Thank you.

Forthan: Thank you.

Hansen: We'll back on the breakfast agenda, Mr. Chairman.

Petrson: Any other items of public forum? I'll close the public forum.

PARTIAL TRANSCRIPT OF 12/14/84 EQC MEETING, AGENDA ITEM H, RECYCLING RULES

Petersen: Agenda item H--Proposed adoption of Opportunity to Recycle Rules, an item that was postponed or tabled from the November 2nd EQC meeting.

Mr. Hansen.

Hansen: At the Commission's request the staff, with the assistance of the Solid Waste Advisory Task Force has developed language to address the outstanding issues. The staff submits the revised proposed rules and a separate Commission guidance document for adoption. A number of members of the solid waste staff are to be able to answer any questions.

Petersen: We have people who would like to address us on this issue so I'll take them in the order I have them. Mr. Charles Hales of the Homebuilders Association of Metro Portland.

Hales: Thank you Mr. Chairman, members of the Commission. For the record I'm Charles Hales with the Homebuilders Association of Metropolitan Portland. The Multifamily Housing Council is a division of our Association. Some of our members appeared at your last discussion of this issue and have worked with the staff in the meantime. In general we think that the draft rules are excellent. We would however suggest a couple minor changes that you see before you in order to make it clear that existing, private sector recycling efforts underway in multifamily complexes whereby a hauler provides--a contractor provides a multimaterial collection from multifamily complexes can continue under the new rules. We propose to make that clearer in the rules that you have before you with the three amendments that you see in 010(4). The deletion of the words "not residing on or occupying the property" in the definition of collection service make it clear that people do live on the property, i.e., apartment

residents can proceed with that kind of recycling. And then the same thing goes in the definition of generator to make it clear that people using a depot service, that being the kind of service I describe, where there are drop boxes placed by the apartment management in the complex, that they are defined as a generator. And then finally, in section 015 in the policy statement number 7 sub b, to encourage local government to allow existing recycling collection from commercial, industrial, and depot sources. Again, this type of recycling effort wherein depots are provided to multifamily residents. We think that those three changes to the rules will make it clear that this type of recycling can continue.

Thank you.

Petersen: Questions for Mr. Hales? Mr. Hansen was it your intention that Bill Bree would represent the staff in responding to various matters.

Hansen: Yes.

Petersen: Ok, Bill would you address that please.

Bree: I haven't worked on these amendments prior to receiving them the same time you have. The effort here is only related to multifamily, apartment house-type units and is changing the--its looking at the interrelationship between what local government can designate for a multifamily unit. It's not affecting the Department's role in the solid waste management, rather local government and the multifamily unit recycler relationship. It allows an exemption or larger exemption for recycling at multifamily units, slightly different than from single family units. The problem being that the individual generators, the individual apartment owners of the multifamily units don't have direct individual garbage collection service and probably would not have direct individual recycling service. It would be done

through their agent, the person who owns the multifamily unit would not by law be a generator. The reason for the amendment I think is that there are existing programs which specialize in recycling in multifamily units who are concerned that regulation of recycling would eliminate or limit their ability to recycle--continue their existing program.

Petersen: Is this a collection box problem? Are the concerned that because they all have to take in some box that it's going to be excluded because it's a collection box? Is that the issue they're trying to resolve here. Maybe Mr. Hales can answer that, I don't know.

Bree: I think maybe he'd better respond to it. The issue in the apartment house is that the individual tenants contribute their recyclables to what some would consider to be a recycling depot and then that depot markets or has somebody pick up the recyclable. It's not the individual generator who's carrying on the recycling activity. The local government-designated recycling program would like to have the materials from the apartment houses as part of their total recycling program as they would/^{from}the individual houses. The people who are presently doing the apartment houses, usually with an arrangement with the apartment manager, would prefer to keep their operation with those individual apartment houses rather than having to offer a new service to the rest of the city. This gets involved with the due consideration--excuse me, the fair market value discussion and the way we have tightened fair market value for residential recycling to cause multimaterial recycling to take place. From some apartment houses we have single material, newspaper recycling, or multimaterial recycling and the present recyclers are concerned, the apartment house owners are concerned that they're going to be restricted in their activities.

Hales: I might add to that. That's correct. The services are now providing drop boxes for what we would read your definition of depot to be, on site, contracted with the apartment manager to provide recycling opportunities for the residents. Of course they are doing that completely independently of any requirements from the Commission or from local government and I--as a public policy standpoint I assume those kind of efforts should be continued and should be encouraged and should not be precluded by these rules if possible.

Petersen: Mr. Bree is it your opinion that the rules dealing with collection or excluding collection boxes are not broad enough to exclude collection boxes at multifamily houses.

Bree: As they are proposed by staff they don't exclude--you can see the amendments or the proposed rule on the sheet that the Multifamily Housing Counsel has given you. The boxes or the collection location at a apartment house was covered but wasn't available to the general public. In other words it wasn't available to people not residing on the property. It wasn't a depot. The essence of this is the collection service is regulated by local government and if we exclude these boxes from collection service than it will allow the existing recyclers or future recyclers to carry out this activity without collection service regulation by the local government.

Petersen: Does the Department have a recommendation on this issue?

Bree: I don't have a recommendation, I just received this.

Petersen: Ok. Further questions on this issue? Yes, Ernie?

Schmidt: Chairman Petersen, I would like to add a couple comments to that I would hope to clarify both sides of the issue here. We've proposed in the rules to not call the drop boxes at the shopping centers and so on a part of the collection service. The issue at multifamily dwellings has to do with whether or not we up front in the rules preclude local governments from making a decision as to the best way to get the most materials from the most complexes. Now, what Mr. Hales is suggesting is to protect that existing, largely newspaper only collection which is part of this concern for creaming that we talked about. So the question before us and before you I think is do we want to interfere with that decision-making process at the local level and preclude for them -- determine for them at this point that they should not make that decision. Does that help?

Petersen: Yes, that helps me. Fred Neal, League of Oregon Cities.

Neal: Thank you Mr. Chairman, I'm Fred Neal, Senior Staff Associate for the League of Oregon Cities. I commend your delay in adoption of these rules to allow further discussion by members of the Solid Waste Advisory Task Force, Recycling Rule Task Force, regarding some not-uncontroversial issues that have not been thoroughly resolved by the Department's first draft. I believe that those discussions subsequent to your last meeting on this rule have been very constructive. They have brought about a general consensus along the guidelines that you provided the Department and the instructions you gave Mr. Hansen following your last hearing, and in fact only (TAPE ENDED)
(NEW TAPE CONTINUES) ...individuals in the Task Force retain a discomfort with what is truly a consensus generally of the rule draft. I do not believe that their discomfort can be addressed without creating more consternation amongst affected parties statewide. That brings me to the two amendments I understand--suggestions that I know of to date, as of this morning, in the last

hour to be brought before you. The one from the Multifamily Housing Counsel, I must reiterate what Mr. Schmidt said, would exclude multifamily residential recycling efforts from local government regulation in order to ensure, as each local government in this state must pursuant to this act that the opportunity to recycle has been adequately provided. Mr. Bree is correct that could have a substantial effect on what materials are available for recycling from residential sources, be it single family or multifamily, and thus could have an impact on the bulk of materials, their availability and thus the price that residential rate payers would have to pay for recycling efforts generally. I only mention this since I believe that my members, the city counselors of this state, will be primarily concerned first in meeting the requirements to ensure that the opportunity to recycle is being provided, but then also, and I think this is just as great a concern, is that the cost not outweigh the benefits of providing those services. There is general agreement amongst the Task Force that under Senate Bill 405 and renewed clarification of franchise and authority for recycling collection or solid waste collection service, that there are no guarantees to those who have been in business in one way, shape or form or another under this new program because the overriding policy, and a priority is that materials be recycled as possible. That brings me to the second amendment that I understand has been requested of you and that is from the Oregon Environmental Council in regards to due consideration. The law provides that in determining who shall provide the opportunity to recycle a city or county shall first give due consideration on any person lawfully operate--lawfully providing recycling or collection service by June 1, 1983. What the Task Force agreed was that due consideration was a stricture to local government for providing the opportunity to recycle. Now, keep in mind that varies between communities of 2500 or less where a door-to-door collection of a minimum of at least once a month is not required and that's different than those communities of 2500 or more wherein a door to door collection must be required. So providing the opportunity to

recycle is not necessarily in every city in this state providing door-to-door collection, or collection service. Moreover, there is no requirement upon cities or counties or collection service, solid waste collection service franchisees that that franchisee provide the opportunity to recycle. There was a desire to broaden the participation of groups in providing the opportunity to recycle. It may not be appropriate in a particular community in this state to grant the-- to force the franchisees of solid waste collection to provide the opportunity to recycle. Thus, giving due consideration to those who are to provide the opportunity to recycle, we felt that, and that was on a vote which was unusual on the Task Force, a vote of 13 to 2 that any guidance that this Commission would give to local governments on what due consideration should be, should in fact be hortatory only, instructive to the local government, but not be a legal requirement that goes--in fact would intrude upon those public laws, statutes that guarantee public notice, public open meetings, and instead simply be--rest as an instruction. If you follow the Oregon Environmental Council's suggestion and make this your requirement of; published notice of not less than 30 days in advance, which goes beyond the mere responsibility of the local governments to give due consideration to existant persons providing recycling or collection service, to in fact requiring a local government to allow those persons to consider and apply for a solid waste collection franchise, I think you've gone beyond what the intent of the legislature was, and have in fact created a state agency intrusion into local government procedure that we would object to on general principal, but more specifically you have created some procedural issues that communities of all size, large or small, regardless of the capability of taking on new procedural requirements would have to comply with or not be able to protect their citizens in guaranteeing the collection of solid waste, let along assuring that they are provided the opportunity to recycle. Enough on that amendment. We would oppose making that a rule requirement. In closing, I commend to you the Department's drafts, and we would not support any of the alternatives suggested. We think

the Department, Mr. Hansen on down have done an admirable job of bringing us together on this and we urge you to adopt the rule as proposed by the Department and lets get recycling on the road. Thank you.

Petersen: Thank you Mr. Neal. Questions for Mr. Neal? Lori Parker, Oregon Environmental Council, who I'm sure has a few things to say about Mr. Neal's comments about her proposal.

Parker: In a way he makes my argument for me. My argument is that due consideration should be explained in the rule itself because in the guidance document it really does nothing. The language that I'm offering is the language somewhat more explicit than what went into the guidance document. They were happy to have it in the guidance document because they know they don't have to follow it. What he is telling you, the public notice for example is in the guidance document that they shall give public notice, but now that I'm proposing that it go in the rule, they say, well they can't do it, they don't want to do it, and I guess that's my point. If it's to be done, it needs to go into the rule, where it's placed it's just not going to be effective.

Petersen: What's wrong with the Department's alternative on due consideration. They've suggested that as an alternative we could adopt it as a rule and they've set forth some language. What does OEC object to in that?

Parker: You're talking about the alternative that they chose not to put in the main body of the...

Petersen: Yes.

Parker: OK.

Petersen: It's due consideration, alternative 1 in the staff report, attachment 3. Basically it's the due consideration guidance language only they're saying that it's a rule.

Parker: Right. I don't have any particular problem with that. I would have voted for that at the Task Force. However, there was a lot of griping about the fact that there were words like "timely written notice" and what was timely. Those kinds of questions. So when I decided to argue once again that it should go in the rule, I tried to answer those complaints which had come through at the task force by saying 30 days is timely. By saying this newspaper is where you should publish, instead of the more general language.

Petersen: Ok. Questions for Lori? Thank you. Angela Brooks, Publishers Paper.

Brooks: I trust that each of you received a letter from me in the mail. Good.

I want to just briefly go over again those concerns that are stated in the letter. Publishers Paper recommendation in the policy statement of 340-060-015, paragraph 7, we first of all recommend that the language for the protection of the civic and nonprofit organizations be somewhat stronger than is there.

Petersen: Would you suggest that that be a matter of rule as opposed to policy?

Brooks: I suggest that it be a matter of rule as opposed to policy, yes. And secondly on the sub a and b, there is the word "existing" and that word concerns me due to the limitations that it implies for future organizations which want to get into fundraising drives, and for the protection of the commercial and industrial

recycler. Because inertia is going to take care of some recyclers, and if they are limited to existing then there is not going to be anyone coming in who can receive the same protection. I suggest that those two words be struck. The second concern is in the fair market value exemption. The staff has given to you the alternative 3. Our recommendation is that we go back simply to the alternative 2 which restates the words that are in the law. The reason being for that is that is because of the grouping process. It removes newspaper from being--for you to be able to buy and sell it; to purchase or exchange for the fair market value. We feel that that is a large portion of what has made newspaper very--the recycling rate very high in Oregon. Up to 77% in the Metropolitan area. We feel that if that is inhibited that the recycling will drop. That's the end of my comments.

Petersen: Are there questions? Thank you. I'd like to ask, before I call the next witness, ask our Attorney General representative to consider the legal authority for adopting a nonprofit rule as an exemption--the authority in the statute for that. Roger Emmons, Oregon Sanitary Service Institute.

Emmons: ~~Mr. Chairman, Roger Emmons, Oregon Sanitary Service Institute. May I~~ have a little longer than I asked for because of questions that were raised?

Petersen: Sure.

Emmons: I would oppose strenuously any attempt to put in a nonprofit exemption because of the example of Salem. We had a man who came in styled as Sun Recycling. He said I'm nonprofit, I'm great. He had public officials with him and sounded very good. He put out 63 boxes in the community and the boxes consisted of four sides of plywood set on the ground that became 63 garbage dumps. In his warehouse he violated everything from the sign code to the fire code. He eventually left the City of Salem. We do support and actively supported on the task force and

we write in all of our franchise proposals locally, an exemption for civic, charitable and benevolent groups. Particularly those, for example the scouts, the churches, and others who are doing drives. I think you may have some problem though trying to write that into a rule because you get into a question as to what is civic, what is charitable, what is benevolent, and I don't think there is a community that I've dealt with in franchises that has run into that much problem in dealing with the local Lions, the Kiwanis, the churches and all of the others who are in it. I think it is a problem that has not arisen in the past, that has been taken care of by those local franchises. The second thing on the Multifamily Housing Council proposal. That means that you can cream newspaper. It's that simple.

Petersen: For the benefit of those who aren't familiar with these in-house terms like creaming newspaper. You might explain it to the audience.

Emmons: One of the whole concepts of this after your discussion as the Commission last time and going back both with the staff and the Task Force, is how do we get a pile of residential materials together where newspaper can carry the recycling of the other materials. Basically, the newspaper is the only one with a ready market. You might pick up a little cardboard and waste oil out there that has a market too, but the value that supports residential recycling is newspaper. So there were two things that were done. One is to allow the grouping of that material together with a list of materials by local government, under the fair market value exemption alternative 3 which is recommended by staff and the task force, for anybody to come in and purchase or exchange for fair market value and therefore be exempted, they couldn't come in and just get the newspaper, they had to get the whole group of materials on the list with equivalent service. That we believe is the only way you're going to have the long-range services that many of our collectors and others are already providing for multimaterial residential. When you go out to the multifamily

if you put that exemption in so that they can have a drop box container or whatever else it is, where the newspapers are placed, and that that is not part of the recycling service, you're allowing them to take newspapers only. Therefore, you can write off the rest of recycling in multifamily or residential. The second thing, would you please add one additional amendment. That there be no requirement whatsoever of any kind that any person is required to provide that service. Because if, in fact, we have to assure that that service is provided to our customers, and anybody else can come in and put that box in and take that material, how is it going to be done? Who is going to finance it? It just simply won't be. Again the task force and recycling subtask force, listened to the Multifamily Housing Council, we spent a good deal of time with them in one of the sessions. It was again reviewed in the subsequent task force meeting. It resulted in the recommendation coming to you. We'd ask you to stay with those.

On the notice requirement. I can understand the concern if in fact there was one single case in the State of Oregon where anybody had been violated. The one case that had been cited previously to the task force was a recycler who apparently complained in North Bend that a franchise was given without notice to him. We investigated that franchise very carefully. It did not deal with recycling. It was simply renewed and then sold to another party. It did not designate the opportunity to recycle, which is the one thing that could have hurt that recycler.

In the proposed recommendations by the Environmental Council. They go so much farther than the Oregon State law that it's ridiculous. As written, in those 20 some odd cities that have an existing franchise which provides that it's actually yearly renewable for a term of 3, 4, 5, whatever number of years, you would have to give notice every single year. Because those say that if the City Council does not take action to terminate with or without cause, those franchises at the end of the year, they renew for that period. Basically financing period, usually five years.

So you'd have to go through this whole notice requirement. The second thing is we have to provide, or somebody has to provide that service out there to our customers by July 1, 1986. Are the cities in trouble? Are the counties in trouble? Our franchise may not be worth the paper its written on. Hopefully its recyclable paper. On the other hand, the proposal as Lori has tried to word it would say that anytime that you grant, extend, renew a solid waste collection franchise that doesn't even deal with the opportunity to recycle, because you may have a recycling franchise here and a garbage franchise here. When you deal with this one you've got to give the same notice. It illustrates again the problem of trying to write new regulations in a few minutes before the Commission. I would urge you, after the more than a year of work that went into this, and a great deal of compromise and work by the individuals involved, that you stay with the task force recommendations and the Director's recommendations. I think they adequately protect the public.

Petersen: Questions of Mr. Emmons? Mr. Emmons, in anticipation of our next speaker who will be Mr. Reid from the Boy Scouts, I should tell you that this last several weeks I've heard personally from every Scout, Brownie, Campfire, Bluebird leader in the state being very concerned about the fact that in order for them to continue their existing collection effort, fundraising effort, they're going to have to get some kind of a city or county permit. They don't want to have to go through all that. You mentioned earlier in your testimony that you don't see that as a problem. It hasn't been a problem. In every one of your franchise proposals that you automatically write in an exemption. Could you explain in a little more detail how you do that and then I'll ask Mr. Reid to comment on that and see whether that's a satisfactory way to handle that.

Emmons: There are one or two that may require some type of permit, usually without charge, just so the people will know what the recycling regulations are in a community and what services are available. But normally there is an exemption clause that exempts people who haul their own waste, people who have reparable discarde business such as Goodwill, St. Vincent dePaul, usually the third exemption down or the fourth or fifth is for civic, chairatable, or benevolent organizations who aren't organized for solid waste. They're using it basically for drives. Normally they have a total exampction for that. I remember in a number of communities that they, the Boy Scout leaders, have testified in favor of those and I don't know of a case where they've run into a problem.

Petersen: So there's really no attempt, or intent, on behalf of the advisory committee to include those types of activities in regulation or anything like that.

Emmons: No. Although it wasn't discussed that much in this context. I think local government is better able to sift through those who are legitimate organizations that would be under civic, charitable or benevolent. Again, I don't think those regulations are absolutely cast in concrete. If we find in the future that there is a substantial violation of people's rights out there, or there is substantial violation of the intent to provide more recycling by more people or to really injure the people who are providing those type of services, those rules could be amended. I would hate to see them amended this morning.

Petersen: Would you consider that these types of nonprofit collection activities would fall under the heading of existing recycling programs?

Emmons: I'm not sure the wording "existing" necessarily has to be in there with respect to those programs. Because there will be a number of them that will come in and out of those programs in the future and I don't think you'd want to preclude those. The existing programs that really were addressed by the Legislature under due consideration, in rather a haphazard fashion because of poor draftsmanship on all their part, that dealt with existing businesses on June 1, 1983. I think perhaps with respect to civic, benevolent and charitable organizations, that the word "existing" might be dropped. But I again, would not use, Mr. Chairman, the word nonprofit because nonprofit can be very violently abused under these circumstances. Thank you for that much time.

Petersen: Thank you. Mr. Reid, Boy Scouts of America.

Reid: Thank you for time, I appreciate it. I'm pleased to hear you've heard from a lot of civic organizations, particularly youth groups. Again, my name is Craig Reid, I'm the Director of Support Services for the Columbia Pacific Council of the Boy Scouts of America. The scouting program has long stood for conservation of all of our natural resources in our Country and believe that is very important. But, about three weeks ago when we became aware of the fact that this could potentially affect our youth organizations and the way that they raise substantial amounts of money to fund their programs, we started a notification program that this was a possibility. Mr. Hansen has called since then and spent some time on the phone trying to explain the fact that he did not believe that this would affect nonprofit organizations. I guess we differ on that because I believe once a city is mandated that they have to provide collection of recyclable materials that they are now going to be in a position of requiring something happen. They cannot take an easy attitude, which they now have, that allows youth organizations just to go out and use recyclable materials as profit making ventures. There is a difference. Once it is mandated, then a city has to take a lot harder look at

who they have doing the door-to-door collections. And an awfull lot of our youth organizations do exactly that. I realize in some occasions that they may cream, as I've heard the word today, newspapers. Some do collect other items other than just newspapers. But I beleive there has to be a way that the city, cities, or community allow young people to learn to earn their own way. That's an important character building trait. It is difficult in this day and age for young people to learn to do that. To pay their own way. And it's difficult for volunteers, who are very busy. We find more and more single parent families and it is very difficult for volunteers to be involved and every time they have to negotiate with the city or someone else for a permit, or even to go down to a city and negotiate whether they are allowed through this process to collect recyclable materials, it makes it more difficult for them to carry out their task of working with young people. And so we're asking for a specific exemption in the rules that would allow nonprofit organizations, civic and fraternal organizations to continue door-to-door collection of recyclable materials. I realize that in some cases that creams off newspapers, but I think as an important investment we make in young people to allow them to learn to pay their own way and make it easy for volunteer leaders to continue doing their job. I believe I speak not only for the Boy Scouts, but for schools and a lot of other youth organizations, little leagues and that type of thing, that do just exactly this type of thing. I'm really concerned that once it is mandated, it changes the approach that a city has to take in how it looks at providing the opportunity fo recycle materials. So thank you very much for your time.

Petersen: Thank you very much. Mr. Reid, Mr. Emmons said that there is a problem if we use nonprofit and he gave an example in Salem. Technically any nonprofit corporation is one that is organized under the nonprofit chapter of the Oregon Revised Statutes. That could be anybody. During the recession there were a lot of for profit corporations that were loosing money and they called themselved nonprofit

corporations, but seriously what do you, how do you see getting around that problem? Don't you think that ought to be a local decision. Isn't each city in the best position to determine who should be out there having these privileges?

Reid: I guess philosophically, basically I agree local cities and local control is very important. But it seems that as local cities become under a crunch of they have to provide it and you have individual recyclers that are in the business they can provide an awfull lot of pressure that says look, just grant us the exclusive right to do that. And cities can say that the way the rules are written as I understand it. If a volunteer in their community isn't down there being an advocate on the other side of the fence, it is going to take personal involvement and committment for them to go in and try to convince the city that they should be allowed an excemption to do that. It becomes very difficult community by community as every community takes an individual approach to this. Some might say the way it is now that's fine, and others may say well, we're going to take a different approach to it. When we've got 32,000 young people in scouting and I'd say a good 70% of them out once during the year and sometimes many times during the year collecting recyclable materials, you're talking about a lot of people in a lot of different communities. Then there's Campfire, thre's athletic organizations that do the same thing.

Petersen: Are there questions for Mr. Reid? I'd like to ask, since we're on the subject of nonprofit or charitable organizations, whether Mr. Huston or Mr. Haskins have a comment on the statutory authority should we desire to adopt a rule exempting these types of organizations.

Haskins: This is a new issue to me, we haven't had an opportunity to have prior review of this particular issue. The act itself directs the Commission to implement a program that will assure that the opportunity to recycle is implemented through local governments. It's an opportunity to recycle recyclable material. What we're talking about here is somehow--is it proper to take something out of this system. I believe the system that has been set up by the Legislature envisions that we give guidelines to local governments and that we review reports by local governments as to how well they are implementing the opportunity to recycle and whether or not those efforts are effective. I can't find the authority to take this small section and say it's exempt from the act in effect. I think what we can do is we can do what has been attempted to be done here in a policy statement or regulation to "encourage" and I emphasize the language that both the section that Ms. Brooks--the language of the section that she encouraged the Commission to adopt and the language that the staff has come up with. Both start with the language "to encourage local governments." So whether you state it as strongly as Ms. Brooks suggests or you state it somewhat less strongly as the staff suggests, you're still talking about giving guidance to local government and encouraging them to take a particular approach. I think they are both correct in only going to the point of encouraging local governments because as a guideline, pursuant to the statute, for the local governments' action. As I see it, the Legislature has given local governments, subject to our guidelines, a broad authority to put together programs in individual communities giving due consideration to existing programs. I can't find the authority to pull something out completely. Thank you.

Petersen: Mr. Emmons.

Emmons: Again, for the record, Roger Emmons, Oregon Sanitary Service Institute. If I might approach the Chair, I would wish to give them a proposed Albany draft ordinance. In item D on page 4 it lists what is an existant statute in Albany. "Nothing in the franchise or ordinance prohibits any person from engaging in a charitable, civic or benevolent activity. Merely operating as a nonprofit entity does not qualify under this exception." The proposals that are in here underlined would put the opportunity to recycle in that ordinance. I think it is particularly important because this is from Jeff Andrews who is one of my Directors, and also a Director of the Oregon Association of Recyclers.

Petersen: What are you reading from?

Emmons: This is a proposed draft Albany ordinance, I would give it to Mr. Hansen for the record.

Petersen: I see. Ok.

Emmons: It is a good example of what you will see out there in the field.

Petersen: That's not Mr. Reid's point. Mr. Reid's point is that we know what is out there in the field now. Now that we're mandating recycling that puts a whole different slant on how the cities are going to look at thing. And he wants to make sure that since we have a new ballgame out there that we don't give the cities any incentive to stop this kind of activity. I think everybody agrees that we don't want to interfere with that type of activity so it's not a point of argument. It's not whether or not we want to regulate, it's just a question of how best to protect that kind of activity.

Emmons: Mr. Chairman, since August 15th I've worked on 57 franchises, some of them are multiple franchises under existing ordinances. Where we're dealing with the opportunity to recycle there is not one case where we have proposed to, nor have we had any city or county kickback on exempting those people. It would be our intent to continue to pursue that course. Thank you.

Petersen: Yes, Mr. Hansen.

Hansen: Maybe it's valuable to point out one aspect, at least from the practical sense. We have a list of four items that are to be recycled out of a particular community and that the most valuable item, newspaper for the purpose of this example, carries the other three other items. Effectively, as Mr. Reid indicated, if you allow the newspaper to come out you're going to have one of two results. Either those other items will not be recycled, because they will no longer be economically feasible, or to be able to recycle them there would have to additional charge built back into the rate base of other service or other individuals that are on that collection. What the rule does as written is basically say that's a decision that is to be made by local government. If they exempt out certain entities that are allowed to be able to go out to collect certain recyclables, they still have the obligation to be able to provide for the recycling of all the items that we, you the Commission, say must be recycled. The question is how do you pay for those other items and at least as the staff report is saying it, that ought to be at a local level. Either to bill it back into the rate base or, ultimately I suppose, a local government saying, no, we're going to make sure if you're going to collect any one item you're going to collect all items.

Petersen: Ok. I think we've probably heard enough on that issue. Does anybody else have any questions? Mr. Bailey. Is it Bruno? I was going to say, I met you last meeting and I thought it was Bruce, but maybe you've changed your name to Bruno.

Bailey: Mr. Petersen, My name is Bruce Bailey and I'm chairman of your task force. You have before you a copy of the motion that we arrived at by consensus recommending adoption of the rules as drafted. I'd like to just reiterate that and just say as you are aware from testimony this morning, I'm sure that we do have a variety of groups that have been working on this including the League of Oregon Cities, Association of Oregon Counties, Oregon Environmental Council, Association of Oregon Recyclers and Oregon Sanitary Service, and the Association of Oregon Industries. I'm pleased that our group has been able to arrive at a consensus. These rules aren't perfect and I appreciate the Commission's willingness to let us spend some additional time to resolve the issues that you placed before us at the last meeting. I would say to you I think the time is here to move forward, and I would hope that any remaining issues that are going to come forward in the months ahead that we can resolve them. Thank you.

Petersen: Thank you. I'd like to thank the Committee for its herculean effort. Hundreds and hundreds and hundreds of hours to try to write and help draft these rules and we really appreciate that, especially the effort since the last meeting. I know you probably thought you finally had it done and then all of a sudden we we asked you to go out and work some more. We really thank you for that very much. I would like to take a five minute recess at this time and then we'll continue with this agenda item when we get back.

RECESS

Bill Bree to step to the microphone. I think it's awkward to go through the rulemaking process, especially on a very complex subject like this, a technical subject, by committee and I apologize in advance for the awkwardness of it but I don't know of any other way to do it. I think that the Commission has probably heard all there is to say, no strike that, they haven't heard all there is to say but they have probably heard all they need to hear on a lot of these issues--all these issues and are ready to proceed with the adoption process. We decided

that the best way to do that would be to just go through the document and when any commissioner has any question or suggestion for amendment we would just stop at that time and we would discuss it and get Mr. Bree's thoughts or opinions if that was appropriate and kind of work through the document on that tack. Hopefully when we're all through we will have a set of rules and guidelines which is what we're all about today.

So starting with the Commission, we're talking about Attachment 4 now, of the staff report. Starting with the Commission Policy, working on through that. Does anybody have any comment on page 1? Page 2? My comment would be on subparagraph g, which reads "regulatory intervention in recycling systems for commercial and industrial sources should be kept to the minimum necessary to accomplish the purposes of the act." My feeling is that we should delete "for commercial and industrial sources." I think that regulatory intervention in recycling systems should be kept to a minimum period, whether it's commercial, industrial, residential or whatever. I don't think that that language adds anything. In fact I think it sends perhaps an erroneous signal. Does anybody disagree with that?

Bishop: I agree.

Petersen: Alright. Anything else on page 2? Page 3? (END OF TAPE) ...of the second, third sentence, it says "the final result of local government action should be to provide for effective residential recycling systems and to maximize the recovery of recyclable material with a minimal dislocation of existing recycling systems." Do we really need the word "residential" in there? Bill?

Bree: You'll see throughout the policy we've attempted to indicate that the emphasis of implementation was to be on residential recycling with the understanding that the commercial/industrial recycling as we were told at the last meeting were running pretty well now and it was residential that needed the help. So you'll see residential often earmarked as being important and commercial/industrial indicated as being something which we should have a minimal impact on because it is running. In the policy guidance, again it is a policy issue here. I have no objection to the suggestion.

Petersen: Right. I think you're right, and that should be the emphasis. But I am troubled by the final result of local government action should be to provide for effective residential recycling. I would just strike the word "residential". Any objections to that? Anything else on page 3? Ok. Page 4? Lets, the bottom of page 3 raises the due consideration issue and the top of page 4. That's been spoken to both at our last meeting and at this meeting.

Bree: As you pointed out, this language and the alternatives you have were designed to be compatible in the sense that you could move the pieces to fit them together without having to rewrite. To a certain extent that is also true with the proposed language by Lori Parker. Her two sections are compatible with these two if you wanted to switch. So I don't know if you want to wait on this or do all the due consideration discussion in both the rule and the guidelines.

Petersen: I think I want to talk about it now. I've really given this a lot of thought and I'm speaking personally obviously. I am--theres no doubt in my mind that the Legislature intended that existing systems be disrupted as little as possible. I think when they say due consideration, I think they meant more than what Fred Neal suggested that they meant. I am concerned that unless we have it in the rules that due consideration will not be provided. I think Lori's

suggestion I think goes a little bit too far. My thought would be that we take the staff's alternative, which is the same language that's in the policy guidance, and make it as part of the rules. I'd throw that open for discussion.

Buist: I would entirely agree with that approach.

Petersen: Any objections to that?

Bree: That alternative 1, you're referring to, attachment 3 to the staff report?

Petersen: Correct.

Bree: We would then delete section d of that sub 3.

Petersen: Yes. Well, you could repeat it there if you want it. I'll leave that up to you. Whatever you think would be--you don't need to repeat it I guess. It's a matter of rule--it's the same words--all we're doing is just making it a matter of rule as opposed to policy.

Bree: Technically we'd be deleting section d of--excuse me sub d of section 3, local government role, and we would be inserting for the rule 085 the alternative 1, attachment 3.

Petersen: Correct. Any other comments on page 4. Page 5. Just a minor point, on the watershed representative, the last sentence, it says the representative should act on behalf of and represent the diverse views of all affected persons in the watershed. I'd like to add "and represent to the Department" so it focuses who--if they are going to represent the diverse views of all affected persons we certainly don't want to imply that they have some agency authority beyond just communicating back to the Department. That's what we meant wasn't it Mr. Bree?

Bree: Yes.

Petersen: Just add "to the Department" in 6. Anybody object to that?

Page 6? Page 7? Page 8? Page 9?

Bishop: Is periodic review on f, is that good enough, or could it be at least yearly review?

Petersen: Good question.

Bishop: I'm concerned because of yard debris not being included which is alright for a certain amount of time but I certainly want it to be looked at again. So I would feel better if we had a yearly, at least a yearly review of principal recyclables. I also maintain there will be other materials that we're going to find will be recyclable, I hope.

Petersen: What was in everybody's minds with the word periodic?

Bree: We wanted to indicate that it would be reviewed, and it would be more than one time, but we did not see any need to set a monthly or annual period. We do have a requirement for periodic reporting by annual reporting to the Legislature on the progress of the act. Again, we didn't see a reason to use annual so we didn't put it in as a limiting word.

Petersen: Do you have a problem--does that cause a problem if we were to adopt Commissioner Bishop's suggestion?

Bree: No.

Petersen: Then in 10(f) we would say--make a periodic review not less frequently than annually. That sounds awfully lawyerlike. Somebody help me with some words here.

Hansen: A periodic review at least yearly.

Petersen: Yes, but I don't want to say--she didn't say that she wanted to limit it to annual, she just said she didn't want it to go beyond a year.

Bishop: At least yearly review.

Petersen: Ok. At least annual review. Anything else on 9. I had a comment on 11(a), I think that's a typo. I think that instead of "the Department" is ought to be "the Commission." 11(a). Anybody object to that? Since these are Commission policy guidelines. Page 10. Page 11. Page 11 raises the fair market value issue. So we probably ought to talk about that right now because depending on how we decide that. This to me has been the most troublesome of all the issues. It appears that the task force struggled the most with this one too probably.

It is very, very difficult to try to define that and I guess I'm going to kind of cop out on this one. I really, as much as I've tried, and I've tried to rewrite what you folks have tried and I can't do it. And so what I'm going to suggest is that we go back to the statutory definition of fair market value, period. And if necessary we'll see how this develops and perhaps after we've had some experience with the act and the rules we'll be able to get a better handle on some future rulemaking that will clarify that. Maybe the courts will have to clarify that. Maybe we'll have to go back to the Legislature to clarify it because it really isn't clear to me. And I know what fair market value means in the law and when I apply that approach I don't get anywhere near what the advisory committee is suggesting. Which is not to imply that I think their not on the right track when

they say does not have merit. But I just. No matter how we come at this we don't seem to be able to put it down in words. My suggestion just to throw out for discussion purposes would be our rule adopt the statutory definition which is the alternative 2 suggested in the staff report. Let me--

Bree: Attachment 2

Petersen: Attachment 2, alternative 2, 340-60-050 which would read, "fair market value exemption. To qualify for exemption under ORS 459.192, a source separated recyclable material must be (a) source separated by the generator, and (b) purchased from or exchanged by the generator for fair market value for recycling or reuse." I should point out for the record that the advisory committee said that if we didn't go with their suggestion that this would be their second choice. Any discussion on it?

Bree: I would assume you were suggesting here that we would then for simplicity delete section 13 of the guidance document because it refers to the presently proposed fair market value definition.

Petersen: Yes. Or is there something we could do by way of policy, Bill, that would help? I guess not.

Bree: The staff did not prepare an alternative policy statement. If we're simply restating the statute, I don't know that we're making a policy statement.

Petersen: I see a gentleman behind you that wants to say something. Step right up please.

Colton: Thank you Mr. Chairman, I'm Steve Colton, I'm representing the Association of Oregon Recyclers and I've served on your task force for the last two years both in the writing of the rules this year and in the writing of the act itself last year in Salem. First of all I want to say that we were very pleased with the Commission's comments and actions a month ago. The staff's draft of the rules at that time we felt was very dangerous to the levels of recycling in the state because franchising could possibly have been applied so broadly under those rules. We're equally pleased and satisfied with the new version of the rules that the staff has come up with in the past month. I came here today to encourage you to adopt them as written. Now that we're on the fair market value section itself, I wanted to speak because that is the crux of what our concerns have been all along through the whole two year process. When we talk about franchising we're talking about restricting competition and awarding government sanction monopolies for certain sphere's of activity. Our Association has been saying consistently for the whole two years if not longer, that when it comes to the various commercial contracts and arrangements that are made between recyclers and commercial and industrial sources it is simply not appropriate to award monopolies in that sphere of activity. That is the reason that we put section 12, the fair market value exemption clause into the law when we were in Salem a year and a half ago. That clause was specifically designed to apply to commercial/industrial sources-- recycling that goes on from those sources and to keep them exempt from the franchising restricting of competition. The difficulty this past year in writing the rules has been how to define fair market value in such a way that it protected those commercial and industrial activities but didn't also throw out the baby with the bathwater and throw out residential sources. That is why alternative 3 has been devised this past month to try to distinguish between the two. Our Association contends and I think most of the task force would agree with this, that from residential sources it does make sense to group materials because the sources are so uniform homogeneous. They all have essentially the same materials

and essentially the same percentage mix of those materials. It is possible to use newspaper as the profitable item to subsidize and carry the entire group. We can put together an organized program of residential curbside recycling that will be wonderful for the State of Oregon. It's been important to keep the drop box out of that and to keep the commercial and industrial out of that. The same argument of grouping materials does not apply in the commercial sector because the sources are so diverse. They are the opposite of residential. They are not homogeneous at all. There is no material that can carry other materials. Instead, what we have in the commercial sector is individual high volume sources that are profitable, not a particular material that is profitable. The high volume sources that are profitable might have corrugated, they might have glass, they might have aluminum, they might have plastics, it doesn't make any difference what material it is. So a different concept has to apply there. That's the reason in the earlier pages where the word residential appeared we were attempting to distinguish that and make the case I'm making now. When we come to fair market value itself, it's the reason that our task force voted for alternative number 3. If we go for alternative number 2 which you are proposing, just leaving it as the statute stands without further explanation, I'm concerned about the confusion that might result in the field. Local courts, local governments that don't have the extensive background that the rest of us here have had the past few years in discussing this issue and identifying what the issues are. I think they need some guidance and that's why we supported alternative number 3 and support the staff's draft.

Petersen: Thank you. Questions? That's persuasive.

Bishop: Very.

Petersen: How does the Commission feel about that?

Bishop: Well I guess Mr. Colton persuaded me that perhaps we should go with it. I would prefer to leave it with the staff recommendation. I don't have any legal background.

Petersen: That's to your advantage. Would you care to share your illegal background with us? Commissioner Buist, how about you?

Buist : I think Mr. Colton has been very persuasive.

Brill: I feel the same, I concur.

Petersen: I recant. Alright, then I suppose we can leave that section 13 alone then Mr. Bree. Anything else on page 11? Page 12? That gets us to the rules. Page 1 of the rules? Page 2, we get into the definition and the proposal by the Multihousing Council in regard to definition of collection service and generator. Once again, just to get that out on the table for discussion my thoughts are that I'm more persuaded by Mr. Emmons arguments on that regard than I am by Mr. Hales'. I really think that the due consideration provisions are going to hopefully be as far as we want to go as far as guiding the local areas in this particular areas. I think we really need to give as much freedom to local government as we can to make as much sense out of these rules so I would be inclined not to go along with his recommendation.

Buist: I agree.

Bishop: Yes.

Brill: Yes.

Petersen: Ok. Page 3, page 4, page 5, Page 6 raises the nonprofit issue. Bottom of page 6, item 7. Question I guess, is that strong enough to protect our benevolent, charitable organizations in their efforts. If you will recall the arguments were on behalf of Mr. Emmons, and I think Mr. Neal would second this, that hey, let's let the local jurisdictions make these decisions. We already have existing franchises that exempt them across the board. Nobody wants to regulate them. This goes far enough to encourage recycling efforts, especially the activities of charitable, fraternal and civic groups. Mr. Reid, if you will recall, was concerned about the fact that now the ballgame's changed. We now have cities mandated to come up with these programs and as a result of that change it's going to be harder for them to grant these exemptions and these franchises. My personal feeling is that if we deleted the word "existing" under subparagraph (a) so that we don't mean to imply that a charitable or benevolent group that hasn't started this process is somehow excluded. It is a matter of rule, it's not a matter of policy. We are as a matter of rule, I guess policy in front of the rules, saying we want local governments to encourage and cause minimum dislocation which is fairly strong. I think that ought to be adequate in my view. Now, if there is a problem that comes up down the line then I would expect we would hear about that through the recycling reports and we could deal with the problem downstream. I don't want to--by saying that I'm assuming that the cities are not going to require these organizations to come down and ask for a special permit. I'm expecting that this will be a matter of franchise--that they won't have to come in--I'm very sympathetic with having these scout leaders having to go down and knock on somebodies door and ask permission for their kids to do this. Anybody have any problems with that? Anybody think we ought to go

stronger than that?

Bishop: No.

Buist: No.

Brill: No.

Bree: The proposal was to eliminate the word "existing" from the beginning of sub (a) and sub (b).

Petersen: No, sub (a).

Bree: Just sub (a).

Petersen: Page 7, 8, 9. Notice no matter how hard I lobbied my daughter's bedroom was not declared a wasteshed. Lost again. 10, 11, 12, 13, these really were not controversial aspects.

Bishop: The only thing we skimmed over again is on 11, and it's alright with me not to have yard debris in there, but I want it to be considered in the future and I just can't imagine if we don't discuss it now--I'd like to just discuss it so we are sure that it comes up again and that it is considered as a potential recyclable material.

Petersen: Mr. Bree, why not take just a few minutes and set forth the city's position and recommendation in regard to not having yard debris on the list of recyclable materials.

Bree: We discussed the yard debris in the Portland wasteshed with both the city staff and with the advisory committee and got a strong recommendation from the advisory committee as well as from the city staff individually that we not put yard debris on the principal recyclable material list. What's unique about yard debris over some other recyclable material is that the other materials are presently being purchased by their markets and yard debris is presently being--you're still charged by the--I'll call it the recycling market. It could still meet the definition of recyclable material because it still could be less expensive to have the yard debris go through a processor than into a disposal site, landfill. In the case of somebody who is self-hauling their own yard debris it is less expensive for them to take it to one of the processors in the area than it is to take it to the landfill for disposal. So it is a recyclable material for the individual who self-hauls. The margin is very small. The difference is in disposal cost rather than disposal cost the negative versus payment a positive for the other materials. Where we have the difficulty or the concern is that within the Portland wasteshed and within indeed the whole metropolitan service district area which is slightly larger than the burning restriction area, the opportunity to recycle would include collection systems for recyclable materials. So it is that collection system rather than the self delivery. The setting up of that collection system which becomes essential for all of the recyclable materials with the narrow margin for the yard debris. Differential between disposal and recycling. The collection system becomes more important. We need a collection system which is at least as efficient as the garbage collection system to keep those costs at least equal. So setting up the collection system is the most important element. The City of Portland is working with the industry, the citizens in the area, particularly the

neighborhood associations to set up yard debris collection systems. We want to work with them to set up that system. We are concerned that by designating yard debris a principal recyclable material now, people would begin to treat it formally and make efforts--if they don't do anything it will have to be recycled--they will begin to make efforts to find a safe position which means prove it is not a recyclable material under certain situations. We're going to have energy going into negative efforts rather than into positive efforts to get the collection system put together. I think we're better right now with the carrots than the stick. We're better trying to work with the City to try to get the system set up. And not only the City of Portland but the other three wastesheds in the area, to get collection systems put together to get the yard debris to the processors inexpensively, than we are trying to, if you will, force the yard debris into the collection system before the system is adequately developed. That was the feeling as well of the potential system suppliers, the collection industry, and I tried to include some material from them in your packet.

Bishop: I understand that, but I was concerned somewhere in this packet was a telephone survey that had been done and what they felt about recyclable material. What, 5% were concerned about the filling up of landfills? Somewhere we're missing the boat.

Petersen: You mean as part of our education program.

Bishop: Part of our education we're missing if only 5% are concerned about this and yet nobody wants to have a landfill in their backyard. We've got a problem and every tool that we can possibly use to bring it to the forefront is important.

Bree: I should note that Lori Parker in the same letter she discussed the due consideration, she didn't mention it while she was testifying here, also made a short discussion of the yard debris and suggested that staff return to the Commission with some consideration. Again, we'll be reviewing the principal recyclable materials within a year--our annual review--would then be looking at yard debris again as well as the ones we designate.

Petersen: Commissioner Buist.

Buist: I see that there are important differences between yard debris and other recyclables. But, I too am concerned that this is perhaps going to slip between the cracks. I'd like to propose that a decision be made, or a definite plan be developed within, say a year, that deals with the whole of the burning ban area. Because my suspicion now is that the people are not dealing with--individual generators are not dealing with this. They are letting it build up in their backyards because they simply haven't come to grips with the various alternatives, some of which are very, very inconvenient if you don't have a car. What do you do. How do you haul it. If you have a very large lot as we do, you generate an enormous quantity of this and it becomes logistically very difficult and very expensive. I haven't been convinced that there has been a very serious effort so far to come up with imaginative alternatives like taking chipping trucks through neighborhoods or whatever, that can really work. So if it's possible I'd like to request that there be a plan developed and presented within 12 months, that seems to be a reasonable period. So I think the stick as well as the carrot, or keeping the stick in the background is important.

Bree: I should point out to the Commission that I believe on the next Commission agenda there will be a summary report from the Air Quality Division on the present status of the burning restrictions and maybe some discussion of whether there is a

buildup of material.

Petersen: Well, I know that cities, the City of Portland task force is in the process--talking about the carrot and the stick--one of the City's rabbits is here. I don't know whether you'd have any comments about. I tell you what, why don't we reserve that for the next meeting. As long as you're satisfied we should not put that on this list, let's not get into backyard burning at this session, if that's ok.

Hansen: If that's the will of the Commission we will be so instructed to report back to you.

Petersen: Well, let's review the issue and make a decision next month. Pages 12, 13, 14, 15, 16, 17, 18, 19, 20 we've already covered the fair market value exemption and made that decision. I had a question on the top of page 21. Could you explain to me what that means. Subparagraph 3.

Bree: This relates to--in the fair market value exemption--and it allows the local government to identify for instance, multifamily dwellings as a separate class of dwellings so that a recycler could provide full line recycling service to multifamily dwellings but wouldn't have to necessarily provide it to the single family dwellings in the City.

Petersen: That would take into consideration Mr. Hales' concerns.

Bree: Right. It would also allow you to make other class designations rather than being trapped into having to provide full line service to the whole city you might be able to have one recycler just do a portion, a certain type of neighborhood or a certain type of dwelling.

Petersen: Ok. Anything else on 21?

Bree: I have one change on 21 in subsection 3 of the next rule down. In the previous draft we had used the words--sentence 3 starting "the costs may include" and sentence 4 starting "costs may also include" in the previous draft we had the language "costs shall include" and in the process of rewriting it we switched it to may, we prefer the original language, "the costs shall include" in both cases.

Petersen: You say you prefer it the way it is now.

Bree: No, we prefer it the way it was originally, and apparently in the process of rewriting it using different drafts to edit this down we switched it back to may and that wasn't the intent.

Petersen: Ok. So may should be changed to shall. I have no objections to that. 22, 23. Well.

Bree: On 23 the due consideration paragraph has already been discussed and will be amended appropriately. I just wanted to make that on the record.

Petersen: Right. What we've done is add the additional language we discussed earlier to that provision. You already have that note.

Bree: I do. I just wanted to make sure as we went through these we picked up that change both places.

Petersen: Ok. Did you get all of the notes and the changes?

Bree: I have both the written notes and will confirm it with the record of the meeting.

Petersen: Ok. Is there a motion?

Buist: I'd like to move that we adopt the proposed rules as amended and with the changes suggested today.

Bishop: Second.

Buist: Can I add to that to the policy guidance as well--that's two parts.

Petersen: Ok. I want to make sure, yes, ok, that's the Director's recommendation. Is there a second.

Bishop: Second.

Petersen: Call the role please.

Hansen: Yes. Commissioners Buist

Buist: Aye.

Hansen: Bishop

Bishop: Aye

Hansen: Brill

Brill: Yes.

Hansen: Chairman Petersen

Petersen: Yes.

Bree: Chairman Petersen.

Petersen: Yes.

Bree: There has been some question and I would request that you or some of the other commissioners could indicate your intention in adoption of the policy guidance. It's not a rule as such and it's not attached or a part of the rule package. We intend to distribute them together but is it intended to be a guidance to both the Department and local governments intended to carry a weight similar to the rules or only to be suggestion. It was raised here earlier that leaving due consideration in the policy guidance meant nothing and I am concerned.

Petersen: I don't agree with that. I certainly don't agree with that. I think anybody interpreting the rules judicially is going to have to take a look at the legislative intent of the body adopting the rules. That is the way I would view policy guidelines, as a statement of Legislative intent. They obviously don't have the force of rules because they are not a rule, but they certainly obviously have to be given weight by anybody interpreting them and they are meant as policy guidelines. Let me just take that a step further. I really envision that we're going to--this is not going to be the last we hear of this issue. I would anticipate that as the local governments struggle with their own franchising laws and the implementation of this they are going to be additional questions. That's one of the advantages of having a lengthy policy statement. Hopefully it will give

them enough guidelines to answer most of their questions. The thought occurred to me and I've seen this used in several rulemaking federal statutes before where there's kind of--the administrative body occasionally will publish interpretive-- there is a question that's raised and then the administrative body answers the question in that form. I would encourage the Department then to consider that as a way, a mechanism of further assisting the local jurisdictions in interpreting these rules. Maybe in an interpretive question and answer format if that seems appropriate. I don't want to mandate that because it may not be appropriate. If it seems to be I for one would be receptive to that because I think we owe it to those people to try to be as helpful. I'm very concerned about consistency also. Right now the way it's structured there are opportunities for inconsistent application of the rules from jurisdiction to jurisdiction. That's an advantage of--inate of that is that local control and local determination is usually a good thing, but I also think it's important that we be consistent that local jurisdictions do that. So the interpretive questions and answers may aid in inconsistency as well.

Bree: Thank you very much.

Petersen: Thank you and thank you all again for your diligence on this issue.

12/14/1984 Hem J

Petersen: During the recess I had a brief discussion with one of the legal representatives for some of the groups who have been vocal on this issue. It is the Commission's feeling that we at this point in time have taken all the testimony that we can. We've had several public hearings. We've developed a hearing record on the issue which has been submitted to us. We have reviewed that and don't believe any further rehashing of those particular issues are necessary in order to aid in our decision at this point in time. I've also pointed out that the law requires essentially two bites at the apple. There will be a future time, if in fact the Commission adopts the Director's recommendation, there would be a future time when more public input would be appropriate, and then even after that, after an order and findings are issued there would be still another opportunity to respond to the order and findings. So, we do not believe we're unfairly cutting off any testimony on this issue at this point in time. Before we get into whether or not we're going to adopt the Director's recommendation, however, I did say that their attorney, Mr. Kane, could have five minutes to address the Commission and set forth whatever points, arguments he wants to make to us at this time. Mr. Kane.

Kane: Thank you Mr. Chairman. Henry Kane for United Citizens in Action. A number of points within my five minutes. The notice in the East Metro edition of the Oregonian said that the hearing would be or this meeting would be in the Yeon Building, that was in error. Page 35 there's a statement that boundaries are not in dispute, we believe the record will show that they are in dispute. My personal view is that if there is a threat to drinking water, the boundary should be the entire East Multnomah County, including areas within cities such as Portland. Part of those areas are not sewerred. Third, it is submitted

that the Commission should obtain opinion of its counsel as to whether ORS 454.010.(5)(b) permits the most economical method of reducing this alleged threat to drinking water. And that is simply to direct the water districts to obtain 100% of their water from Bull Run or treat their water. The documentation I've seen indicates that all but two of the districts obtain 100% of their water from Bull Run and the others say they passed the water quality tests. My understanding is that the hearing record has not been transcribed. I believe it should be, particularly since one of the hearings was conducted by but one member of the Commission. There is question as to whether a summary would be considered legally adequate. My people, my clients, are in favor of clean drinking water. They certainly think that they have so, and when we finish our research we will submit an analysis of this recommendation which we suspect will support our view that the statutory requirements have not been met. Parenthetically I'm preparing a ORS Chapter 183 petition for adoption of a rule by the Commission that would permit interested parties to cross-examine witnesses. At the first hearing there was a great deal of very broad statements made, no opportunity for cross-examination. We believe in the future the opportunity for cross-examination would enable the Commission to get to the truth of the matter. The Chairman as an attorney is aware that the Supreme Court has been raising the standards of procedure and proof that must be followed by the Commission or body of this nature if the action is to be upheld. We submit that our analysis will show that the standards that the Supreme Court is opposing have not been met. We understand that we will have an opportunity to present a more detailed analysis. Thank you.

Petersen: Are there questions for Mr. Kane? Alright, thank you.

Kane: Thank you sir.

Louis Turnidge: In the matter of looking for further information I wish to speak.

Petersen: Pardon me?

Turnidge: In the matter of looking for further information I wish to speak.

Petersen: Do you have a question for the Commission?

Turnidge: There's three.

Petersen: Wait a minute. We have procedures that we try to follow for public comment. And, have you signed up to talk on an agenda item? Which agenda-- we've already passed--

Turnidge: J

Petersen: We concluded agenda item J.

Turnidge: You mentioned that you were in the process of seeking further information. I would recommend three items.

Petersen: Ok. Could you state your name please for the record.

Turnidge: My name is Louis Turnidge. In your report you have taken almost for granted a projected population increase.

Petersen: Mr. Turnidge, excuse me. I made it really clear that on agenda item J we were not going to take any further public testimony on that item.

Turnidge: I recommend you look into that. From my point of view that's purely wishfull thinking. Nitrate in your data--the clarity of water. The clarity is remarkable and you have nitrate/nitrogen lumped in some of your basic data. Nitrites lumped in some of your basic data. You should look into that. The item methhemoglobinemia. The basic data is scanty, it's not available in the Multnomah County Library and I think it's suspect and I wish you'd look into that. Thank you.

Petersen: Thank you. The record should show that Mr. Turnidge has testified on the same subject before the Commission several times before.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF A SPECIAL MEETING
OF THE
OREGON ENVIRONMENTAL QUALITY COMMISSION

November 1, 1984

On Thursday, November 1, 1984, the Oregon Environmental Quality Commission conducted a work session in room 1400 of the Department of Environmental Quality Offices, 522 SW Fifth Avenue in Portland, Oregon. The subject of the work session was the proposed adoption of "Opportunity to Recycle Rules" (OAR 340-60-001 through -080).

Present were Commission Chairman James Petersen, and Commission members Mary Bishop, Wallace Brill, and Arno Denecke. Commissioner Sonia Buist was absent. Present on behalf of the Department were its Director, Fred Hansen, and several members of the Department staff.

The following people were present by invitation of the Commission to assist them in discussing these proposed rules: Steve Colton, Association of Oregon Recyclers; Fred Neal, League of Oregon Cities (and also speaking on behalf of the Association of Oregon Counties); Lori Parker, Oregon Environmental Council; Roger Emmons, Oregon Sanitary Service Institute; and Tom Donaca, Association of Oregon Industries.

William Bree of the Department's Solid Waste Division, gave the Commission a brief background on why these rules were being proposed. He explained that during the 1983 Legislative Session, Oregon's Recycling Opportunity Act (SB 405) was passed. It requires that the opportunity to recycle be made available to all Oregonians. 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 opportunity to recycle must be provided to every person in the state by July 1, 1986. This includes households, businesses and industries. The opportunity to recycle includes, at a minimum:

- 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.
- At least monthly 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.

- A public education and promotion program that encourages participation in recycling and gives notice to each person about the desirability of recycling and the recycling program available to them.

Since passage of the Act, the Department has had an extensive public involvement process to discuss the new legislation and the proposed rules. Five public hearings were held on October 1 and 2 to receive comments on the Department's proposed rules. All testimony received was given consideration. Many issues were raised during the public hearing process and are described in the Department's response to public comment document. Substantive comment centered around six main issues: acceptable alternative methods, recycling reports, wasteshed designation, principal recyclable materials, fair market value exemption, and the preface to the staff report.

The Commission then asked each of the panel members to give a brief statement.

Steve Colton testified that the Department took a more radical approach than was necessary in response to the law. He said the law does not distinguish between residential and commercial recycling facilities. He asked for more time for the group to review these rules; they had no specific language changes to propose at this time.

Fred Neal testified they opposed Senate Bill 405 feeling that existing programs were working and the current system did not need to be disrupted. They also felt that a statewide mandate of what is recyclable would disrupt the status quo. He asked for flexibility to be given local governments, saying his group represented the consumer advocates concerned about rate increases.

Lori Parker, one of the drafters of the original bill, said there was a time when garbage haulers were not interested in recycling. However, they now have become interested. In addition, existing recyclers do not want to lose out. She said it was decided at the time the bill was drafted that the local governments would have to decide the issue between recyclers and garbage haulers.

Roger Emmons, testifying for the garbage haulers, said they did not want franchising to be used as a way to put people out of business. If franchised in residential areas, then they needed to pick up all materials or none. He asked that the Department not intervene in collection from commercial establishments. He also noted that grouping the recyclables would not help. He asked the Commission stimulate and encourage but not mandate a system.

Tom Donaca said that commercial activities were exempted by the legislation. He was concerned about a preface being incorporated into the rules and asked for delay in adoption of the rules.

Mr. Colton said that at this time a revision of the collection service definition was most important.

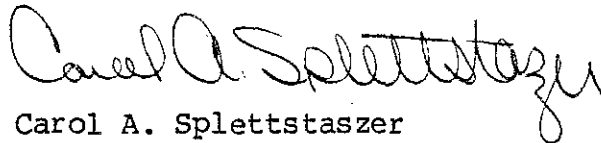
Ms. Parker told the Commission that the Solid Waste Advisory Task Force Recycling Rules Subcommittee would not come to an agreement without some direction from the Commission.

In response to some questions about legislative intent in the Act, Senator Joyce Cohen told the Commission that no segment of the population should be left out of the opportunity to recycle. Local control was essential and it was not intended for state agencies to restrict local government franchises. Representative Darlene Hooley said that in passing this law the Legislature knew that perhaps some would go out of business, but did want consideration to be given to existing recyclers. Representative Hooley said the Commission must make a good faith try at adopting rules and time would have to tell whether changes in the law were necessary.

The Commission thanked the members of the panel for their participation in this work session and said they would conduct their deliberations at the regular Commission meeting on November 2.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol A. Spletstaszer
EQC Assistant

CAS:d

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTIETH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

November 2, 1984

On Friday, November 2, 1984, the one hundred sixtieth meeting of the Oregon Environmental Quality Commission convened in room 1400 of the Department of Environmental Quality Offices, 522 SW Fifth Avenue in Portland, Oregon. Present were Commission Chairman James Petersen, and Commission members Arno Denecke, Wallace Brill, Mary Bishop and Sonia Buist. 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 Imperial Hotel in Portland. Commission members present were James Petersen, Mary Bishop, Wallace Brill, Sonia Buist and Arno Denecke. Also present were the Department's Director, Fred Hansen, and several members of the Department staff.

Minimizing Impacts from Slash Burning:

John Kowalczyk, of the Department's Air Quality Division, distributed a written report that he briefly summarized. Essentially, there are two issues involved in the minimizing of smoke impacts from slash burning. First, the need to have burning of slash, when it occurs, done under optimal weather conditions, be lighted quickly, smoldering fire extinguished, etc., as a means to ensure the smoke is dissipated quickly and as little smoke produced as practical given the amount of residue burned. Second, to find alternatives for burning as a means to dispose of logging debris. The Department of Forestry has been working on better burn techniques, but in the opinion of the Department, more needs to be done. As to burning less, Mr. Kowalczyk reported that apparently the Oregon Department of Forestry does not have any staff directly working on improving the utilization of slash.

Fred Hansen, Director, indicated he would discuss these matters with Mike Miller, the head of the Department of Forestry. Chairman Petersen said great improvements could be made in reducing the impacts from slash and field burning. He would like the staff to develop recommendations on a more efficient smoke management program in cooperation with the Department of Forestry. The rest of the Commission agreed. Mr. Kowalczyk said it would probably take approximately one year to agree on an updated smoke management program as part of the visibility SIP required by federal law, but that the staff would keep the Commission informed on a quarterly basis of the progress being made.

Field Burning Program Recap for 1984 Season:

Sean O'Connell, of the Department's Field Burning Office, reported that 1984 had been a relatively smoky summer due to difficulties in forecasting meteorological conditions. He said the Department had received over 1000 complaints which was a significant increase over previous years.

Opportunity to Recycle Rules:

Director Hansen reviewed the Commission's discussion of issues that took place at the work session the previous afternoon.

Election of Vice Chairman:

The Commission elected Arno Denecke as its Vice Chairman.

FORMAL MEETING

AGENDA ITEM A: Minutes of the September 14, 1984 EQC meeting.

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

AGENDA ITEM B: Monthly Activity Report for August 1984.

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

Commissioner Denecke asked if the schedule of contested case hearings was getting heavier. Linda Zucker, the Commission's hearing officer, replied that she had scheduled eight hearings for October and November, however, only two of those would probably proceed. The others had settled or may be settled.

Chairman Petersen asked status of Mt. Mazama Timber. Robert Haskins, Assistant Attorney General, replied that the company had shut down and the bank had called in loans. He said the bank was seeking an operator but had not been successful. It was asked if a new operator would also be seeking a variance before the Commission. Mr. Haskins replied that if the company reopened under new ownership it would be treated as a new company and have to meet the standards set forth in the rules.

AGENDA ITEM C: Tax Credit Applications.

Commissioner Bishop asked if the Commission would be setting a precedent by approving the Freres Lumber Company request for tax credit for a paving project. Robert Brown, of the Department's Solid Waste Division, replied that under normal circumstances this project would not have been recommended for approval but in this particular instance no other alternative was available to the company. They had been unable to find a suitable landfill; by paving they had cut their waste by 95 percent. Commissioner Bishop asked if they would come back for any further paving projects. Mr. Brown replied that this was a one time approval.

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

PUBLIC FORUM:

No one appeared.

AGENDA ITEM D: Request for authorization to conduct a public hearing on proposed adoption of hazardous waste generator fees, OAR 340-105-075.

A recent evaluation of estimated revenues versus estimated expenditures in the hazardous waste program revealed a probable deficit of \$115,000 through June 30, 1985. This is principally due to a shortage of federal funds to maintain the program as described in more detail in the staff report.

In addition, a recent audit and capability assessment by EPA Region 10 led them to conclude that there are insufficient staff and expertise in the Hazardous Waste Program to properly carry out the permitting responsibilities proposed in the FY 85 State/EPA Agreement. It is Region 10's opinion that at least two additional staff are needed. They also expect the state to develop hydrogeology expertise.

To address these deficiencies the Department proposed to implement generator fees January 1, 1985 for the current fiscal year pursuant to existing law. The Department is proposing a generator fee schedule that will not only cover the deficit but would allow it to hire an environmental engineer and hydrogeologist January 1, 1985. Emergency Board approval is required to expand staff and the Department would seek that approval on November 8 and 9, 1984. (The approval was granted.)

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission authorize the Department to hold hearings on a proposed hazardous waste generator fee schedule, OAR 340-102-060.

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

AGENDA ITEM F: Proposed adoption 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 in the interim before a permit can be issued.

Past federal Environmental Protection Agency comments have indicated the lack of specific interim status standards to be a deficiency in the Oregon program. Our initial response to these comments was to integrate selected standards into the Department's rules at Division 104. However, recent field experience indicated separate standards needed to be adopted.

This item requested the Commission to adopt interim status standards to clarify its authority to regulate hazardous waste facilities not yet under permit, and to adopt a clarifying definition for extraction of ores and minerals.

A public hearing was held October 2, 1984 in Portland. Seven people attended; four commented. No comment was made regarding adoption of interim status standards. All testimony was directed to the definitions of "residue" and "extraction of ores and minerals."

Some members of the regulated community continue to question the Department's authority to regulate potentially recyclable waste. It has always been the Department's position that by using the term "residue" rather than "waste," the Legislature clearly intended the Department to regulate potentially recyclable wastes as well as more traditional wastes such as garbage, refuse and sludge.

Because of the unanimity of testimony at the hearing against the proposed definition of "residue" it was withdrawn for consideration for adoption.

One comment was received on the definition of "extraction of ores and minerals" which pointed out that the standard mining and mineral industry usage of the term includes both extraction of ores from the earth and the extraction of metals from ores (i.e., processing). Notice of the Department's intent to regulate the processing of ores and minerals was made when OAR 340-101-004 was adopted on April 6, 1984. The proposed definition reaffirms the Department's original intent to regulate processing and is being submitted for adoption without change.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Commission adopt the proposed modifications to OAR 340-100-010 and 340-105-010.

Charles Knoll, Teledyne Wah Change Company. Mr. Knoll testified that these rules would put an administrative burden on his company in order to obtain permits and that they were presently in compliance. He said they had currently submitted a Part B application to DEQ for comment but have not received any comment back.

Chairman Petersen asked Mr. Knoll what the economic impact would be to his company. Mr. Knoll replied that he had no estimate of that at this time, but the impact would mostly be from paperwork.

Commissioner Brill moved to defer for further study on the definition of the extraction of ores and minerals. Richard Reiter of the Department's Hazardous Waste Section said that even if the Commission deferred the definition, the Department's opinion would remain unchanged. The motion failed for lack of a second.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist that the Director's Recommendation be approved. The motion passed with Chairman Petersen and Commissioner Brill dissenting.

AGENDA ITEM E: Review of hearing officer's decision in DEQ vs. Sperling.

This matter concerns the Department's request that the Commission reverse the hearing officer's decision in DEQ vs. Sperling. After a contested case hearing, the hearings officer found Wendell Sperling not liable for the \$3,000 civil penalty asserted by the Department.

The Department was represented by Robert L. Haskins. Mr. Sperling was represented by Joseph Penna.

Mr. Haskins stated the Department did not dispute the basic facts in the case. Mr. Sperling followed the required statutory and regulatory procedure to open burn a 61-acre field by registering the acres, paying the registration fees, applying for a permit and having the permit issued, and paying the permit fee. However, not only did the Respondent burn the 61-acre field, but he also tacked on a contiguous 54 acres to his burn for a total of 115 acres.

Mr. Sperling did not have permission to burn the additional 54 acres, nor did he ever attempt to register them, apply for a permit, or pay the registration and permit fees for those additional 54 acres.

Mr. Haskins continued that the crux of the hearing officer's decision was the conclusion that informal practices had been established in the open field burning registration and permitting programs, that Mr. Sperling had relied on those informal practices, that reliance was reasonable and, therefore, Mr. Sperling was not negligent or willful in committing his violation and, consequently, not liable.

Mr. Haskins said the Department has attempted to control informal practices by continually updating and amending rules which the Commission have adopted through the years. He said what was needed to halt these informal practices was a strong statement from the Commission that the statutes and rules be followed. Mr. Haskins felt this was an appropriate case to make such a statement. Mr. Haskins concluded by saying that Mr. Sperling's \$3,000 civil penalty should be affirmed and the Commission should adopt the Department's proposed Findings of Fact, Conclusions of Law, and Final Order as its own.

Commissioner Brill asked how long the regulations had been in effect and if there had been any other similar violations to these rules. Mr. Haskins replied that to his recollection the rules had been in existence since the early 70's, this violation occurred in 1981, and there had been several similar violations through the years. Chairman Petersen asked to what extent do the most recently adopted field burning rules take care of informal practices. Mr. Haskins replied that this was just the most recent of many tries to address this situation. Commissioner Buist asked how well the farmers understood the regulations. Mr. Haskins replied that on a general basis almost 100 percent understood the registration and permitting requirements, but that there were a lot of finer points that may not be understood. Those points, however, had no bearing on this case.

Commissioner Denecke asked if there was a statutory limit on the minimum amount of penalty that could be assessed. Mr. Haskins replied that \$1,500 was the minimum in the rules at the time the violation occurred and that the Commission must assess that minimum unless they had a reason to mitigate.

Joseph Penna said that the Department seeks to impose a strict liability standard on growers which would eliminate the Department's burden of proving culpability. Mr. Penna said it was Mr. Sperling's contention that he was not negligent; had acted in conformance with common practices and relied upon the established procedures of the

local fire district. He said Mr. Sperling had requested transfer of acreage to allow the extra acres to be burned and assumed that permission had been given. Mr. Penna urged the Commission not to penalize individual growers instead of correcting problems in administration of the field burning program.

Commissioner Bishop asked how many acres Mr. Sperling had registered. Mr. Penna replied that this particular burn began as a 61-acre field, but that Mr. Sperling had registered several hundred acres all total.

Commissioner Denecke said it was his personal feeling that a technical violation had occurred but that there was room to mitigate the penalty. Chairman Petersen agreed with Commissioner Denecke, saying it was not the Commission's responsibility to police informal practices but that it was DEQ's responsibility to eliminate those informal practices. He said a technical violation of the rules did occur and the statute requires a penalty be imposed. Commissioner Denecke suggested a \$100 per violation penalty; Commissioner Brill agreed.

It was MOVED by Chairman Petersen, seconded by Commissioner Brill and passed unanimously that the hearing officer's decision be overturned finding that a technical violation did occur; Mr. Sperling did burn a field without registration and without a permit, and that he be fined \$100 per violation.

Commissioner Denecke said that he had discussed already with Ms. Zucker, the Commission's hearing officer, that perhaps at the next meeting both her and the Department could submit questions regarding contested cases that they wished to receive some guidance from the Commission on. The rest of the Commission agreed and Director Hansen said the Department would appreciate that guidance and would submit those questions at the next meeting.

AGENDA ITEM G: Proposed adoption of Opportunity to Recycle Rules, OAR 340-60-005 through 340-60-085.

This item concerned the Department's request to adopt proposed Opportunity to Recycle Rules. The proposed rules are required by statute and are necessary to implement the "Recycling Opportunity Act." Statutory deadline for rule adoption is January 1, 1985.

Director Hansen said that the cost of disposal, against which the economic feasibility test is applied to determine what materials were recyclable, needed to include all costs related to landfills, including such things as groundwater monitoring and siting of new landfills. He indicated that in establishing such costs in the process of implementing the "opportunity to recycle," the Department would seek full public input.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the proposed rules, OAR 340-60-005 through 340-60-085.

Judy Roumpf, Portland Recycling Team, testified they operate five drop-off centers in the Portland metropolitan area and conduct commercial collection of office paper. Ms. Roumpf said their goal is to divert as much waste as possible from the waste stream. She testified that drop-off centers are not collection facilities and the rules need to make more of a distinction between the two. Drop-off centers are already considered disposal sites and she asked that they be deleted from the definition of disposal sites. PRT cannot pay for commercial office paper because of the mixed grades they receive. Ms. Roumpf urged that the Commission set over a decision on the rule to provide for free collection in a nonexclusive environment and a better definition of disposal sites.

Roger Emmons, Oregon Sanitary Service Institute (OSSI), also testified that drop-off centers, such as those operated by PRT, and buy-back centers are not collection centers. Mr. Emmons asked that the issue of collection be held over for decision until the Commission's next meeting.

John Drew, Willamette Industries, also testified on behalf of the five other paper mills in the state that collect waste paper. He said it was not the intent of Senate Bill 405 to interfere with existing collection systems but to enhance them. He said the proposed rules presented a potential for massive disruption in the marketplace for existing recyclers.

Angela Brooks, Publisher's Paper, also testified on the matter of definition of collection centers. She said that currently about 77 percent of the newspaper in the Portland area is being recovered and that drop-off centers contribute a significant amount of that percentage.

Doug John, Roseburg Disposal Company, urged the Commission to listen to its advisors and what they were agreeing on. His concern was the cost of disposal. He operates in Douglas County which offers free disposal and has the lowest collection rates in the state. He said if he had to increase his collection fee to collect recyclables it would cause a significant reduction of his collection base and was not a reasonable way to save resources.

Chairman Petersen asked if the preface to the rules was appropriate. Robert Haskins, Assistant Attorney General, replied that the Commission had clear authority to adopt interpretive rules in any program. And in this case, they had express authority to adopt guidelines. Whether or not the guidelines were adopted as rules, they should not contradict the formal rules. Chairman Petersen said

he had no problem in delaying this matter if a better product would result. Commissioner Denecke asked that the task force involved in this matter submit key issues to the Commission well prior to the next meeting for their consideration. Commissioner Bishop added that she would like to include yard debris in the list of recyclable material.

Commissioner Petersen gave the task force the following guidelines to assist them in their deliberations before the next meeting:

- Collection. The legislature did not intend to include anything other than collection from the site or residence of the generator.
- Preface. Give as comprehensive guidelines as possible, exclude the policy statement from the rules and make it guidelines that are consistent with the rules.
- Commercial versus Residential. The Legislature did not intend to exclude commercial but the primary focus should be on residential. Residential recycling should be emphasized in the guidelines.
- Due or Special Consideration. Something stronger than these words needed to be included to protect existing recyclers who could be put out of business by a local government granting an exclusive franchise for recycling to someone other than existing recyclers.
- Grouping. Each item does not need to stand on its own in order to make sense.
- Local government needs to have maximum control so they may have the tools necessary to implement the opportunity to recycle.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that this matter be tabled until the Commission's December 14, 1984 meeting.

Commissioner Denecke was excused for the balance of the meeting.

AGENDA ITEM H: Proposed adoption of rule amendments incorporating noise inspections of automobiles, light trucks and motorcycles into the Portland vehicle inspection program.

At the May 18, 1984 Commission meeting, a petition for rulemaking was accepted to consider incorporating noise inspections into the Department's Vehicle Inspection Program operated in the Portland

metropolitan area. At the June 29, 1984 Commission meeting public hearings were authorized to consider proposed rules and standards for noise testing various categories of motor vehicles.

Most of the hearing testimony was supportive of the proposal to include vehicle noise inspections within the Portland area program. Those in support also recommended noise inspections of all major vehicle categories including automobiles, light trucks, motorcycles, buses and heavy trucks.

The Director was recommending the adoption of rules that will begin vehicle noise inspections. The category of automobiles and light trucks will be subject to noise tests on July 1, 1985. Motorcycles will be phased into the program by July 1, 1985. Thus, the Department is proposing a fully comprehensive program of vehicle noise inspections for the Commission's approval.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission take the following action:

- (a) Adopt the rule amendments contained in Attachment III to the Staff Report regarding noise emission standards for light duty vehicles to be effective on July 1, 1985;
- (b) Adopt the rule amendments contained in Attachment III to the Staff Report regarding noise emission standards for motorcycles to be effective on July 1, 1985;
- (c) The Commission further directs the Department to seek necessary budget authority to receive additional inspection fees and hire inspectors to conduct noise emission testing of motorcycles;
- (d) Request the Department to develop with Tri-Met a proposed consent agreement that will ensure all Tri-Met's buses are maintained to acceptable noise emission limits. This proposal shall be brought to the Commission for consideration prior to April 1, 1985;
- (e) Request the Department to initiate development of noise inspection procedures and standards for heavy duty trucks and buses that are suitable for use at the Department inspection stations. A report shall be made to the Commission on this vehicle category prior to April 1, 1985;
- (f) Prior to July 1, 1986 the Department shall report to the Commission on the effectiveness of inspections of light duty vehicles and motorcycles and recommend any necessary changes.

John Hector, of the Department's Noise Section, introduced a tape demonstrating noise levels from different types of vehicles.

Linore Allison, Livable Streets Coalition, was concerned about the proposed July implementation date. She requested the rules be phased in beginning in February so that the Legislature would be able to look at an already implemented program. She also asked for citizen input to the Department's agreement with Tri-Met on fleet inspection. In response to a question from Chairman Petersen, Ms. Allison said they would like that citizen input to ensure that Tri-Met does what it says it will. Ms. Allison said that they were pleased with the work the Department had done and were in full support of this program.

Commissioner Buist asked how the program would be phased in. Director Hansen replied that it was a question of whether testing should begin on light duty vehicles quicker than the July 1 date for all the rest of the vehicles. Commissioner Bishop asked why the testing should be put off until July 1. Director Hansen replied that it was an issue of equity. Motorcycles were not now tested under the emission inspection program and it would be difficult to bring them into the testing program until later. He also said that he felt it was easier for people to remember standard dates to begin a program such as the beginning or end of a fiscal year or a calendar year. Ron Householder, of the Department's Vehicle Inspection Program, said that testing of light duty vehicles could begin by February or March; the July 1 date would allow for some debugging of the system and for getting needed equipment into the stations.

Molly O'Reilly, Portland Noise Review Board, was pleased that the rules were moving forward but expressed concern that by not implementing them before the Legislative Session, fears and apprehensions would build up in people about the program. She also asked for earlier implementation and citizen input into the Tri-Met agreement.

John Hilley, was pleased with the Commission and the Department's concern about vehicle noise and believed that a phased in approach was important. He testified there would be less burden on the public and that he did not really care when the phased in plan happened, but felt that it needed to be carried out smoothly in order to be acceptable to the general public.

Director Hansen indicated to the Commission that they needed to keep in mind that cars over 20 years old were exempt from the vehicle inspection rules and, therefore, this noise inspection might not be picking up older vehicles in which noise was a problem.

Commissioner Bishop asked how the public would be notified that we would be doing noise inspections on their vehicles. Mr. Householder replied that that would be done by news releases and an explanation on the insert they get with their license tag renewal form.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously that the Director's recommendation be approved, however, allowing for implementation of testing of light duty vehicles by April 1, 1985.

AGENDA ITEM I: Proposed adoption of revisions to OAR Chapter 340, Division 12, Civil Penalties and revisions to the State Clean Air Act Implementation Plan (SIP).

At the Commission's August 1984 meeting they authorized the Department to conduct a public hearing and take testimony on the proposed revisions to the civil penalty rules and schedules contained in Oregon Administrative Rules, Chapter 340, Division 12, and revisions to the Air Quality State Implementation Plan. The hearing was held in Portland on September 17, 1984. Two people submitted written testimony, one person gave oral testimony at the hearing. The hearing officer's report was attached to the Staff Report for this agenda item.

The Department requests that the Commission adopt the proposed revisions to Division 12 and the State Implementation Plan.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission adopt the proposed revisions to OAR Division 12 and revisions to the State Clean Air Act Implementation Plan.

Rule OAR 340-12-055(3) (b) has been left unchanged. The Department sought the Commission's determination on whether to change the "shall" to "may" and thereby allow but not require the Director to impose a civil penalty for an intentional or negligent oil spill. If the Commission chose to make this change, it would make explicit the Department's practice of exercising discretion in the imposition of civil penalties for negligent and intentional oil spills. Robert Haskins, Assistant Attorney General, told the Commission that in some cases the words shall and may had been used interchangeably. The Commission agreed to leave the rule unchanged.

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

AGENDA ITEM J: Proposal to amend status review date of the Portland International Airport Noise Abatement Program.

On August 19, 1983 the Commission approved a noise abatement program for the Portland International Airport that was developed pursuant to the Department's Airport Noise Control Rules.

One of the conditions of approval was a requirement for the Department to review the status of the abatement program prior to January 1, 1985. For several reasons the airport proprietor, the Port of Portland, has requested this review date be postponed until approximately May 1, 1985.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission amend condition #3 of the Director's Recommendation contained in agenda item H of the August 19, 1983 EQC agenda to read as follows:

3. Prior to [January 1, 1985] May 1, 1985, the Department shall submit an informational report on the status of this abatement program, an evaluation of implementation progress, and the need to amend the program.

Commissioner Bishop asked when federal funds would be available. John Newell, of the Port of Portland, replied that it was their estimation it would be at least one year.

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

AGENDA ITEM K: Proposed designation of a carbon monoxide nonattainment area in Grants Pass as a revision to the state Clean Air Act Implementation Plan.

This item proposed to designate a carbon monoxide nonattainment area in Grants Pass by formally recognizing the severity of the carbon monoxide problem and identifying the boundaries of the problem area. A public hearing was held on this issue in Grants Pass on September 18, 1984 with no major comments opposing the action. 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. Likely plan elements are discussed fully in the staff report.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission adopt the proposed Grants Pass carbon monoxide nonattainment area as a revision to the State Implementation Plan.

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

AGENDA ITEM L: Request for a variance from OAR 340-61-028(1)(b), Closure Permit Financial Assurance, by Disposal Industries, Inc. at the Newberg Landfill.

Disposal Industries, Inc. operator of the Newberg Landfill has requested a temporary variance until March 1, 1985 from the requirement to submit a financial assurance plan as part of the solid waste disposal site closure permit application. This will allow them time to determine the cost of remaining closure activities and to develop a plan to finance them. It will also enable the Department to issue a closure permit to replace their existing solid waste disposal permit which will expire on December 31, 1984.

Director's Recommendation

Based on the findings in the summation in the staff report, it is recommended that the Commission issue Disposal Industries, Inc. (DII) a temporary variance from ORS 459.270(2)(3) and OAR 340-61-028(1)(b) and a conditional closure permit which requires compliance with the financial assurance requirements by March 1, 1985.

A representative of the company was in the audience but did not wish to testify.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed unanimously that the Director's Recommendation be approved, including the following findings from the summation.

The following findings support the granting of a temporary variance to Disposal Industries, Inc. because there are special circumstances beyond their control which make immediate compliance unreasonably burdensome:

- A. The new financial assurance and post-closure maintenance requirements (January 1984) caught DII in the position of having to provide financial assurance in eight months rather than over as much as five years available to others.
- B. DII made substantial commitment of assets in several unsuccessful landfill and transfer siting proposals and in the Lincoln County project. Those financial commitments were made prior to promulgation of the new financial assurance requirements.
- C. DII's ability to generate adequate funds for closure was impaired. In August 1983, Yamhill County granted a rate increase to DII to provide additional funds for closure. Almost immediately over 20 percent of their waste volume was diverted to another landfill until late June 1984, leaving only three months of normal income to finance closure before the landfill closed September 30, 1984.

- D. The total cost of completing the closure activities will be much higher than previously anticipated. Additional off-site cover material had to be purchased to replace on-site soil restricted by Yamhill County and the unit price of cover material was higher than estimated.

AGENDA ITEM M: Request for a variance from OAR 340-25-315(1)(b), Veneer Dryer Emission Limits, for Brand-S Corporation, Leading Plywood Division, Corvallis.

This item proposes to extend the October 7, 1983 Commission variance which expired October 1, 1984. The company has been unable to comply with the final compliance deadline of that variance due to the unavailability of commercial pollution control equipment which would adequately control the emissions from this facility. Leading Plywood proposes, with Department concurrence, to install a prototype experimental control unit on one of their two dryers. After certification by the Department that emissions comply with Department limitations, a second unit would be installed with final compliance by January 1, 1986. Representatives of Leading Plywood and Geoenergy International Corporation were in the audience but did not wish to testify.

Director's Recommendation

Based on the findings in the summation in the staff report, it is recommended that the Commission grant an extension to the October 7, 1983 variance to Brand-S, Leading Plywood Division, Corvallis, for OAR 340-25-315(1)(b), Veneer Dryer Emission Limits, with final compliance and increments of progress as follows:

- A. Submit plans and specifications and notice of intent to construct for one Geoenergy ARS prototype control unit before November 15, 1984.
- B. Complete installation and begin operation of the prototype Geoenergy ARS control unit on the moor dryer by February 15, 1985.
- C. Complete troubleshooting and system tuning and notify the Department the system is ready for evaluation by March 15, 1985. (The Department staff will evaluate the system and determine compliance status by August 1, 1985.)
- D. Submit plans and specifications and notice of intent to construct for the second Geoenergy ARS control unit by October 1, 1985.
- E. Install and begin operation of the second ARS unit by January 1, 1986.

- F. Submit status reports in writing within 10 days after each of the above dates, notifying the Department if the requirements are being met.

Chairman Petersen asked if by granting this variance another Mt. Mazama-type problem would be created. Director Hansen replied that Brand-S and Mt. Mazama were opposites. Here, Brand-S had invested in control technology, but it did not work satisfactorily. The variance would allow time for the purchase of new and innovative technology.

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

AGENDA ITEM N: Request from Churchill Group to use personal bond alternative security for private sewerage system.

This item addresses a request from Churchill Group, the owner of Willow Lake Mobile Estates, for the Commission to approve a personal bond as alternative security under OAR 340-15-020 for the sewage treatment plant serving the mobile home court.

Jan Turin, was in the audience on behalf of the Churchill Group, but did not wish to testify.

Director's Recommendation

Based on the summation in the staff report it is recommended that the Commission deny the request of Churchill Group for providing a personal surety bond.

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

AGENDA ITEM O: Informational Report Portland Metropolitan Area Diesel Exhaust Study--results and recommendations.

This was an informational report presenting the results and recommendations of the Diesel Exhaust Study. The purpose of the study was to examine the long term impacts on the Portland airshed of diesel exhaust particulates from motor vehicles. A chief aim of the study was to look at the impact of increasing numbers of diesel automobiles. To be comprehensive, the study also included particulate emissions from gasoline vehicles as well as diesel trucks and buses.

The study will involve further work by the Department to be coordinated with Tri-Met and Metro. The Department sought the Commission's concurrence in carrying out the recommendations of the diesel exhaust task force.

Director's Recommendation

The Director recommends that the Commission endorse the recommendations of the diesel exhaust study task force found in Attachment II of the staff report and direct the Department to coordinate with Tri-Met and Metro and other concerned agencies to fulfill recommendations of the task force.

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

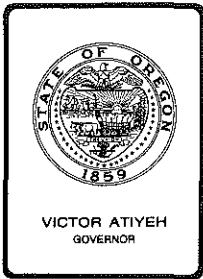
There being no further business, the formal meeting was adjourned.

The Commission did not hold a lunch meeting.

Respectfully submitted,


Carol A. Spletstaszer
EQC Assistant

CAS:d



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

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

Discussion

Attached are the September and October 1984 Program Activity Reports.

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

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

The purposes of this report are:

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

SChew:y
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

September and October 1984

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

AQ, WQ, and SW Divisions
(Reporting Unit)

September 1984
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	10	28	3	14	0	0	47
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	10	28	3	14	0	0	47
<u>Water</u>							
Municipal	11	53	17	54	0	2	14
Industrial	9	33	6	25	0	0	21
Total	20	86	23	79	0	2	35
<u>Solid Waste</u>							
Gen. Refuse	3	12	2	11	-	-	10
Demolition	-	-	-	-	-	-	1
Industrial	3	6	1	5	-	-	9
Sludge	-	-	-	1	-	-	-
Total	6	18	3	17	-	-	20
<u>Hazardous Wastes</u>	1	3	1	-	-	-	3
<u>GRAND TOTAL</u>	37	135	29	110	0	2	105

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
CROOK	003	CLEAR PINE MOULDINGS INC	CYCLONES & DUCTING	09/04/84	APPROVED
LANE	006	WOOD/TECH PACIFIC INC	BAGHOUSE	08/22/84	APPROVED
BENTON	008	EVANS PRODUCTS CO	CYCLONE	07/26/84	APPROVED
COLUMBIA	010	PORTLAND GENERAL ELECTRIC	GLOBE VALVES INTALLATION	07/31/84	APPROVED
	011		REPLACE ISOLATION VALVES	07/31/84	APPROVED
JACKSON	026	CASCADE WOOD PRODUCTS INC	BLOWPIPE & CYCLONE	09/14/84	APPROVED
MULTNOMAH	963	GRAPHIC ARTS CENTER	CATALYTIC CONTROL SYSTEM	06/29/84	APPROVED
MULTNOMAH	970	COFFEE BEAN INTL INC.	AFTERBURNER	07/31/84	APPROVED
MULTNOMAH	975	PORTLAND RENDERING CO	CHEM WASH QUAD SYSTEM	06/29/84	APPROVED
LINCOLN	979	GEORGIA PACIFIC CORP	CONVEYING SYSTEM REPLACEMENT	09/14/84	APPROVED
MULTNOMAH	983	TRUMBULL ASPHALT	INCINERATR/WASTE HEAT BOILER	07/31/84	APPROVED
MULTNOMAH	985	THE KOBOS CO	SMOKE INCINERATOR	07/27/84	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			12		

20

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

September, 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	5	16	1	8	22		
Existing	3	8	2	13	14		
Renewals	13	38	8	47	96		
Modifications	<u>2</u>	<u>12</u>	<u>4</u>	<u>18</u>	<u>13</u>		
Total	23	74	15	86	145	1416	1452
<u>Indirect Sources</u>							
New	1	2	0	0	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>1</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>3</u>	<u>224</u>	<u>228</u>
<u>GRAND TOTALS</u>	24	77	15	86	148	1632	1680

Number of
Pending Permits

Comments

34	To be reviewed by Northwest Region
14	To be reviewed by Willamette Valley Region
5	To be reviewed by Southwest Region
7	To be reviewed by Central Region
11	To be reviewed by Eastern Region
17	To be reviewed by Program Operations Section
55	Awaiting Public Notice
<u>2</u>	Awaiting end of 30-day Public Notice Period
145	

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE		TYPE APPL. PSEL	
					ACHIEVED			
JACKSON	ROGUE RIVER PAVING	15	0003 07/19/84	PERMIT ISSUED	08/27/84		RNW	
POLK	GNB BATTERIES INC	27	9012 10/24/83	PERMIT ISSUED	08/27/84		RNW	
DOUGLAS	HARSCO CORP	10	0066 00/00/00	PERMIT ISSUED	08/28/84		MOD Y	
MULTNOMAH	COFFEE BEAN INTL INC.	26	3088 04/27/84	PERMIT ISSUED	08/28/84		MOD	
DESCHUTES	BEND AGGREGATE & PVNG	09	0041 05/04/84	PERMIT ISSUED	08/30/84		RNW	
MALHEUR	EAGLE-PICHER IND., INC.	23	0032 03/21/84	PERMIT ISSUED	06/30/84		NEW	
MULTNOMAH	ABC FOUNDRY	26	1948 05/11/84	PERMIT ISSUED	03/30/84		RNW	
HOOD RIVER	HANEL LUMBER CO INC	14	0006 05/04/84	PERMIT ISSUED	08/31/84		RNW	
MULTNOMAH	ROSS ISLAND S&G VANPORT	26	1944 05/13/84	PERMIT ISSUED	09/31/84		RNW	
COLUMBIA	CASCADE AGGREGATES INC	05	2367 10/06/83	PERMIT ISSUED	09/05/84		RNW	
MULTNOMAH	COLUMBIA STEEL SHELVING	26	3030 09/22/81	PERMIT ISSUED	09/05/84		EXT	
JACKSON	PERRINE IND ELECTRONICS INC	15	0186 10/04/83	PERMIT ISSUED	09/13/84		EXT	
MARION	TRANS-ENERGY OREGON	24	9398 00/00/00	PERMIT ISSUED	09/13/84		MOD	
MULTNOMAH	RHONE-POULENC, INC	26	2403 06/28/84	PERMIT ISSUED	09/20/84		MOD	
MULTNOMAH	BLASEN & BLASEN LUMBER	26	2557 05/22/84	PERMIT ISSUED	09/20/84		RNW	
TOTAL NUMBER QUICK LOOK REPORT LINES				15				

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

September, 1984
(Month and Year)

PLAN ACTIONS COMPLETED - 23

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
<u>MUNICIPAL WASTE SOURCES - 17</u>				
Lane	Eugene River Road Gravity Interceptor Sewers	9-4-84	P. A.	
Lane	Eugene Santa Clara Gravity Interceptor Sewers	9-4-84	P. A.	
Lane	Eugene River Road/Santa Clara Pump Stations and Pressure Lines	9-7-84	P. A.	
Klamath	Willamette Pass Ski Resort Sand Filter and Seepage Beds	9-17-84	P. A.	
Lake	Lakeview South Third Street Sanitary Sewer Project	9-20-84	P. A.	
Yamhill	Newberg Sanitary Sewerage System Improvements	9-20-84	P. A.	
Yamhill	Newberg Wastewater Treatment Plant	9-20-84	P. A.	
Clackamas	Mt. Hood Stables Sand Filter and Drainfield	9-20-84	P. A.	
Clatsop	Hammond Ridge Road No. 1 Subdivision	9-27-84	P. A.	
Clackamas	West Linn Ridge Lane Sewer Extension	9-27-84	P. A.	

P. A. = Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

September, 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

Tillamook	Garibaldi Seacliff Estates Subdivision	9-27-84	P. A.	
Tillamook	NTCSA Pirates Bluff Subdivision	9-27-84	P. A.	
Jackson	Shady Cove Sewer Extension at Fire Hall	9-27-84	P. A.	
Clackamas	West Linn Hidden Springs Ranch No. 8	9-27-84	P. A.	
Clackamas	West Linn La Golondrina	9-27-84	P. A.	
Linclon	Newport Harbor Crescent (Revised)	10-8-84	P. A.	
Curry	Sandpiper Subdivision Collection Sewers, Septic Tank, Recirculating Sand Filter, and Disposal Fields	10-10-84	P. A.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

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PLAN ACTIONS COMPLETED

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

INDUSTRIAL WASTE SOURCES 6

Union	Boise Cascade Corp. Waste Water Recycle System Elgin	9/4/84	Approved
Clatsop	Pacific Power & Light Oil Spill Containment System System Astoria	9/5/84	Approved
Yamhill	Stanley Bansen Manure Control System Dayton	9/17/84	Approved
Marion	Rawlinson's Capital City Laundry Oil Removal Equipment Salem	9/28/84	Approved
Polk	Fort Hill Lumber Co. Antistain Control System Grand Ronde	9/28/84	Approved
Douglas	Roseburg Lumber Co. Groundwater Monitoring Wells Dillard	9/28/84	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

September 1984

(Reporting Unit)

(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 / 1	0 / 0	1 / 2	2 / 3		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	2 / 2	10 / 6	2 / 3	12 / 4	32 / 13		
Modifications	0 / 1	5 / 1	3 / 0	7 / 1	6 / 1		
Total	2 / 3	15 / 8	5 / 3	20 / 7	40 / 17	233/140	235/143
<u>Industrial</u>							
New	0 / 1	0 / 3	0 / 0	0 / 1	3 / 9		
Existing	0 / 0	0 / 0	0 / 0	0 / 0	0 / 0		
Renewals	5 / 3	10 / 8	2 / 1	8 / 4	30 / 14		
Modifications	2 / 0	7 / 9	3 / 0	10 / 9	3 / 1		
Total	7 / 4	17 / 20	5 / 1	18 / 14	36 / 24	181/156	184/165
<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	32 / 28	10 / 4	38 / 21	76 / 41	416/307	421/319

* NPDES Permits

** State Permits

1 General Permit changed from 0400-J to 0100-J

Sources Under Permit Adjusted to Count Less 345 General Permits

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>September, 1984</u>
(Reporting Unit)	(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 (4)

Coos	Coos Bay Timber Operation Kenstone Quarry North Bend	9/11/84	Permit Renewed
Lane	City of Florence STP	9/13/84	Permit Renewed
Multnomah	City of Portland Columbia Blvd. STP	9/14/84	Permit Renewed
Multnomah	Hercules Inc. Portland	9/19/84	Permit Renewed

MUNICIPAL AND INDUSTRIAL SOURCES WPCF (4)

Coos	Oregon Dept. of Transportation Sunset Bay Park STP	9/12/84	Permit Renewed
Baker	M & S Associates, Mine Baker Area	9/13/84	Permit Renewed
Columbia	City of Vernonia STP	9/13/84	Permit Renewed
Deschutes	Inn at Seventh Mountain STP	9/19/84	Permit Renewed

MUNICIPAL AND INDUSTRIAL SOURCES Modifications (6)

Lincoln	American Adventures, Inc. STP, Otis	9/13/84	Transferred from Pixieland RV Park
Linn	City of Albany STP	9/19/84	Modification
Linn	Teledyne Wah Chang Albany	9/19/84	Added Condition G.12.d

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>September 1984</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

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

MUNICIPAL AND INDUSTRIAL SOURCES Modifications
Continued

Multnomah	S.P. Anodizing Portland	9/19/84	Letter Cancelling Permit
Lane	McFarland Co. Eugene	9/19/84	Letter Modified Schedule B.
Curry	Rainbow Rock Service Service Association Brookings	9/24/84	Transferred from Twenty-eight Acres

MUNICIPAL AND INDUSTRIAL SOURCES General Permits (1)

Cooling Water, Permit No. 0100-J (1)

Lane	Swanson Brothers Lumber Co. Inc., Noti	9/28/84	General Permit Granted in Lieu of 0400-J
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

September 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	3	-	-	8		
Existing	-	1	2	3	12		
Renewals	1	5	2	2	19		
Modifications	-	-	-	2	1		
Total	2	9	4	7	40	163	163
<u>Demolition</u>							
New	-	-	-	-	-		
Existing	-	1	-	-	4		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	-	1	-	-	4	12	12
<u>Industrial</u>							
New	-	1	-	2	5		
Existing	2	2	-	2	10		
Renewals	-	1	1	4	9		
Modifications	-	1	-	1	-		
Total	2	5	1	9	24	100	100
<u>Sludge Disposal</u>							
New	-	-	-	1	-		
Existing	-	-	-	1	-		
Renewals	1	-	1	-	3		
Modifications	-	-	-	-	-		
Total	1	-	1	2	3	17	17
<u>Hazardous Waste</u>							
New	-	2	-	1	6		
Authorizations	142	479	142	479	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	142	481	142	480	7	14	20
<u>GRAND TOTALS</u>	147	496	148	498	78	306	312

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Solid Waste Division</u>	<u>September 1984</u>
(Reporting Unit)	(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Clatsop	Seaside Disposal Site Existing facility	9/6/84	Closure permit issued	
Hood River	Hood River Landfill Closed facility	9/10/84	Closure permit issued	
Multnomah	St. Johns Landfill Existing facility	9/10/84	Permit renewed	
Jackson	Jackson Sports Park Existing wood waste disposal site	9/12/84	Permit renewed	
Lake	Summer Lake Wildlife Refuge Existing septic tank sludge disposal site	9/17/84	Letter authorization renewed	
Lincoln	Salmon River Hatchery Existing fish carcass disposal site	9/20/84	Letter authorization renewed	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

September 1984
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

* Date *	Type	Source	Quantity Present	Quantity Future
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TOTAL DISPOSAL REQUESTS GRANTED - 142

OREGON - 42

9/11	Ignitable varnish sludge	Mfg. of electrical transfr.	0	1 drum
9/11	Ignitable paint sludge	" "	0	1 drum
9/11	PCB transformers	Chemical co.	370 gal.	0
9/11	Sulfuric acid pickling solution	Electronic co.	5,000 gal.	20,000 gal.
9/11	Outdated products: Neptune Blue Dye, methyl cellulose, citric acid, etc.	Chemical co.	80 cu.ft.	0
9/11	Calcined petroleum coke with coal tar pitch residues	Aluminum co.	0	2,000 drums
9/12	Off-spec. Carbofuran pesticide	Chemical co.	1 drum	0
9/12	Trifluralin pesticide-contaminated materials	" "	2 drums	0
9/12	Carbamate fungicide	" "	2 drums	0
9/12	Mixed solvents: IPA, methyl chloroform and trichlorotrifluoroethane	Electronic co.	35 gal.	0
9/12	Tergitol surfactant	" "	1 drum	0

* * Date *	* Type *	* Source *	* Quantity *		* Future *
			* Present	* Future	
9/12	Arsenic-contaminated liquid	Electronic co.	1 drum	0	
9/12	Sulfuric acid	" "	36 gal.	0	
9/12	Herbicide 2,4-D/ 2,4,5-T	Dept. Interior	2 drums	0	
9/19	Paint sludge contain- ing MEK, toluene and alcohol	Wood product co.	0	75 drums	
9/19	Copper hydroxide sludge	Electronic co.	0	40 drums	
9/19	Envert DT herbicide containing 2,4-D & 2,4,5-T	Wood product co.	30 30-gal. drums	0	
9/19	Copper sulfate conta- minated with resins	Chemical co.	20 drums	0	
9/19	PCB-contaminated transformer oil	Electric util.	0	18 drums	
9/19	Small quantities of various solvents in lab packs	Research facil.	10 drums	0	
9/19	Plastisol sludge containing PVC, phenol formaldehyde, mineral spirits, di-2-ethyl- hexyl phthalate and water	Waste recycling	0	150 drums	
9/19	Varnish sludge containing polyester and phenolic resins	Electronic co.	0	1 drum	
9/21	Broken wares, plastic, paper, vermiculite, etc., contaminated with 2,4-D, bromoxynil octan- uate (BO), MCPA and saturated/aromatic solvents	Herbicide mfg.	0	10 drums	

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				* * * * *	* * * * *	
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Date	Type	Source	Present	Future	Quantity	
9/21	Small quantities of lab wastes consisting of BO, xylene, aromatics, acetone, IPA, alcohols, methylene chloride, 2,4-D, MCB, emulsifiers and inerts	Herbicide mfg.	0	2 drums		
9/21	Dirt/water contaminated with 2,4-D, BO, MCPA, IOET	Spill cleanup	4 drums	0		
9/21	Small quantities of various solvents	University	4 drums	4 drums		
9/21	Small quantities of various solvents	" "	4 drums	4 drums		
9/21	Small quantities of various solvents	" "	4 drums	4 drums		
9/21	Outdated dimethyl formamide	Chemical co.	0	1 drum		
9/21	Ethylene glycol	" "	0	1 drum		
9/21	Outdated nitrocellulose lacquer containing toluene, xylene, ethanol, IPA, acetone, n-butyl acetate, MEK and ethyl acetate	Mfg. mouldings, doors, windows	1 drum	0		
9/21	Paint/lacquer thinner sludge	Auto body shop	0	4 drums		
9/21	Solidified phenolformaldehyde resin	Chemical co.	10 tons (in bulk)	0		
9/21	Solidified phenolic resin	Chemical co.	8 tons	0		
9/21	Envert DT herbicide containing 2,4-D & 2,4,5-T	Lumber co.	450 gal. (in 30-gal. drums)	0		
9/21	Pentachlorophenol-contaminated sawdust	Machining treated lumber	30 cu.yd.	0		

* * *	* Date *	* Type *	* Source *	* Quantity *		* *
				* Present *	* Future *	
	9/21	PCB-contaminated rags and other cleanup debris	Lumber mill	0	4 drums	
	9/27	Diatomaceous earth with mercury bichloride	Acetylene plant	0	5 drums	
	9/27	Sulfur trioxide in small cylinders	Dept. of Agriculture	1 drum	0	
	9/27	Talc/clay/flour filler contaminated with pesticides	Pesticide mfg.	0	22 drums	
	9/27	Water contaminated with fatty oil, Cr and trace amounts of other heavy metals	Hub mfg.	0	4,125 gal.	
	9/27	Paint sludge with MIBK and alcohols	Paint mfg.	0	50 drums	
	9/27	Outdated polypropylene glycol with aromatics	Paint mfg.	1 drum	0	
	9/27	Pentachlorophenol	" "	3 drums	0	
	9/27	Paint containing alkyd resin, MIBK and mineral spirits	" "	2 drums	0	

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	9/6	Caustic solution with hydraulic oil	Mfg. of magnesium	2 drums	0	
	9/6	Spent trichlorotrifluoroethane	" "	15 gal.	0	
	9/6	Sand filter medium contaminated with Cr ⁺⁶	" "	1 drum	0	
	9/11	Methylene chloride/cresylic acid degreasing solvent	Auto shop	0	15 drums	
	9/11	PCB-contaminated concrete blocks	Superfund project	1,000 cu.yd.	0	

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				* * * *	* * * *	
* * * *	* * * *	* * * *	* * * *	* * * *		* * * *
* * * *	* * * *	* * * *	* * * *	* * * *	* * * *	* * * *
9/11	Heavy metal-contami- nated water with oil and grease	Superfund project	20,000 gal.	0		
9/11	Zinc-ammonium sulfate fertilizer	" "	30,000 lb.	0		
9/11	Various pesticides	" "	50 drums	0		
9/11	Various lab chemicals	" "	19 drums	0		
9/11	Arsenic-contaminated soil	Chemical co.	8,200 cu.yd.	0		
9/11	Arsenic-contaminated soil	" "	13,000 cu.yd.	0		
9/11	Polyester resin	" "	15 drums	25 drums		
9/11	PCB-contaminated rags, sawdust and absorbent compounds	University	1 drum	1 drum		
9/12	Paint sludge	Railroad co.	1 drum	0		
9/12	Sulfuric acid cleaning solution with a wetting agent and an inhibitor	" "	2 drums	0		
9/12	Dakite #11 solvent containing kerosine, o-dichlorobenzene, terpine, etc.	" "	2 drums	0		
9/12	Enamel paint	" "	1 drum	0		
9/12	Undercoating containing asbestos fibres, asphalt and mineral spirits	" "	3 drums	0		
9/12	Varnish containing mineral spirits, phenolic resins and vegetable oils	" "	1 drum	0		
9/12	Sodium hydrogen sulfate/ oxalic acid-contaminated dirt	" "	2 drums	0		

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity Future *	* *
	9/12	Household pesticides	Co. Health Dept.	1 drum	1 drum	
	9/12	Perchloroethylene-contaminated dirt	Dry cleaning	2 drums	0	
	9/12	Mixed solvents: ethylene glycol monoethyl ether acetate, n-butyl acetate, xylene	Electronic co.	0	4 drums	
	9/12	Chromic acid solution	" "	0	4 drums	
	9/12	Asphalt thinner	State agency	2 drums	0	
	9/12	Chevron aluminum asphalt coating	" "	3 drums	0	
	9/12	Nalco buffing compound-water mixture with triethanolamine, diethanolamine, hexylene glycol and oleic acid	Electronic co.	5,000 gal.	60,000 gal.	
	9/12	Dowtherm A: biphenyl oxide, biphenyl & water	Chemical co.	0	10 drums	
	9/12	Paint sludge	Mfg. of cans	2 drums	8 drums	
	9/13	Turco 5873 paint stripper containing methylene chloride, methyl alcohol, sodium chromate, etc.	Railroad co.	1 drum	0	
	9/13	Paint sludge containing stripping solvent methylene chloride	Dept. of Defense	19 drums	80 drums	
	9/13	Cutting coolant: 75-85% water and 15-25% emulsified oil	" "	1 drum	4 drums	
	9/13	Paint stripping sludge containing methylene chloride, formic acid and phenol	" "	2 drums	8 drums	
	9/13	Paint sludge containing toluene, isobutyl acetate, n-butyl acetate, MEK and nitrocellulose	" "	12 drums	48 drums	

* * Date *	* Type *	* Source *	* Quantity *	
			* Present *	* Future *
9/19	Empty Ethion pesticide containers	Pesticide formulator	0	20 drums
9/19	Empty Malathion insecticide drums	" "	0	75 drums
9/19	Empty Dinitro-ortho-cresol pesticide drums	" "	0	250 drums
9/19	Outdated omite-propar-gite pesticide product (solid)	" "	0	10 drums
9/19	Catechol and its degradation and condensation products	Chemical co.	0	10 drums
9/19	Tertiary butyl catechol in organic solvent (methanol)	" "	0	20 drums
9/21	Cyanide-contaminated oily-clay (solid)	Superfund site cleanup	130 drums	0
9/21	Soil contaminated with heavy metals	" "	8,000 cu.yd.	0
9/21	Formaldehyde solution (10% strength)	Dept. of Interior	0	2 drums
9/21	Lead fluoride slag	Electronic co.	10 drums	40 drums
9/21	Fiberglass waste filter contaminated with chromium	Painting contractor	0	500 drums
9/21	Muriatic acid with ammonium fluoride and surfactant	Foundry	2 drums	0
9/21	Perchloroethane still bottoms	Solvent recycling	0	15 drums
9/21	Anti-freeze ethylene glycol	Foundry	4 drums	16 drums
9/21	Turbine oil contaminated with 22 ppm PCBs	State agency	1 drum	0

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity Future *	* *
	9/27	Neutralized chromic, nitric and sulfuric acids with over 50 ppm chlorinated solvents	Waste processor	0	100,000 gal.	
	9/27	Neutralized chromic, nitric and sulfuric acids with less than 50 ppm chlorinated solvents	" "	0	100,000 gal.	
	9/27	Heat treat salts: KCl, KNO ₃ , NaCl, NaNO ₃ , NaClO ₂ & LiBr	Aerospace co.	0	50 drums	
	9/27	Ink-contaminated rinse water with Cr, Pb, Cd and Hg	Mfg. of paper bags	0	10,000 gal.	
OTHER STATES - 48						
	9/6	Sodium arsenite/silica mixture	Dept. of Interior (MT)	200 drums	0	
	9/6	DDT/DDE	" "	1 drum	0	
	9/6	2,4,5-T/2,4-D pesticide	" "	1 drum	0	
	9/6	2,4-D herbicide	" "	1 drum	0	
	9/6	2,2-Dichloropropanoic acid pesticide	" "	1 drum	0	
	9/6	Carbon black insulator	Chemical co. (UT)	50 drums	200 drums	
	9/6	Oil/gasoline tank bottoms with lead	Waste handling co. (HI)	0	500 drums	
	9/6	Fire-damaged ferric chloride	City gov't. (AK)	22 drums	0	
	9/6	Fire-damaged caustic soda	" "	6 drums	0	
	9/11	Asbestos clothing and insulation	Dept. of Defense (AK)	0	1,000 lb.	
	9/11	DDT insecticide	" "	10,000 gal.	0	

* * Date *	* Type *	* Source *	* Quantity *		* * *
			* Present	* Future	
9/11	Creosote sludge	Railroad co. (WY)	15,000 tons	60,000 tons	
9/11	Various pesticides	Pesticide collection program (Alberta)	0	100 drums	
9/11	Lindane-contaminated water	Wood preserving (HI)	20 drums	80 drums	
9/11	Hydrofluoric acid/ ammonium fluoride and nitric acid etching solution	Electronic co. (MT)	1 drum	1 drum	
9/11	Chrome hydroxide electroplating sludge	Dept. of Defense (HI)	0	100 drums	
9/12	Chromic acid/acetone	Chemical co. (UT)	0	4 drums	
9/12	Mixed solvents: Freon TF, 1,1,1-tri- chloroethane, methanol and trichloroethylene	Electronic co. (MT)	0	4 drums	
9/12	DDT solution in kerosine	University (ID)	1 drum	0	
9/12	Herbicide 2,4-D	" "	1 drum	0	
9/13	Sulfinol degradation bottoms (solid)	Oil co. (Alberta)	0	100 drums	
9/13	Turko transpo solvent containing methylene chloride, cresylic acid, kerosine, sodium chro- mate and sodium fluoride	City transit system (Alberta)	0	20 drums	
9/13	Drained PCB articles: rectifiers, regulators and switch gear	Defense Dept. (UT)	30,000 lb.	0	
9/13	Drained and flushed PCB transformers	" "	35,000 lb.	0	
9/13	PCB-contaminated solids	" "	120 85-gal. drums and 60 55-gal. drums	0	

* * Date *	* Type *	* Source *	* Quantity *	
			* Present *	* Future *
9/13	Drained and flushed PCB transformers	Defense Dept. (UT)	45,000 lb.	0
9/13	Drained PCB transformers	" "	10,000 lb.	0
9/13	PCB-contaminated rags, soil, etc.	" "	20 drums	0
9/13	Mercury-contaminated dirt, cloth, debris	" "	0	200 cu.ft.
9/13	Diazinon insecticide- contaminated cardboard and plastic	" "	0	150 cu.ft.
9/13	Unwanted small bottles of Penthrane pesticide in lab packs	" "	0	3,000 lb.
9/13	Ammonium hydroxide- contaminated soil, pads, clothing, etc.	" "	0	1,000 lb.
9/13	Small bottles of ethyl ether in lab packs	" "	0	3,000 lb.
9/13	Fire extinguishers containing bromochloro- methane	" "	0	1,000 cu.yd.
9/13	Small bottles of ammo- nium hydroxide in lab packs	" "	0	80 drums
9/19	1,1,1-trichloroethane with urethane acrylate resins and Freon TES	Telecom. co. (Saskatchewan)	0	30 drums
9/19	Petroleum tank bottoms with lead	Oil co. (HI)	0	2 drums
9/19	Petroleum tank bottoms with lead	Oil co. (HI)	0	5 drums
9/19	Petroleum tank bottoms with lead	Oil co. (HI)	0	1,800 drums
9/19	Petroleum tank bottoms with lead	" "	0	1,800 drums
9/19	Petroleum tank bottoms with lead	" "	0	1,800 drums

* * Date *	* Type *	* Source *	* Present *	* Quantity *	
				* Future *	* Future *
9/19	Oils-grease/caustic sludge	Railroad co. (AK)	0	5,000 gal. (in drums)	
9/21	Chrome hydroxide sludge	Electroplating co. (MT)	0	12 drums	
9/27	Polyurethane paint/ solvents: toluene, MEK, etc.	Dept. of Defense (Guam)	70 drums	280 drums	
9/27	Enamel paint/solvents: toluene, aliphatic petroleum distillates	" "	95 drums	95 drums	
9/27	Epoxy paint stripper: methylene chloride, MEK, phenol, alcohols, etc.	" "	10 drums	10 drums	
9/27	Paint sludge with MEK	" "	95 drums	95 drums	
9/27	Heavy metals hydroxide sludge	Dept. of Defense (HI)	0	100 drums	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

September, 1984
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

<u>Source Category</u>	<u>New Actions Initiated</u>		<u>Final Actions Completed</u>		<u>Actions Pending</u>	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	9	47	10	24	145	146
Airports			1	3	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	September, 1984 (Month and Year)
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FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Multnomah	Christian Supply Center, Portland	09/84	No Violation
Multnomah	Hamilton's Mercedes Unlimited, Portland	09/84	In Compliance
Multnomah	Lovejoy Tavern, Portland	09/84	In Compliance
Multnomah	Rapid Bind, Portland	09/84	No Violation
Multnomah	Tastee-Freez , SE Hawthorne, Portland	09/84	In Compliance
Washington	The Grocery Sak, Beaverton	09/84	In Compliance
Linn	National Fruit Canning, Albany	09/84	In Compliance
Douglas	Roseburg Lumber Quarry near Days Creek	09/84	In Compliance
Jackson	Boise Cascade, White City	09/84	In Compliance
Jackson	Jensen Shale Pit, Eagle Point	09/84	No Violation
Washington	Hardtimes Heliport, County	09/84	Boundary Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	4	32	9	23	0	0	44
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	4	32	9	23	0	0	44
<u>Water</u>							
Municipal	16	69	14	67	1	3	12
Industrial	6	39	7	32	0	0	20
Total	22	108	21	99	1	3	32
<u>Solid Waste</u>							
Gen. Refuse	4	16	3	14	-	-	11
Demolition	-	-	-	-	-	-	1
Industrial	2	8	4	9	-	-	7
Sludge	-	-	-	1	-	-	-
Total	6	24	7	24	-	-	19
<u>Hazardous Wastes</u>							
	1	4	-	-	-	-	4
<u>GRAND TOTAL</u>	33	168	37	146	1	3	99

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
LANE	012	WEYERHAEUSER COMPANY	PLANER CONTROL EQUIPMENT	10/02/84	APPROVED
COLUMBIA	939	BOISE CASCADE PAPERS	DUCT SYSTEM	12/08/83	APPROVED
LINN	960	CHAMPION BUILDING PRODUCT	CYCLONE & BAG FILTER INSTAL	04/06/84	APPROVED
DESCHUTES	984	DAW FOREST PRODUCTS CO	3 CYCLONES & RETAINING WALL	05/17/84	APPROVED
KLAMATH	986	WEYERHAEUSER COMPANY	BAGHOUSE FILTERS	07/23/84	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES				5	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October, 1984
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Req'r'g Permits
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	1	17	8	16	15		
Existing	2	10	4	17	13		
Renewals	6	44	14	61	91		
Modifications	<u>0</u>	<u>12</u>	<u>10</u>	<u>28</u>	<u>11</u>		
Total	9	83	36	122	130	1428	1456
<u>Indirect Sources</u>							
New	0	2	2	0	1		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>0</u>		
Total	<u>0</u>	<u>3</u>	<u>3</u>	<u>1</u>	<u>1</u>	<u>226</u>	<u>227</u>
<u>GRAND TOTALS</u>	9	86	39	123	131	1654	1683

Number of
Pending Permits

Comments

31	To be reviewed by Northwest Region
15	To be reviewed by Willamette Valley Region
5	To be reviewed by Southwest Region
5	To be reviewed by Central Region
11	To be reviewed by Eastern Region
15	To be reviewed by Program Operations Section
38	Awaiting Public Notice
<u>10</u>	Awaiting end of 30-day Public Notice Period
130	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Jackson	Rehmer Mobile Home Park, P.U.D. 1, 110 Spaces, File No. 15-8408	10/14/84	Final Permit Issued
Jackson	Medford Mid-High, 326 Spaces, File No. 15-8409	10/17/84	Final Permit Issued
Washington	Cornell Oaks Corporate Center-Phase II, 538 Spaces, File No. 34-8307	10/05/84	Final Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1984
(Month and Year)

PLAN ACTIONS COMPLETED 21

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

MUNICIPAL WASTE SOURCES 14

Malheur	Ontario Hillscrest Acres S.S.	9-29-84	P.A.
Clackamas	Oak Lodge S.D. Brenan Estates Sanitary Sewers	10/12/84	P.A.
Polk	Grand Ronde Sanitary Sewer and Treatment Plant Facilities	10/22/84	Rejected
Deschutes	Sisters Hotel Restaurant Septic Tank and S.D.S.	10/25/84	Comments to Regional Office
Klamath	Crescent Junction Condo Sand Filter	10/29/84	P.A.
Malheur	Ontario Manor Way Sanitary Sewers	10/29/84	P.A.
Clackamas	Damascas Dairy Queen Septic Tank/Sand Filter S.D.S.	11/2,8/84	Comments to County
Clackamas	Gladstone McKenzie Sewer	11/6/84	P.A.
Lincoln	Gleneden Sanitary District Pump Station for SeaRidge Condos	11/6/84	P.A.
Umatilla	Hermiston Airport Sewer	11/6/84	P.A.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 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

Jefferson	Madras Sewer Expansion N. 12th & Oak Sts.	11/6/84	P.A.
Klamath	Klamath Falls B Bar C Mobile Ranch	11/6/84	P.A.
Marion	Salem Development Sanitary Sewers Illahe Estates No. 3	11/6/84	P.A.
Benton	Philomath Pump Station A Recostruction	11/6/84	P.A.

P.A. = Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1984
(Month and Year)

PLAN ACTIONS COMPLETED - 20

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

INDUSTRIAL WASTE SOURCES 7

Washington	Permapost Roof Over Contaminant Drip Pad Hillsboro	10-23-84	Approved
Washington	Hans Schoch Manure Control System Hillsboro	10-23-84	Approved
Linn	Teledyne Wah Chang Albany Magnesium Waste Pile Recovery System Albany	10-24-84	Approved
Benton	United Chrome Spill Control System Corvallis	10-26-84	Approved
Washington	E.F. Steinborn Dairy Manure Control System Sherwood	10-23-84	Approved
Linn	Willamette Industries ASB Baffle Albany	6-26-84	Withdrawn
Multnomah	Pennwalt Corp. pH Neutralization System Portland	10-18-84	Approved

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN OCT 84

SOURCE CATEGORY & PERMIT SUBTYPE	NUMBER OF APPLICATIONS FILED						NUMBER OF PERMITS ISSUED						APPLICATIONS PENDING PERMIT ISSUANCE (1)			CURRENT TOTAL # OF SOURCES WITH PERMITS		
	MONTH			FISCAL YEAR			MONTH			FISCAL YEAR			NPDES	WPCF	GEN	NPDES	WPCF	GEN
	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN	NPDES	WPCF	GEN						
DOMESTIC																		
NEW	0	1	0	0	3	1	0	0	0	1	2	2	2	5	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	8	2	0	15	8	0	3	1	0	16	5	0	36	15	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MWO	1	0	0	7	2	0	2	1	0	6	3	0	3	0	0			
TOTAL	9	3	0	22	13	1	5	2	0	23	10	2	41	20	0	241	140	65
INDUSTRIAL																		
NEW	1	1	3	2	4	6	0	0	2	0	1	7	3	10	0			
RW	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0			
RWO	3	3	0	16	10	0	1	1	0	10	5	0	32	16	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MWO	2	1	0	12	3	0	0	1	0	4	5	0	5	0	0			
TOTAL	6	5	3	30	17	6	2	2	2	15	11	7	40	26	0	182	157	239
AGRICULTURAL																		
NEW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
MWO	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	13	57
GRAND TOTAL	15	8	3	52	30	7	7	4	2	38	21	9	81	46	0	425	310	361

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1) DOES NOT INCLUDE: APPLICATIONS WITHDRAWN BY THE APPLICANT, APPLICATIONS WHERE IT WAS DETERMINED A PERMIT WAS NOT NEEDED, AND APPLICATIONS WHERE THE PERMIT WAS DENIED BY DEQ.

DOES INCLUDE APPLICATIONS PENDING FROM PREVIOUS MONTHS AND THOSE FILED AFTER 31-OCT-84.

- NEW - NEW APPLICATION
- RW - RENEWAL WITH EFFLUENT LIMIT CHANGES
- RWO - RENEWAL WITHOUT EFFLUENT LIMIT CHANGES
- MW - MODIFICATION WITH INCREASE IN EFFLUENT LIMITS
- MWO - MODIFICATION WITHOUT INCREASE IN EFFLUENT LIMITS

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
=====									
General: Seafood Processor									
=====									
IND	900	GEN09	NEW	100024	WISE, JAMES A.	BANDON	COOS /SWR	24-OCT-84	31-DEC-86
=====									
General: Gravel Mining									
=====									
IND	1000	GEN10	NEW	100023	TIDE CREEK ROCK CO.	DEER ISLAND	COLUMBIA /NWR	18-OCT-84	31-DEC-86
=====									
NPDES									
=====									
DOM	3885	NPDES	RWO	20015	COQUILLE, CITY OF	COQUILLE	COOS /SWR	01-OCT-84	31-JUL-89
DOM	3887	NPDES	RWO	90745	UNIFIED SEWERAGE AGENCY OF WASHINGTON COUNTY	FOREST GROVE	WASHINGTON/NWR	01-OCT-84	31-JUL-89
DOM	3711	NPDES	MWO	20151	CORVALLIS, CITY OF	CORVALLIS	BENTON /WVR	03-OCT-84	31-MAY-88
DOM	3791	NPDES	MWO	80535	SHADY COVE	JACKSON CO	JACKSON /SWR	08-OCT-84	31-DEC-88
IND	100001	NPDES	RW	46000	KINGSFORD CHARCOAL CO	SPRINGFLD	LANE /WVR	10-OCT-84	31-MAY-89
DOM	100002	NPDES	RWO	69464	PHILOMATH, CITY OF	PHILOMATH	BENTON /WVR	10-OCT-84	31-JUL-89
IND	100003	NPDES	RWO	62490	NORTHWESTERN AQUATIC SCIENCES, INC.	NEWPORT	LINCOLN /WVR	23-OCT-84	30-SEP-89

PERMIT CAT	NUMBER	TYPE	SUB- TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
=====									
WPCF									
=====									
IND	3151	WPCF	MWO	6553	BAXTER, J.H. & CO	EUGENE	LANE /WVR	01-OCT-84	30-JUN-85
IND	3884	WPCF	RWO	17574	COAST WIDE READY MIX COMPANY	TILLAMOOK	TILLAMOOK /NWR	01-OCT-84	31-AUG-89
DOM	3886	WPCF	RWO	90855	PORTLAND 76 AUTO/TRUCK PLAZA, INC.	AURORA	MARION /WVR	01-OCT-84	30-JUN-89
DOM	3649	WPCF	MWO	76940	CAINE, PETER R.	KLAMATH CO	KLAMATH /CR	15-OCT-84	31-JAN-88

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 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	4	6	6	3		
Closures	-	1	-	3	12		
Renewals	3	8	-	2	22		
Modifications	-	-	-	2	1		
Total	4	13	6	13	38	166	166
<u>Demolition</u>							
New	-	-	-	-	-		
Closures	-	1	-	-	4		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	-	1	-	-	4	12	12
<u>Industrial</u>							
New	1	2	1	3	5		
Closures	-	2	-	2	10		
Renewals	2	3	-	4	11		
Modifications	1	2	-	1	1		
Total	4	9	1	10	27	100	100
<u>Sludge Disposal</u>							
New	-	-	-	1	-		
Closures	-	-	-	1	-		
Renewals	-	-	1	2	2		
Modifications	-	-	-	-	-		
Total	-	-	1	4	2	17	17
<u>Hazardous Waste</u>							
New	-	2	2	3	4		
Authorizations	178	657	178	657	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	178	659	180	660	5	15	19
<u>GRAND TOTALS</u>	186	682	188	687	76	310	314

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 1984
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Union	Elgin Transfer Station New facility	10/4/84	Permit issued	
Jackson	Roto-Rooter Sludge Transfer Facility Existing facility	10/10/84	Permit renewed	
Union	N. Powder Transfer Station New facility	10/17/84	Permit issued	
Union	Union Transfer Station New facility	10/17/84	Permit issued	
Lincoln	Agate Beach Balefill New facility	10/22/84	Permit issued	
Clatsop	Seaside Transfer Station New facility	10/22/84	Permit issued	
Yamhill	Newberg Transfer Station New facility	10/24/84	Permit issued	
Clackamas	Evan Hale Woodwaste disposal site New facility	10/26/84	Letter authorization issued	
Clackamas	Johnson Controls, Inc. Globe Battery Division Existing hazardous waste storage site	9/17/84*	License issued	
Multnomah	Riedel International Corp. Proposed hazardous waste storage site	9/28/84*	License denied	

* Not reported for September

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Solid Waste Division
(Reporting Unit)

October 1984
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

* Date *	Type	Source	Present	Quantity Future
TOTAL REQUESTS GRANTED - 173				
OREGON - 43				
10/3	Heavy metals sludge	Electronic co.	0	384 cu.yd.
10/4	Enamel paint sludge with lead	Foundry	1550 gal.	6400 gal.
10/4	Sawdust contaminated with pentachlorophenol, tetrachlorophenol and other chlorophenols	Wood prod. co.	0	4600 gal.
10/4	Heavy metals sludge	Electronic co.	0	4000 gal.
10/5	Creosote/coal tar/ fuel oil tank bottom sludge	Wood preserving	0	100 drums
10/11	Plastic filters, etc., with less than 3 ppm Zn dichromate	Mfg. of filters	30 cu.yd.	0
10/11	Potassium hydroxide solution	Chemical co.	0	8 drums
10/11	Potassium hydroxide- contaminated floor dry (solid)	" "	0	8 drums
10/11	Small quant. of various chemicals in lab packs	Co. gov't.	2 drums	0

ZC1864
MAR. 15 (1/82)

* * *	* * *	* * *	* * *	* * * Quantity * * *		* * *
* Date *	Type	Source	Present	Future		
10/11	Enamel paint mixed with 1,1,1-trichloroethane, toluene, mineral spirits, etc.	Mfg. of Al boats	0	20 drums		
10/11	Paint sludge containing isobutyl acetate, petroleum naphtha, aromatic hydrocarbons, aliphatic hydrocarbons and lead chromate	Reconditioning of drums	0	200 drums		
10/11	Boiler water treated with sodium dichromate	Post office	15 drums	0		
10/11	Spent trichloroethylene	Electronic co.	4 drums	0		
10/11	Chromic acid/hydrofluoric acid soaked absorbent	" "	0	4 drums		
10/18	Obsolete lead-based paint products and paint raw materials	Paint mfg.	11 drums	0		
10/18	Heavy metal-contaminated acid mixture of nitric, hydrochloric, phosphoric and acetic	Electronic co.	950 gal.	4000 gal.		
10/18	Sulfuric acid sludge	Electronic co.	2 drums	0		
10/19	Sodium dichromate-treated engine cooling water	Repair of ships	0	50 drums		
10/23	API separator sludge containing water (78%), oil and heavy metals including lead, arsenic, Cd, etc.	Oil co.	0	10,000 gal.		
10/24	Paint sludge containing toluene, xylene, MIBK, etc.	Mfg. of particleboard	0	60 drums		
10/24	Off-spec. Cuprimol stain and wood preservative product with 2,4,5,6-tetrachloroisophthalonitrile	Distribution of chemicals	200 5-gal. pails	0		

ZC1864
MAR. 15 (1/82)

* * * * *	* * * * *	* * * * *	* * * * *	* * * * *		* * * * *
				Present	Future	
10/24	Caustic trichloro-ethylene tank bottoms	Mfg. of tools	0	20 drums		
10/24	Heavy metal bearing sludge	Wastewater treatment	0	5000 gal.		
10/24	Paint sludge containing mixed solvents of toluene, MEK, MIBK, acetone, etc.	Mfg. of particleboard	6 drums	72 drums		
10/24	Wax contaminated trifluorotrichloro-ethane solvent	Foundry	0	4 drums		
10/24	PCB-contaminated solids	Waste handling co.	15 drums	0		
10/29	Pot contaminated with sodium cyanide	Foundry	0	36 cu.ft.		
10/29	PCB-contaminated oil	Electric util.	0	20 drums		
10/29	Spent Alpha No. 850 Flux containing organic acid, amine salt, IPA, polyol and water	Electronic co.	0	12 drums		
10/29	API separator sludge with heavy metals	Oil co.	0	59 drums		
10/29	Negative machine developer solution containing n-propanol, n-propoxy propanol and water	Advertising co.	125 gal.	625 gal.		
10/29	Small quant. of various outdated chemicals in lab packs	Chemical co.	6 drums	0		
10/31	Paint sludge containing MEK, toluene and IPA	Electronic co.	0	11 drums		
10/31	Carbon sludge contaminated with isooctyl alcohol, 2,4-D, 2,4-DB, bromoxynil and chlorophenols	Chemical co.	0	100 drums		

ZC1864
MAR.15 (1/82)

* Date *	Type	Source	Quantity	
* * *	* * *	* * *	Present	Future
10/31	Decanter waste containing isooctyl alcohol, chlorophenol, xylene, 2,4-D, 2,4-DB, bromoxynil, etc.	Chemical co.	0	200 drums
10/31	1,1,1-trichloroethane	Oil co.	1 drum	0
10/31	Sand/soil contaminated with PIBA gasoline additive	" "	15 drums	0
10/31	Liquid asphalts/fuel oil containing tri-chloroethylene, water and dirt	Oil co.	3 drums	12 drums
10/31	Hydrochloric acid solution with Cd, Cr, Pb, etc.	Electroplating	0	20,000 gal.
10/31	Spent nickel plating bath containing sulfuric acid and chlorinated organic solvent	Electroplating	0	5 drums
10/31	Dirt/rust contaminated with 2,4-DCP	Herbicide mfg.	2 drums	0
10/31	Fume line sludge containing coke, carbon, ferric chloride and water	Mfg. of roofing asphalt	0	3 drums
10/31	Cadmium-contaminated laminating resin and catalyst	Electronic co.	2 drums	8 drums

WASHINGTON - 60

10/4	DS-2 Decon agent consisting of diethylene triamine, methyl glycol monoethyl ether and NaOH	Defense Dept.	10 drums	40 drums
------	--	---------------	----------	----------

ZC1864
MAR. 15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *	
			* Present *	* Future *
10/4	DS-2 Decon agent consisting of diethylene triamine, methyl glycol monoethyl ether and NaOH	Defense Dept.	1 drum	4 drums
10/4	Acid sludge with heavy metals	" "	1 drum	4 drums
10/4	Arsenic-contaminated oxazolidinone oil/dirt or solid debris mixture	Site cleanup	130,000 gal.	0
10/4	Sulfides/oily clay mixture	" "	50 drums	0
10/4	Petroleum tar with lead and chromium	" "	350 drums	0
10/4	Zn filter cake with lead and chrome (solid)	Galvanizing co.	0	12,800 cu.ft.
10/4	Dewatered heavy metals sludge	Electronic co.	12 drums	48 drums
10/9	Inert solids contaminated with solvents and lead	Site cleanup	300 cu.yd.	0
10/9	Dirt contaminated with crude oil and polycyclic aromatic hydrocarbons	Oil co.	1500 tons	0
10/11	Polyester resin with acetone	Solvent recycling	40 drums	0
10/11	Caustic paint sludge with petroleum solvents and heavy metals	Drum reconditioning	0	30,000 gal.
10/11	Xylene still bottoms	Solvent recycl.	0	5 drums
10/11	PCB capacitors	Removal from service	1 drum	0
10/18	Spent sandblast grit - steel beads with arsenic, chrome and lead	Defense Dept.	0	10 drums

ZC1864
MAR. 15 (1/82)

* * *	* * *	* * *	* * *	* * *	* * * Quantity * * *		* * *
* Date	Type	Source	Present	Future			
10/18	Spent sandblast grit - glass beads with cadmium	Defense Dept.	0	10 drums			
10/18	Phosphoric acid sludge with cadmium	" "	0	10 drums			
10/18	Heavy metals sludge	" "	24 drums	96 drums			
10/18	Blasting booth dust with chrome	" "	9 drums	36 drums			
10/18	Caustic sludge	" "	3 drums	12 drums			
10/18	Dewatered sludge with lead and chrome	" "	4 drums	16 drums			
10/18	Paint products contain- ing various paint solvents and pigments	" "	2 drums	8 drums			
10/18	Paint stripping sludge containing methylene chloride, phenol, alcohols and paint chips (solid)	" "	16 drums	0			
10/18	Rags, polyethylene bags and paper wipes contaminated with methylene chloride, MEK, alcohol, toluene and 1,1,1-trichloroethane	" "	10 drums	40 drums			
10/18	Industrial epoxyite cleaning solution with soap and a catalyst	" "	10 drums	10 drums			
10/18	Various outdated wood finishing products containing naptha, MEK, toluene, etc.	" "	5 drums	5 drums			
10/18	Unusable polyacryla- mide copolymer with petroleum distillate in original containers	" "	0	6 drums			
10/18	Arsenic-contaminated soil, concrete, wood, auto parts, etc.	Site cleanup	1000 cu.yd.	0			

ZC1864
MAR. 15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* Future *
			* Present *	* Future *	
10/18	Arsenic-contaminated cement kiln dust	Site cleanup	1000 cu.yd.	0	
10/18	Arsenic-contaminated soil, concrete, wood, auto parts, etc.	" "	1000 cu.yd.	0	
10/18	Arsenic-contaminated cement kiln dust	" "	1000 cu.yd.	0	
10/24	Paint stripping containing methylene chloride, IPA, toluene, MEK, etc.	Defense Dept.	1 drum	4 drums	
10/24	Outdated polymer liquid containing petroleum distillate, polyacrylamide copolymer and inerts	" "	2 drums	8 drums	
10/24	Outdated DS-2 Decon agent containing diethylene triamine, methyl glycol monoethyl ether and NaOH	" "	0	2000 gal.	
10/24	Outdated DS-2 Decon agent containing diethylene triamine, methyl glycol monoethyl ether and NaOH	" "	0	5000 gal.	
10/24	Soil contaminated with crude oil and polycyclic aromatic hydrocarbons	Oil co.	250 cu.yd.	0	
10/24	Empty sodium bichromate bags	Chemical co.	0	1 drum	
10/24	PCB-contaminated articles, plastic, etc.	Wood products co.	50 cu.yd.	0	
10/24	PCB-contaminated soil, clothing, visqueen, etc.	" "	4 drums	0	
10/24	Spent signal batteries containing mercury and bichloride of mercury	Railroad co.	0	2 drums	
10/24	Spent signal batteries containing mercury and bichloride of mercury	" "	0	8 cu.yd.	

ZC1864
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* *
			Present	Future	
10/24	Spent signal batteries containing mercury and bichloride of mercury	Railroad co.	0	10 cu.yd.	
10/24	Chloride salts of magnesium, sodium and potassium	Titanium prod.	0	500 gal.	
10/24	Excavation area A soil contaminated with grease, arsenic, chrome, etc.	Site cleanup	12 tons	0	
10/24	Excavation areas A and C soil contaminated with arsenic, barium, chrome, lead, etc.	" "	800 tons	0	
10/24	Chrome hydroxide sludge	Waste treatment	0	12 drums	
10/24	Various oxidizing agents in lab packs	School	3 drums	0	
10/24	Formaldehyde stabilized with an absorbent	Waste treatment	0	4 drums	
10/24	Contaminated mixed solvents: trichloroethane, polyolefin, water and various chlorinated solvents	Wood product co.	0	800 gal.	
10/29	Empty PCB drums	Electrical equipment mfg.	0	200 drums	
10/29	Liquid coolant: 10% Trimsol solution in water with trace amounts of methylene chloride, acetone and creolylic acid	Printing	5 drums	60 drums	
10/29	Caustic tank bottoms	Wood product co.	0	2000 gal.	
10/29	Ink sludge consisting of ethanol, acrylic resin, parrafin wax, pigments, polyamid resin, heavy metals and water	Printing ink mfg.	0	2400 gal.	

ZC1864
MAR.15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *	
			* Present *	* Future *
10/29	Coating sludge consisting of cellulose nitrate, MIBK, IPA, toluene, MEK, acetone	Mfg. of wood finishes	0	75 drums
10/29	Copper/tin-lead plating bath sludge	Electronic co.	0	20 drums
10/29	Lube oil with mineral oil, MEK, mineral spirits, activated resin flux and lead	Mfg. of cans	2 drums	8 drums
10/29	Chrome plating wastewater	Plating	4000 gal.	0
10/29	Dewatered heavy metals sludge	Electronic co.	0	3400 cu.ft.
10/29	Formaldehyde/water solution	Wood product co.	0	3000 gal.
10/31	Small quant. of various outdated chemical reagents in lab packs	School	7 drums	0
10/31	Small quant. of various outdated chemical reagents in lab packs	"	2 drums	0
10/31	Small quant. of various outdated chemical reagents in lab packs	"	3 drums	0
OTHER STATES - 70				
10/4	Otto fuel propylene glycol dinitrate mixed with mineral spirits, preservative oil, lube oil, ethyl alcohol, water and detergent	Defense Dept. (HI)	150 drums	2000 drums
10/4	Heavy metal-contaminated magnesium slag/soil	" (AK)	5 drums	5 drums

ZC1864
MAR. 15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* *
* Date *	* Type *	* Source *	* Present *	* Future *	* *
10/4	Pads and foam blocks contaminated with jet fuel 4	Defense Dept. (AK)	50 drums	50 drums	
10/4	Hydraulic fluid contaminated absorbent pads	" "	25 drums	25 drums	
10/4	Spent xylene	" "	0	1000 gal.	
10/9	Propylene glycol dinitrate (otto fuel) mixed with mineral spirits, preservative oil, lube oil, ethyl alcohol and water	" " (HI)	0	2000 drums	
10/11	Ferrous ammonium sulfate	Research (ID)	4 drums	0	
10/11	Leaded gasoline tank bottoms	Oil co. (HI)	0	5 drums	
10/18	Chrome-contaminated water with azo dyes	Electronic co. (ID)	0	4 drums	
10/18	Fab shop coolant mixture containing water, lacquer thinner, oil and dirt	" "	0	4 drums	
10/18	Electroless nickel plating solution	" "	0	25 drums	
10/18	Burned-out fluorescent lamps	" "	0	20,000 lamps	
10/18	Fingerprint remover consisting of boron trifluoride - acetic acid complex (20%) and acetone (80%)	Defense Dept. (AK)	0	4 drums	
10/18	Ammonium hydroxide solution	" "	0	16 drums	
10/18	Malathion-contaminated water	" "	0	100 drums	
10/18	Spent magnesium batteries	" "	0	2000 cu.ft.	

ZC1864
MAR. 15 (1/82)

* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
Date	Type	Source	Present	Quantity	Future		
10/18	Carbon remover consisting of cresylic acid, methylene chloride, ethylene glycol, ethan-amine and NaOH	Defense Dept.	0	6 drums			
10/18	Calcium hypochlorite powder	" "	0	5000 gal.			
10/18	Outdated Malathion insecticide product in original containers	" "	0	10,000 gal.			
10/18	Unwanted Metasystox-R insecticide in original containers	" "	0	500 gal.			
10/18	Carbamate pesticide in original containers (solid)	" "	0	300 gal.			
10/18	Emulsions of fatty acid esters, waxes, etc.	" "	0	6000 gal.			
10/18	Diazinon in original containers	" "	0	5000 gal.			
10/18	Solid caustic soda	" "	0	1000 gal.			
10/18	Bromochloromethane in original containers	" "	0	500 gal.			
10/18	Sodium arsenite in original containers	" "	0	10,000 gal.			
10/18	Lindane dust in original containers	" "	0	100 gal.			
10/18	Caustic pipe cleaner (solid)	" "	0	500 gal.			
10/18	Sodium arsenite weed killer in original containers	" "	0	1000 gal.			
10/18	Hydrochloric acid solution	" "	0	1000 gal.			
10/18	Dieldrin pesticide in original containers	" "	0	5000 gal.			

ZC1864
MAR. 15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* Future *
			* Present *	* Future *	
10/18	Acetic acid in original containers	Defense Dept. (AK)	0		1000 gal.
10/18	Heat transfer fluid (FC104) in original containers	" "	0		1000 gal.
10/18	Warfarin pesticide in original containers	" "	0		1000 gal.
10/18	Empty pesticide cans, flushed and crushed	" "	0		100 gal.
10/18	Sevin carbaryl insecticide in original containers (solid)	" "	0		1000 gal.
10/18	2,4-D herbicide in original containers	" "	0		3000 gal.
10/18	Caustic solution	" "	0		2500 gal.
10/24	Methanol/water with grease	" "	0		100 gal.
10/24	Acetone with paint residue, oil and grease	" "	0		500 gal.
10/24	Contaminated gasoline with lead, toluene and benzene	" "	0		24,000 gal.
10/24	Spent methyl ethyl ketone solvent	" "	0		3000 gal.
10/24	Copper sulfate solution	" "	0		550 gal.
10/24	Mixed solvents: phenol, o-dichlorobenzene, toluene, sulfonic acid and tetrachloroethylene	Semiconductor mfg. (ID)	4 drums		16 drums
10/24	Paint sludge	Defense Dept. (Guam)	5000 gal.		20,000 gal.
10/24	Paint containers containing residual paint, MEK, etc.	" "	3000 gal.		12,000 gal.

ZC1864
MAR. 15 (1/82)

* * Date *	* Type *	* Source *	* Quantity *		* *
			* Present	* Future	
10/29	Mercury-contaminated office furniture and fire debris	Hydro & power authority (B.C.)	170 cu.ft.	0	
10/31	Tannery solvent: ethyl acetate with fats and oils	State agency (AK)	0	2 drums	
10/31	Magnesium fluosilicate solution	" "	0	3 drums	
10/31	Empty pesticide containers	" "	0	10 5-gal. cans	
10/31	Solution of formaldehyde, methanol and water	" "	0	2 drums	
10/31	Polyurethane resin containing freon	" "	0	1 drum	
10/31	PCB-contaminated empty containers	" "	0	2 drums	
10/31	Polyurethane resin Part B containing containing trichloro-fluoromethane	" "	0	1 drum	
10/31	PCB capacitors	" "	0	1 drum	
10/31	PCB-contaminated gloves, rags, tools, etc.	" "	0	5 drums	
10/31	PCB oils	" "	0	3 drums	
10/31	PCB-contaminated liquids	" "	0	5 drums	
10/31	Stabilized sludge contaminated with mercury and other heavy metals	Site cleanup (Alberta)	1000 cu.yd.	0	
10/31	Stabilized sludge contaminated with chromium and other heavy metals	" "	1000 cu.yd.	0	
10/31	Nitric acid solution	Electronic co. (ID)	0	12 drums	

ZC1864
MAR.15 (1/82)

* Date *	Type	Source	Quantity	
* * *	* * *	* * *	Present	Future
10/31	Copper sulfate plating solution	Electronic co. (ID)	1 drum	0
10/31	Mixed organic lab solvents: n-dodecane, tributyl phosphate, paraffins and aromatics	Research (ID)	1 drum	1 drum
10/31	Mixed hydrocarbons: kerosene, hexane, tributyl phosphate, etc.	" "	1 drum	1 drum
10/31	Activated carbon contaminated with lindane, methoxychlor, Captan and Thiram	Chemical co. (ID)	3 drums	12 drums
10/31	Mercury-contaminated absorbents	Research (ID)	0	1 drum
10/31	Crushed empty Dimethoate containers	Agricultural (ID)	100 cu.yd.	400 cu.yd.
10/31	Water contaminated with mercury nitrate	Research (ID)	0	10 drums
10/31	Water contaminated with silver nitrate	" "	0	12 drums
10/31	Water contaminated with formaldehyde	" "	0	4 drums
10/31	Zinc bromide solution	" "	0	5 drums

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	Mo	FY	Mo	FY	Mo	Last Mo
Industrial/ Commercial	10	57	7	31	148	145
Airports			3	6	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program		October, 1984	
(Reporting Unit)		(Month and Year)	
<u>FINAL NOISE CONTROL ACTIONS COMPLETED</u>			
County	Name of Source and Location	Date	Action
Clackamas	D. Obrist Quarry Brightwood	10/84	In compliance
Multnomah	Babyland Diaper Service Portland	10/84	In compliance
Multnomah	25th & Lovejoy Medical Building Portland	10/84	In compliance
Benton	Publishers Paper, Cladwood Division Philomath	10/84	In compliance
Marion	Walmart #19, Lancaster Dr. N.E. Salem	10/84	In compliance
Lane	Wayne's Market Marcola	10/84	In compliance
Douglas	P&M Lumber Roseburg	10/84	In compliance
Polk	Plum Valley Airport	10/84	Boundary Approved
Washington	St. Vincents Hospital Heliport	10/84	Exception Approved
Deschutes	St. Charles Hospital Heliport Bend	10/84	Exception Approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1984

CIVIL PENALTIES ASSESSED DURING MONTHS OF SEPTEMBER AND OCTOBER, 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>
Thomas A. Wasson dba/Tom Wasson Excavating	SS-CR-84-96 Repaired an on-site sewage system with- out a permit.	9-18-84	\$100	Paid 10-12-84

No civil penalties
were assessed in
October 1984

September/ October 1984
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	10	7
2 Discovery	3	3
3 Settlement Action	3	5
4 Hearing to be scheduled	10	7
5 Hearing scheduled	1	5
6 HO's Decision Due	0	1
7 Briefing	2	1
8 Inactive	2	2
SUBTOTAL of cases before hearings officer.	<u>31</u>	<u>31</u>
9 HO's Decision Out/Option for EQC Appeal	1	0
10 Appealed to EQC	1	0
11 EQC Appeal Complete/Option for Court Review	0	1
12 Court Review Option Pending or Taken	0	0
13 Case Closed	2	2
TOTAL Cases	<u>35</u>	<u>34</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
Hrngs 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
Prty 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

September/ October 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	Resp	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	<u>EQC mitigated penalty to \$200.</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>Hrngs</u>	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	<u>Respondent's reply brief filed October 12, 1984.</u>
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	<u>Prtys</u>	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	<u>Briefing.</u>
McINNIS ENT.	06/17/83	06/21/83		Hrngs	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500.	To be scheduled.
MID-OREGON CRUSHING	09/19/83	09/27/83	10/02/84	Prtys	55-AQ-CR-83-74 AQ Civil Penalty of \$4500	<u>EQC approved stipulated settlement mitigating penalty to \$3000. Case closed.</u>
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.

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CONTES.T

Nov. 9, 1984

September/ October 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
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		Hrngrs	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-AQ-OB-NWR-83-102- OB Civil Penalty of \$200	<u>Respondent did not appeal hearings officer's decision. Case closed.</u>
CLEARWATER IND., Inc.	01/13/84	01/18/84		Hrngrs	02-SS-NWR-83-103 SS Civil Penalty of \$500	To be scheduled.
HARPER, Robert W.	03/13/84	03/21/84		Prtys	03-AQ-FB-83-23 FB Civil Penalty of \$1,000	<u>Hearing scheduled for 10/23/84 postponed for settlement conference.</u>
KUENZI, Lee A.	03/17/84	03/28/84	<u>11/08/84</u>	Prtys	04-AQ-FB-83-01 FB Civil Penalty of \$500	<u>Hearing scheduled.</u>
MALPASS, David C.	03/26/84	03/28/84		Prtys	05-AQ-FB-83-14 FB Civil Penalty of \$500	<u>Hearing scheduled for 10/30/84 postponed for settlement action.</u>
LOE, Roger E.	03/27/84	03/28/84	<u>11/13/84</u>	Prtys	06-AQ-FB-83-15 FB Civil Penalty of \$750	<u>Hearing scheduled.</u>
SIMMONS, Wayne	03/27/84	04/05/84		Prtys	07-AQ-FB-83-20 FB Civil Penalty of \$300	Preliminary issues.

CONTES.T

Nov. 7, 1984

September/ October 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
COON, Mike	03/29/84	04/05/84	<u>11/20/84</u>	Prtys	08-AQ-FB-83-19 FB Civil Penalty of \$750	<u>Hearing scheduled.</u>
BIELENBERG, David	03/28/84	04/05/84		<u>Hrgs</u>	09-AQ-FB-83-04 FB Civil Penalty of \$300	<u>To be scheduled.</u>
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		<u>Hrgs</u>	12-AQ-FB-83-12 FB Civil Penalty of \$500	<u>To be scheduled.</u>
BUYSERIE, Gary	03/26/84	04/05/84	09/25/84	Prtys	13-AQ-FB-83-21 FB Civil Penalty of \$300	September 25, 1984 hearing postponed for completion of settlement action.
BUYSERIE, Gary	03/26/84	04/05/84	09/25/84	Prtys	14-AQ-FB-83-22 FB Civil Penalty of \$750	September 25, 1984 hearing postponed for completion of settlement action.
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84	04/12/84		Prtys	15-AQ-FB-83-22 FB Civil Penalty of \$500	<u>To be scheduled.</u>
DOERFLER FARMS	04/30/84	05/08/84		Prtys	16-AQ-FB-83-11 FB Civil Penalty of \$500	<u>To be scheduled.</u>

CONTES.T

Nov. 6, 1984

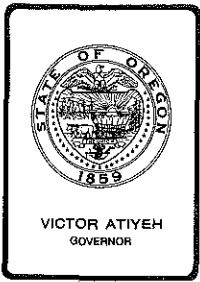
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September/ October 1984

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
TRANSCO Industries, Inc.	06/05/84	06/12/84	02/27/85	Prtys	17-HW-NWR-84-45 HW Civil Penalty of \$2,500	<u>Hearing scheduled.</u>
TRANSCO Industries, Inc.	06/05/84		02/27/85	Prtys	18-HW-NWR-84-46 HW Compliance Order	<u>Hearing scheduled.</u>
INTERNATIONAL PAPER CO.	06/12/84	06/12/84		Prtys	19-WQ-SWR-84-29 WQ Civil Penalty of \$7,450	Preliminary issues.
VANDERVELDE, Roy	06/12/84	06/12/84		Prtys	20-WQ-WVR-84-01 WQ Civil Penalty of \$2,500	Preliminary issues.
WESTERN PACIFIC LEASING CORP., dba/Killingsworth Fast Disposal	06/01/84	07/23/84		Prtys	22-SW-NWR-84 Solid Waste Permit Modification	Preliminary issues.
NORTHWEST BASIC INDUSTRIES, dba/Bristol Silica and Limestone Co.	08/21/84	08/28/84		Prtys	23-AQ-SWR-84-82 AQ Civil Penalty of \$1,000	Discovery.
<u>CLEARWATER INDUSTRIES, INC.</u>	<u>10/11/84</u>	<u>10/11/84</u>		<u>Prtys</u>	<u>24-SS-NWR-84-P Sewage Disposal Service License Denial</u>	<u>Preliminary issues.</u>

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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, December 14, 1984, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended that the Commission take the following action:

1. Issue tax credit certificates for facilities subject to old tax credit laws:

Appl.

No.	Applicant	Facility
T-1588	Teledyne Industries, Inc.	Silicon tetrachloride storage system
T-1594	International Paper Co.	Baghouses
T-1670	Reynolds Metals Co.	Modifications to potroom ore buckets
T-1692	Weyerhaeuser Company	Electrostatic precipitators
T-1694	Amalgamated Sugar Company	Flue gas recirculation system
T-1708	Publishers Paper Company	Anti-stain dip tank control system
T-1709	Publishers Paper Company	Floating aerators and mixers

2. Issue tax credit certificates for facilities under new tax credit laws:

Appl.

No.	Applicant	Facility
T-1703	Columbia Steel Casting Co.	Dust collection system
T-1707	Cascade Wood Products	Carter Day Baghouse
T-1710	Dow Corning Corp.	Furnace fume control system
T-1712	Esco Corp.	Cartridge filter dust collector
T-1713	Columbia Steel Casting Co.	Dust collecting system

3. Revoke Pollution Control Facility Certificates 897 and 990 issued to Louisiana-Pacific Corporation (see attached review reports and letters).

Fred Hansen

SCheW
229-6484
11/27/84
Attachments

Agenda Item C
Page 2
December 14, 1984

Proposed December 1984 Totals

Air Quality	\$16,451,339
Water Quality	338,830
Solid/Hazardous Waste	-0-
Noise	-0-
	<hr/>
	\$16,790,169

1984 Calendar Year Totals

Air Quality	\$13,033,561
Water Quality	1,995,890
Solid/Hazardous Waste	635,114
Noise	-0-
	<hr/>
	\$15,664,565

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Teledyne Industries, Inc.
Teledyne Wah Chang
PO Box 460
Albany, Oregon 97321

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

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

2. Description of Claimed Facility

The facility claimed in this application is described to be a new improved silicon tetrachloride storage system.

Request for Preliminary Certification for Tax Credit was made on September 24, 1979, and approved on October 23, 1979.

Construction was initiated on the claimed facility in March 1980, completed on March 31, 1982, and the facility was placed into operation on March 31, 1982.

This facility is not subject to the new provisions of the tax credit law, Chapter 637, Oregon Law 1983.

Facility Cost: \$732,289 (Accountant's Certification was provided).

3. Evaluation of Application

During the period 1969-1972, Teledyne Wah Chang Albany modified its crude chloride production process such that silicon tetrachloride was a by-product. The latter material reacts vigorously when exposed to any moisture, including that contained in ambient air, to form a very visible hydrochloric acid and silicon oxychloride bearing plume. It is also a material of commercial value.

The claimed facility is a second generation pressurized silicon tetrachloride storage system which includes tanks, pumps, a floor and berm for spill containment, foam blanket system to control emissions from a spill and ductwork to route tank venting and purging to previously existing scrubber and adsorber equipment. The previously existing equipment is not claimed herein.

Final certification was requested for the entire storage system, primarily because the by-product is sold at a loss, and the new system is less susceptible to fugitive emissions from leaks, spills, equipment malfunction and possible flooding conditions. The Department con-

siders the silicon tetrachloride storage system to be a necessary integral part of the modified production process. Part of the system, i.e., tanks, pumps and silicon tetrachloride transport lines, are viewed as process equipment not eligible for certification. Components which are considered 100 percent eligible for certification and related costs, as presented in the application are as follows:

Berm and Floor (water pollution control)	\$127,687.66
Foam System (air pollution control)	\$102,179.81
Venting/Purging Ductwork (air pollution control)	<u>\$ 43,851.38</u> \$273,718.85

In conclusion, the principal purpose of the berm and floor, foam system and venting/purging ductwork claimed in application no. T-1588 was pollution control and 80 percent or more of the associated costs are allocable thereto.

The application was received on January 3, 1983, resubmitted on January 10, 1984, additional information was received on November 20, 1984, and the application was considered complete on November 20, 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 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 \$273,718.85 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1588.

F. Skirvin:s
(503) 229-6414
November 23, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

International Paper Company
Gardiner Plant, Wood Products Group
PO Box 43
Gardiner, OR 97441

The applicant owns and operates a lumber and plywood manufacturing facility at Gardiner.

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

2. Description of Claimed Facility

The facility described in this application includes three baghouse systems for controlling dust emissions from the sawmill planers, which includes spark detection and fire suppression systems.

Request for Preliminary Certification for Tax Credit was made on November 5, 1979, and approved on November 21, 1979.

The facility is not subject to the 1983 tax credit law.

Construction was initiated on the claimed facility on about July 1, 1980, completed in September 1982, and the facility was placed into operation in September 1982.

Facility Cost: \$377,431.81 (Accountant's Certification was provided).

3. Evaluation of Application

International Paper Company modernized and expanded the plywood and sawmill facilities. The project included installing four baghouses and making modifications to the hogged fuel boilers. This application for tax credit certification is for three baghouses and spark detection facilities associated with the planing mills. The tax credit application for the fourth baghouse was later withdrawn by the company when the plywood plant was closed permanently in 1984.

The claimed cost of each baghouse system included primary material, contractor labor and material, electrical installation and engineering. The total claimed cost of each system is described below.

Two new Clarkes' baghouse systems were installed to control wood dust emissions from two primary cyclones for an existing planer and a new planer. The company claimed \$155,123.89 associated with these systems.

An Aero-vac baghouse, which was moved from the company's plant at Chelatchie, Washington, was connected to a series of four planer shavings cyclones near the screen room. The company claimed the mechanical contractor, electrical installation, baghouse modification, and engineering material costs of \$137,891.86. The cost of a pressure switch and magnetic gauge (\$53.57) was disallowed, leaving an eligible cost of \$137,838.29.

To protect the baghouse collection systems from fires and explosion, International Paper Company installed GreCon spark detection facilities. The cost was \$94,645.00. This cost was adjusted to \$69,439.63 based on a cost ratio of the three operating baghouses to the original four installations.

An additional direct purchase cost of pilings and piling caps for the three baghouses was \$15,030.00. This was 75 percent of a total of \$20,040.00 expanded for pilings and caps for four baghouse installations.

The Department considers each baghouse facility in compliance with the required emission standards under normal plant operating conditions. There will be an estimated net decrease of 45 tons per year of wood dust emissions as a result of adding the baghouse facilities.

Each baghouse project with associated connecting ducting was installed for the primary purpose of controlling wood dust emissions from cyclone exhausts. At \$10 per ton, the value of the annual recovered 45 tons of wood is \$450. The company estimated the total annual operating expense at \$20,397. Since there is no economic benefit from the facilities, the total cost of \$377,431.81 should be allocated for pollution control tax credit at 80 percent or more.

The application was received on January 6, 1983, additional information was received on December 12, 1983 and on October 30, 1984, and the application was considered complete on October 30, 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 expected to operate to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 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 \$377,431.81 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1594.

D. Neff
(503) 229-6480
November 29, 1984
AS767

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Reynolds Metals Co.
Troutdale Reduction
6601 West Broad Street
Richmond, VA 23261

The applicant owns and operates a primary aluminum plant on NE Sundial Rd., Troutdale.

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

2. Description of Claimed Facility

The facility claimed in this application is described to be modifications to thirteen potroom ore buckets consisting of ore hopper level sensors, foot plates, ore valves, air sensing tubes, piping, pressure switches, air pressure regulators, indicator lights, battery power supply and associated electrical wiring and equipment.

Request for Preliminary Certification for Tax Credit was made on December 23, 1980, and approved on January 21, 1981.

Construction was initiated on the claimed facility on January 5, 1981, completed on April 4, 1983, and the facility was placed into operation on April 4, 1983.

This facility is not subject to the new provisions of the tax credit law, Chapter 637, Oregon Law, 1983.

Facility Cost: \$538,011.00 (Accountant's Certification was provided).

3. Evaluation of Application

The facility claimed in this application was approved for installation by the Department for the purpose of reducing potroom roof emissions (total particulate matter and particulate fluorides). These modifications to specially designed ore buckets were necessary to reduce particulate emissions from the potroom roofs which were generated during filling of pot ore hoppers. The claimed facility prevents spillage and operator error. Spillage of the very fine ore during ore hopper loading contributes significantly to pot room roof emissions.

Emission data obtained since the claimed facility has been in operation indicates a reduction of about 264 tons per year (1984 data). This material has an approximate value of \$200 per ton (\$52,800 per annum). Annual operating costs, excluding depreciation, are estimated to be \$69,000. Thus, the applicant does not incur a net economic benefit from the claimed facility. Therefore, the facility is considered to have been designed for and is being operated to a substantial extent for the purpose of preventing, controlling and reducing air pollution and the percent allocable to pollution control is 80% or more.

The application was received on January 9, 1984, additional information was received on November 1, 1984, and the application was considered complete on November 1, 1984.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. 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 \$538,011 with 80% or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1670.

F. A. Skirvin:c
AC1896
(503) 229-6414
November 19, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Weyerhaeuser Company
Western Oregon Region - Paperboard Manufacturing
Tacoma, Washington 98477

The applicant owns and operates a kraft pulp and paper mill at 785 North 42nd Street, Springfield, Oregon.

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

2. Description of Claimed Facility

The facility claimed in this application is described to be two new Wheelabrator Frye electrostatic precipitators for recovery furnace Nos. 3 and 4 and associated ductwork, tanks, electrical controls, mechanical dampers, pumps, fans, motors, rappers, and common stack.

Request for Preliminary Certification for Tax Credit was made on May 1, 1981 and approved on July 17, 1981.

Construction was initiated on the claimed facility in May 1981, completed in December 1982, and the facility was placed into operation in December 1982.

This facility is not subject to the new provisions of the tax credit law, Chapter 637, Oregon Law 1983.

Facility Cost: \$14,219,400 (Accountant's Certification was provided).

3. Evaluation of Application

Electrostatic precipitators are used at kraft pulp/paper mills to control particulate emissions from recovery furnaces in order to comply with Department regulations and permit conditions. Since the material collected can be used in the pulping process, these devices serve both economic and pollution control functions.

Weyerhaeuser Company replaced two existing precipitators with new larger state-of-the-art units to avoid production curtailments and maintain long-term compliance. Monthly monitoring report data indicates that the new units control emissions to lower levels than previously achieved.

The applicant indicated that the annual value of material collected is about \$2,957,760 (28,800 tons per year at \$102.20 per ton) and annual operating expenses, excluding depreciation, totaled \$1,589,363 based on 1983 operating experience. This yields a net annual return of \$1,368,397. Applying the Department's method of determining allocable cost to the net revenue/certified cost figures and a 20-year useful life indicates that 60 percent or more but less than 80 percent of the facility cost is allocable to pollution control.

It is concluded that a substantial purpose of the claimed facility is pollution control and that 60 percent or more but less than 80 percent of the certified cost is allocable thereto.

The application was received on March 27, 1984, additional information was received on November 20, 1984, and the application was considered complete on November 20, 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 60 percent or more but less than 80 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$14,219,400 with 60 percent or more but less than 80 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1692.

F. A. Skirvin:e
AE415
(503) 229-6414
November 21, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

The Amalgamated Sugar Co.
Nyssa Oregon Factory
PO Box 1520
Ogden, UT 84402

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

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

2. Description of Claimed Facility

The facility described in this application consists of a flue gas recirculation system for the pulp driers.

Request for Preliminary Certification for Tax Credit was made on May 8, 1981, and approved on July 17, 1981.

Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility on July 23, 1981, completed on October 22, 1982, and the facility was placed into limited operation on October 14, 1981, for the 1981-82 sugar beet season although the facility was not considered complete until the following year.

Facility Cost: \$111,000.00 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility, a flue gas recirculation system for the pulp driers, recirculates a portion of the exhaust stream from the pulp driers to the furnace. This was done to reduce particulate loading to the pulp drier scrubber which was marginally in compliance and to reduce fuel costs.

The claimed facility has been inspected by Department personnel and has been found to improve the marginal scrubber performance and to insure continual compliance of the pulp drier scrubber.

The annual operating costs of the claimed facility are estimated by the applicant to be \$5,350.00 and consists of the following items:

Property tax	-	\$2,400.00
Maintenance	-	250.00
Insurance	-	<u>2,700.00</u>
Total		\$5,350.00

The fuel cost savings resulting from recycling the flue gas back to the boiler is estimated by the applicant to be \$1,000.00. Since the annual operating expenses exceed the annual fuel savings, there is no return on the investment in the facility and in accordance with the Guidelines on Cost Allocation, the claimed facility would qualify for a cost allocation of 80% or more. However, Amalgamated Sugar indicated on the "application for certification as an Air Pollution Control Facility" that 50% of the cost of the claimed facility was properly allocable to pollution control because the claimed facility was not installed only for air pollution control. Amalgamated Sugar was contacted to clarify the Oregon Statutes in effect at the time of installation which do not require a facility to be installed solely for air pollution control in order to qualify for the maximum amount of credit. However, they did not wish to revise the application to claim the additional credit and desire a cost allocation of only 50%. Therefore, in accordance with their desire, 40% or more but less than 60% is allocable to pollution control.

The application was received on April 10, 1984, additional information was received on October 25, 1984, and the application was considered complete on October 25, 1984.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS 468.155(1) and (2).
- e. The portion of the facility cost that is properly allocable to pollution control is 40% or more but less than 60%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$111,000 with 40% or more but less than 60% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1694.

William J. Fuller:c
AC1873
(503) 229-5749
November 13, 1984

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Publishers Paper Co.
Molalla Division
4000 Kruse Way Place
Lake Oswego, OR 97034

The applicant owns and operates a dimension lumber facility at Molalla.

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

2. Description of Claimed Facility

The facility described in this application is an anti-stain solution dip tank control system with a slop tank, a sloped concrete slab, and a metal building enclosure.

Facility is not subject to the 1983 tax credit law.

Request for Preliminary Certification for Tax Credit was made April 29, 1983, and approved July 19, 1983. Construction was initiated on the claimed facility August 1, 1983, completed November 4, 1983, and the facility was placed into operation November 4, 1983.

Facility Cost: \$87,272 (Accountant's Certification was provided).

3. Evaluation of Application

Lumber is dipped in a tetrachlorophenate solution to prevent staining and degradation during shipment. The new facility provides complete spill collection and allows for storage of the dipped lumber on the concrete pad for collection of all drippings. The dipping area is roofed and curbed to separate it from the surrounding environment. Although the dipping procedure is process related, only the spill prevention and collection portions of the project have been included in the facility cost. There is no significant return on investment.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).

- c. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing water pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$87,272 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1708.

Larry D. Patterson:lt
WL3782
(503) 229-5374
11/27/84

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Publishers Paper Co.
Newberg Division
4000 Kruse Way Place
Lake Oswego, OR 97034

The applicant leases and operates a pulp and paper manufacturing facility at Newberg.

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

2. Description of Claimed Facility

The facility described in this application is an upgrade of an existing waste water treatment system. The upgrade consists of six 75-hp floating aerators, one 40-hp floating mixer, associated electrical equipment, and 240 feet of 14 inch diameter polyethylene pipe.

Facility is not subject to the 1983 tax credit law.

Request for Preliminary Certification for Tax Credit was made April 26, 1983, and approved May 23, 1983. Construction was initiated on the claimed facility May 24, 1983, completed December 30, 1983, and the facility was placed into operation December 30, 1983.

Facility Cost: \$251,558 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed equipment, the waste water treatment system had difficulty continuously complying with the summer NPDES permit limits. A review of the system by the applicant revealed there was insufficient aeration to provide the necessary level of treatment. Five 75-hp floating aerators were added in the activated sludge system, one 75-hp floating aerator was placed in the No. 2 treatment pond, and one 40-hp floating mixer was placed in the No. 1 treatment pond. Since the installation of the additional aerators, the applicant's waste water treatment system has consistently complied with the NPDES permit limits.

In addition, the applicant maintains belt filters to dewater waste primary and secondary sludge (generated by the waste water treatment system). Filtrate from the belt filters used to enter the No. 1 treatment pond. To minimize the quantity of settleable solids entering the treatment ponds, the filtrate sewer line was rerouted to the primary clarifier. Any settleable solids which enter the belt filter sewer are now removed in the clarifier and returned to the filters. The dewatered solids are burned in the applicants boiler.

There is no significant return on investment from these installations.

4. Summation

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

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$251,558 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1709.

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Columbia Steel Casting Co., Inc.
10425 N. Bloss Avenue
Portland, OR 97208

The applicant owns and operates a steel foundry.

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

2. Description of Claimed Facility

The facility described in this application consists of a bag filter dust collection system.

Request for Preliminary Certification for Tax Credit was made on March 29, 1983 and approved on May 26, 1983.

Construction was initiated on the claimed facility on November 7, 1983, completed on January 29, 1984, and the facility was placed into operation on January 30, 1984.

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

Facility Cost: \$88,183.76 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant has installed a new pulse jet bag filter dust collection system to control emissions from their sand system located in the foundry building. This dust collection system replaced an undersized bag filter system which was relocated to the new cleaning and shipping building to control emissions from the new blast cleaning machine. The original bag filter dust collection system was never certified as an air pollution control facility. All material collected by the claimed facility is discharged to a truck mounted mixer and mixed with water prior to disposal at a landfill site.

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

The principal purpose of construction and installation of the claimed facility is to comply with a requirement imposed by the Department to control particulate emissions.

There is no return on the investment in the facility, therefore, 100% of the claimed facility cost is allocable to pollution control.

The application was received on August 20, 1984 and the application was considered complete on August 20, 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 for the principal purpose of preventing, controlling or reducing air pollution and was required by the Department.
- d. Facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter. This complies with DEQ rules and permit conditions.
- e. The portion of the facility cost that is properly allocable to pollution control is 100%.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$88,183.76 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1703.

W.F. FULLER:s
(503) 229-5749
November 28, 1984
AA4757

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Cascade Wood Products
8399 14th Street
PO Box 2429
White City, OR 97503

The applicant owns and operates a lumber remanufacturing mill at White City, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a Carter Day baghouse, including purchase, installation, electrical hook-up and other associated costs.

Request for Preliminary Certification for Tax Credit was made on August 22, 1983, and approved on September 7, 1983.

Construction was initiated on the claimed facility on October 1, 1983, completed on August 15, 1984, and the facility was placed into operation on August 15, 1984.

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

Facility Cost: \$164,538.23 (Accountant's Certification was provided).

3. Evaluation of Application

The lumber remanufacturing process produces sawdust, shavings, and sanderdust. This woodwaste is processed through two cyclones which formerly exhausted to the atmosphere. The discharge from the cyclones is now directed into the baghouse.

The principal purpose of construction and installation of the baghouse is to comply with a requirement imposed by the Department to bring the facility into compliance with the particulate emission requirements of OAR 340-30-025. The facility is now in compliance with these regulations.

The annual operating expenses of \$30,115 exceed the annual income of \$540 derived from the sale of recovered materials for this facility. Since the return on investment is zero, one hundred percent of the cost of this facility is allocable to pollution control.

The application was received on September 21, 1984, additional information was received on October 10, 1984, and the application was considered complete on October 10, 1984.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated for the principal purpose of preventing, controlling or reducing air pollution and was required by DEQ.
- d. Facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter. This complies with DEQ statutes and rules.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$164,538.23 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1707.

W. Sims:s
(503) 229-5259
November 28, 1984
AS768

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Dow Corning Corporation
1801 South "A" Street
PO Box 56
Springfield, Oregon 97477

The applicant owns and operates a metallurgical grade silicon manufacturing plant at 1801 South "A" Street, Springfield, Oregon.

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

2. Description of Claimed Facility

The facility described in this application includes hooding, ducting, fan, motor, baghouse and associated equipment which collects fumes emitted from the silicon producing arc furnace (No. 3 furnace).

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

Request for Preliminary Certification for Tax Credit was made on November 11, 1983, and approved on December 28, 1983.

Construction was initiated on the claimed facility on January 3, 1984, completed on February 29, 1984, and the facility was placed into operation on March 1, 1984.

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

Facility Cost: \$94,534.45 (Accountant's Certification was provided).
(Complete documentation by copies of invoices 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 Lane Regional Air Pollution Authority to reduce fugitive emissions during the tapping of the silicon producing arc furnace. Lane Regional Air Pollution Authority has inspected the claimed facility and determined that it operates in compliance with their requirements.

Since the material collected is landfilled, there is no economic return associated with the claimed facility. It is concluded that the percent allocable to pollution control is 100 percent.

The application was received on October 4, 1984, and the application was considered complete on October 4, 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 for the principal purpose of preventing, controlling, or reducing air pollution and was required by the Lane Regional Air Pollution Authority.
- d. Facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter. This complies with Lane Air Pollution Authority statutes and rules.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$94,534.45, with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1710.

Lloyd Kostow:s
(503) 229-5186
November 28, 1984

AS687

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

ESCO Corporation
Manufacturing Division
2141 NW 25th Avenue
PO Box 10123
Portland, Oregon 97210

The applicant owns and operates a steel foundry at 2141 Northwest 25th Avenue, Portland, 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 a cartridge filter type dust collector for the sand system located at the Research and Development facility.

Request for Preliminary Certification for Tax Credit was made on January 9, 1984, and approved on March 29, 1984.

Construction was initiated on the claimed facility in March 1984, completed on April 26, 1984, and the facility was placed into operation on April 26, 1984.

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

Facility Cost: \$19,563.42 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility consists of a 1200 cfm filter type dust collector to control particulate emissions from a new sand handling system located at the Research and Development Center, formerly the old centrifugal foundry. All material collected by the dust collector is transported to the Sauvie Island landfill for disposal. Although the cleaned air from the dust collector is discharged back into the building, there is no economic benefit because the building is unheated.

The claimed facility has been inspected by Department personnel and has been found to be operating in compliance with Department regulations and permit conditions. It has been reported that the sand dust emissions consisting of silica and olivine have been substantially reduced below permit requirements by the claimed facility.

The principal purpose of construction and installation of the facility is to comply with Department requirements to control particulate emissions.

Since there are no economic benefits derived from installation of the claimed facility and there is no return on the investment in the facility, 100 percent of the facility cost is allocable to pollution control.

The application was received on November 2, 1984, additional information was received on November 14, 1984, and the application was considered complete on November 14, 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 for the principal purpose of preventing, controlling or reducing air pollution and was required by the Department.
- d. Facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter. This complies with DEQ rules and permit conditions.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$19,563.42 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1712.

L. Kostow:s
(503) 229-5186
November 14, 1984
AS770

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Columbia Steel Casting Co., Inc.
10425 N. Bloss Avenue
Portland, OR 97203

The applicant owns and operates a steel foundry located at 10425 North Bloss Avenue, Portland, Oregon.

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

2. Description of Claimed Facility

The facility described in this application consists of a new bag filter dust collection system and relocation of another bag filter dust collection system.

Request for Preliminary Certification for Tax Credit was made on March 29, 1983, and approved on May 18, 1983.

Construction was initiated on the claimed facility on February 27, 1984, completed on June 1, 1984, and the facility was placed into operation on June 4, 1984.

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

Facility Cost: \$106,390.14 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant has installed a new bag filter dust collection system to control emissions from the burning and arcing booths and relocated an existing smaller dust collection system to control blast machine emissions at the new cleaning facility. The relocated system has never been certified as an air pollution control facility. All material collected by the claimed facility is discharged to a truck mounted mixer and mixed with water prior to disposal at a landfill site.

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

The principal purpose of the claimed facility is to comply with Department regulations and limits imposed in the Air Contaminant Discharge Permit.

There is no return on the investment in the facility, therefore, 100 percent of the claimed facility cost is allocable to pollution control.

The application was received on November 7, 1983, and the application was considered complete on November 7, 1983.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. Facility is designed for and is being operated for the principal purpose of preventing, controlling or reducing air pollution and was required by the Department.
- d. Facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under this chapter. This complies with DEQ rules and permit conditions.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$106,390.14 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1713.

W. Fuller:s
(503) 229-5749
November 28, 1984
AS769

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate Issued To:

Louisiana-Pacific Corporation
Columbia Corridor Division
1265 SW Center Blvd.
Beaverton, OR 97005

The certificate was issued for an air pollution control facility.

2. Summation

By letter dated October 23, 1984 (copy attached), the Department was informed that the installation of scrubbers to control emissions from the hog fuel boiler have been abandoned in place.

Certificate

<u>Number</u>	<u>Plant</u>	<u>Date Issued</u>
897	Prineville, Oregon	April 28, 1978

Pursuant to ORS 317.072 (08), it is necessary that the Commission revoke this pollution control facility certificate.

3. Director's Recommendation:

It is recommended that the Commission revoke the following Pollution Control Facility Certificate as of the cited date since the certified installation has been abandoned.

Certificate

<u>Number</u>	<u>Revocation Date</u>
897	December 14, 1984

SChew
229-6484
11/23/84
Attachment

JK
Jmo



P.O. Drawer 1
Coeur d'Alene, Idaho 83814
208/667-8441

RECEIVED
OCT 21 1984

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OCT 31 1984

October 23, 1984

AIR QUALITY CONTROL

State of Oregon
Department of Environmental Quality
522 S. W. Fifth Avenue
Box 1760
Portland, OR 97207

Dear Sir:

In accordance with the provisions of our Pollution Control Facility Certificate application number T-974 dated April 12, 1978 at Prineville, Oregon, this is to notify you that the installation of scrubbers to control emissions from the hog fuel boiler have been abandoned in place. A file copy of your response is requested.

Sincerely,

597

Allen Miller
Property Tax Accountant

AM:bh

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificate Issued To:

Louisiana-Pacific Corporation
Columbia Corridor Division
1265 SW Center Blvd.
Beaverton, OR 97005

The certificate was issued for an air pollution control facility.

2. Summation

By letter dated October 23, 1984 (copy attached), the Department was informed that the duct work to the boiler had been sold at auction when the operation closed.

Certificate

<u>Number</u>	<u>Plant</u>	<u>Date Issued</u>
990	6045 Moffett Road Tillamook, OR	July 27, 1979

Pursuant to ORS 317.072 (08), it is necessary that the Commission revoke this pollution control facility certificate.

3. Director's Recommendation:

It is recommended that the Commission revoke the following Pollution Control Facility Certificate as of the cited date since the certified equipment has been sold.

Certificate

<u>Number</u>	<u>Revocation Date</u>
990	December 14, 1984

SChew
229-6484
11/23/84
Attachment



Louisiana-Pacific Corporation

P.O. Drawer 1
Coeur d'Alene, Idaho 83814
208/667-8441

October 23, 1984

State of Oregon
Department of Environmental Quality
522 S. W. Fifth Avenue
Box 1760
Portland, OR 97207

Dear Sir:

In accordance with the provisions of our Pollution Control Facility Certificate application number T-1069 dated July 27, 1979, at Tillamook, Oregon, this is to notify you that the ductwork to route veneer dryer emissions to the boiler has been sold at auction when the operation closed. A file copy of your response is requested.

Sincerely,

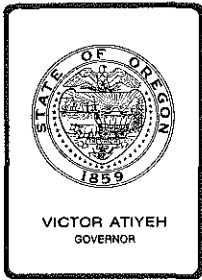
Allen Miller
Property Tax Accountant

AM:bh

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
OCT 31 1984

AIR QUALITY CONTROL



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, December 14, 1984, EQC Meeting

Request for Authorization to Hold Public Hearings on
Proposed Rule Revisions to the Motor Vehicle Emission
Inspection Program Rules OAR 340-24-300 through 24-350.

Background and Problem Statement

The Environmental Quality Commission, at its meeting of November 18, 1983, approved modifications to the Vehicle Inspection Program operating rules. By policy these rules have been periodically reviewed, and currently, several specific adjustments and additions are proposed. Also, the Commission has directed that mandatory noise testing be added to the inspection program, effective April 1, 1985. Concurrently during that policy consideration, the subject of emission control testing of motorcycles and heavy duty diesel vehicles was raised. Further, the Department has received a request from Chrysler Corporation requesting a modification in the inspection test procedure for specific Chrysler vehicles.

The staff is proposing modifications to the Vehicle Inspection Program in several areas. These areas include:

1. The modification of a special test procedure, currently limited to 1981 through 1983 model year Ford vehicles.
2. The adoption of a procedure for providing alternative criteria when factory pollution equipment or acceptable alternatives are unavailable due to discontinuation of parts inventory.
3. The modification of the analyzer calibration procedure for licensed self-inspecting fleets.

The staff is responding to the request by Chrysler Corporation to provide an alternative test procedure, i.e., to have the vehicle tested with the transmission in drive rather than in neutral. Such a request, if granted, would provide for another special test procedure. If authorized, the staff also wishes to solicit comment on an area not now covered by the inspection program rules. This would be whether or not to include motorcycles or heavy duty diesel vehicles in the scope of the emission test program. Traditionally for these public hearings, all of the vehicle inspection program's rules have been opened for public comment on any area that might be of interest. It is proposed that this policy again be followed.

Since the rule modification proposed will make reference to the federal Clean Air Act emission warranty and short test procedures, the following is intended to provide a brief background. Under the Clean Air Act, Section 207(b), there are specified warranty requirements for vehicle manufacturers. This performance warranty provides that if a vehicle should fail a short-cycle test, such as Oregon's idle emission test, the vehicle manufacturer will repair the vehicle at no cost to the vehicle owner, provided that 1) the vehicle has accumulated less than 4,000 miles, or 2) that the vehicle has accumulated less than 24,000 miles and is less than two years of age and will have a sanction applied (registration denied), and 3) the vehicle owner has followed the manufacturer's maintenance instructions. This warranty is in addition to the 5-year/50,000 mile warranty that applies to emission control parts.

The draft Notices of Public Hearing, Statement of Need and Financial Impact, and proposed rule modification are attached as appendices A-C respectively. The tentative date for the public hearings would be February 19, 1985, with one in the morning and the other in the evening.

Alternatives and Evaluations

Specific staff recommendations for rule modifications are as follows:

OAR 340-24-310 (Vehicle Inspection Test Method). It is proposed to delete the model year range specified in paragraph 12 for the special key-off allowance for Ford vehicles. The rule change would eliminate the 1983 closing date. This change is necessary to make that section of the rule conform to federal emission warranty regulations which provides for this special Ford vehicle test procedure. Conformance with these regulations provides customers of the Department's inspection program a measure of protection that they otherwise might not have. Discussions with Ford personnel confirm that Ford continues to use, on selected models, the idle bank timer mechanism which resulted in the need for Ford to request a special test procedure. This idle bank timer mechanism provides catalyst overheating protection during extended idle periods by diverting air from the catalyst to atmosphere. This reduces the conversion efficiency of the catalyst, resulting in higher idle emissions. This timer is reset during the key off/restart test procedure.

The staff is aware of a feature similar to that used by Ford on 1984 Honda Preludes that incorporate an air pump by-pass system. It is the staff's opinion that the special federal test provision for Ford vehicles does not apply to the Honda vehicles. While the Department has discussed this with American Honda Motor Company technical personnel, the Department has not received a petition or other instrument requesting a specific deviation in test procedure from American Honda. American Honda has not completed a response on this issue to US Environmental Protection Agency (EPA). It is the staff's understanding that EPA is considering enforcement action against American Honda on this matter.

The Department has received a letter from Chrysler Corporation (Appendix D). In their letter, Chrysler requests that the state modify its I/M test procedure. While this letter is not a petition, the issue raised is worthy of discussion. Chrysler indicates that its 1984 2.2 liter single point fuel injection engines with automatic transmissions found on the Chrysler Laser, LeBaron, New Yorker, and E-Class and Dodge Daytona and 600-series cars incorporate a special idle enhancement feature. The total number of vehicles affected in the Portland metro area is estimated as approximately 250. These vehicles, which have on-board computers, when placed in the neutral gear generally have high idle emissions. The idle emissions are high enough that they would fail the state idle test.

Vehicles failing Oregon's test, if tested within the 2-year/24,000 mile period, can benefit from the federal emission control warranty. Chrysler implies in its letter that pending resolution of a petition to EPA for an alternative test procedure, it will not honor warranty claims on those vehicles unless they are tested utilizing the alternative test procedure requested. In its letter, Chrysler states "that it is in the best interest of all concerned (affected vehicle owners, state I/M programs, Chrysler and clean air) to not inconvenience vehicle owners regarding an issue that they are not responsible for, cannot have corrected and does not cause air quality deterioration." Staff has discussed this matter with EPA Inspection/Maintenance (I/M) Program staff in Ann Arbor and Enforcement staff in Washington, D.C. From these discussions, it would appear that EPA is expected to deny the Chrysler petition. More recently it was learned that Chrysler is expected to withdraw its petition to EPA, and that EPA will ask states to consider Chrysler's request. In addition to discussion with EPA officials, staff has discussed this issue with officials of other state I/M programs. Based upon those discussions, it appears that other states are choosing not to honor the Chrysler request. In an even more recent discussion with Chrysler, the Department staff was informed that circuit boards were to be available and would be available for a period covering the next three to five years. Owners of vehicles in I/M program areas would need to contact their Chrysler dealer for repair.

Chrysler is requesting that the emission test be conducted in drive rather than neutral. If this change was made, the test procedure that would have to be followed on these vehicles is as follows. The inspector would have to determine that this vehicle is one that would require a

special test procedure. The driver of the vehicle would be required to get out of the vehicle so that the inspector could conduct the test. Because the test would be conducted in drive, safety considerations require that it be an inspector at the wheel rather than the customer. An idle only test, rather than the more comprehensive two-stage idle test normally conducted, would then be run. The inspector would then place the vehicle's transmission back into neutral, exit the vehicle, and return it to the customer. In addition to the requirement that the inspector be at the wheel, safety wheel chocks would have to be applied to the vehicle's wheels.

The benefit of using such a procedure is that we would not penalize the motorist as indicated in Chrysler's letter. The adverse effect of such action would be that the inspectors would be conducting an emissions test that is more hazardous in nature, increasing the possibility of injury or property damage. Such action would be a bad precedent by allowing another variant of an inspection test procedure. From an operational standpoint, this specific test, which is inherently different and potentially poses safety concerns in a heavy volume inspection system, will be difficult, if not dangerous. It is the staff's opinion that Chrysler's request for the alternative test procedure not be granted because of safety considerations and the fact that a repair is available. This repair will be a warranty covered item.

OAR 340-24-320 and 325 (Emission Parts Availability). Staff conducted a survey regarding the availability of emission control parts in the automotive aftermarket. The survey was a compilation of the responses to a letter to auto manufacturers, parts manufacturers, and service trade associations. There was no attempt made to purchase any parts. The results indicated that availability of emission control parts is similar to that of many other vehicle and engine parts. While all parts are not available in stock on an instant availability basis, the dealerships and aftermarket parts suppliers network appears to provide access to a complete inventory. In certain instances, special orders and rush services are available and are sometimes necessary.

The respondents to the survey indicated that there are two major problems in obtaining emission control parts. These are usually caused by do-it-yourselfers who do not know what parts are needed, and automotive technicians who incorrectly specify the vehicle application or improperly identify the component needed. Nevertheless, there are some specific situations where a better alternative procedure than now exists is needed. An example would include some specific small sales volume vehicles where market demands do not support maintaining an availability of emission parts.

The staff is proposing that alternative criteria can be applied in those few instances where the pollution control equipment is no longer available due to the manufacturer dropping it from parts inventory and comparable replacements cannot be provided. In such instances, the customer would

need to apply to the Department for such relief, and the Department would be required to verify the nonavailability of the original part, replacement part, or an alternative solution. This provision is proposed to be incorporated in both the light duty section (24-320) and the heavy duty section (24-325).

OAR 340-24-350 (Gas Analyzers Calibration by Fleets). This revision would change the frequency of gas calibrations required by licensed fleets. Currently the exhaust gas analyzers used by a licensed fleet must be calibrated once a month. It is proposed that this requirement be changed so that the exhaust gas analyzer must be calibrated within a 14 day period prior to any vehicle certification test. By comparison, the Department's inspection stations gas calibrate their exhaust gas analyzers first thing each morning and every three hours afterwards. A mechanical span check is made every hour. Incorporated into this proposed revision are three other operational items. A leak check is to be added to the procedures which licensed fleets would follow. The leak check, which is a simple operation, will determine overall system sample handling integrity. A new requirement is proposed in that the exhaust gas analyzer operational manual must be maintained with the machine. This is to insure that the correct operating and calibration instructions are always available to the licensed fleet inspector. And the third requirement is to perform a mechanical zero and span check prior to emission testing. This check, which only takes a few seconds, will help insure that significant drift has not occurred since the last gas calibration. The 30-day requirement listed in paragraph 4 is also deleted to maintain consistency with the proposed revisions.

Informational Subjects for Hearing. The staff has reviewed the status of two major vehicle groups not currently subject to the inspection program -- heavy duty diesels and motorcycles. The staff also has been reviewing what air quality benefits might be obtained from these vehicles if they were included in the inspection process. Initially these vehicle classes were not included in the program because of the relatively small number of vehicles that would have been affected and their impact on air quality was estimated as being very small. Most heavy duty diesel vehicles were operating in interstate long haul service and were not in general use in intra-city operation. However, in the past several years, heavy duty diesel vehicles have made significant market intrusions in intra-city trucking. Over 90 percent of all new heavy duty trucks are diesel powered. Another category of heavy duty diesel vehicles is transit buses. All of Tri-Met's transit buses are heavy duty diesel powered vehicles. Heavy duty diesel vehicles emit the same pollutants as gasoline engines. The character and proportions of the emissions are different than for gasoline engines. In general, carbon monoxide emissions are lower in diesel vehicles, while nitrogen oxides and particulates are higher. Because of the projected nonattainment for particulate, potential benefits from controlling emissions from heavy duty diesel vehicles are of interest. Federal new vehicle emission standards for light duty vehicles are expressed in terms of pollutant per mile of travel. For heavy duty engines the federal emission standards are based upon the amount of work done rather than the distance traveled.

Most inspection/maintenance programs concentrate on the passenger car and light truck emission sources. Many of these programs are only just starting operation or have legislative prohibition against the inspection of heavy duty diesel vehicles. There is little information available on the benefits of inspecting heavy duty diesel vehicles, even though air quality models regularly quantify the impact of the heavy duty diesel vehicle.

The State of New Jersey has had an on-going heavy duty diesel inspection program for opacity or smoke levels for many years. No gaseous emission measurements are made. In New Jersey over 2000 buses are inspected every six months. Failure rates are very low, less than 5 percent for the past year. The Department recently completed a survey of Tri-Met buses. Similar test equipment and procedures were used. Direct comparison of the results, because of uncontrollable outside variables, such as fuel quality, cannot be made. However, in the recent survey 15 percent of the Tri-Met buses tested exceeded the opacity limit under study in New Jersey. Air quality benefits from an inspection, and the inspection procedures and test standards for heavy duty diesel vehicles have not been developed.

The Department wishes to solicit comment on the appropriateness of including heavy duty diesel vehicles in the inspection/maintenance program. Comments should address the issue of the appropriateness, both in terms of equity and the resulting air quality benefit. Suggestions on test procedures and inspection standards are desired.

The discussion on heavy duty diesel vehicles applies similarly to motorcycles. These vehicles comprise a small segment of the total vehicle population and impact on the airshed. However, the Commission has directed that motorcycles comply with in use noise standards effective July 1, 1985. As motorcycles will be at the inspection stations it is appropriate to also consider the appropriateness of including this vehicle class in the emission inspection portion of the test.

Emissions from individual motorcycles can be significantly greater than car emissions. All motorcycles sold in the U.S. meet federal emission standards. For example, emission certification standards for 1984 cars were 0.41 grams per mile (gpm) hydrocarbons, 3.4 gpm carbon monoxide and 1.0 gpm nitrogen oxides. For motorcycles the standards were 8 gpm hydrocarbons and 19 gpm carbon monoxide with no standard for nitrogen oxides. The 1984 vehicle miles traveled data indicate that motorcycle mileage represents about one-half percent of total vehicle mileage; however, motorcycle travel is generally in good weather. As such, motorcycles do not contribute emissions during times of high carbon monoxide levels. Since motorcycles tend to travel during the good weather months, they would contribute to violations of the ozone standard.

The Department wishes to solicit comment on the appropriateness of including motorcycles in the emission portion of the test. As noted, the Commission has directed that motorcycles be included in the noise inspec-


tion. The staff has not prepared any draft rule that addresses test procedures or test standards for motorcycle emission testing. Public comments on the air quality benefit, possible test procedures, and possible inspection standards are desired.

Summation

1. The Vehicle Emission Inspection Program conducts periodic reviews of its operating rules.
2. Several rule modifications have been proposed. Among them are:
 - a) The special test procedure currently limited to 1981 through 1983 Ford vehicles is proposed to be extended indefinitely.
 - b) The adoption of a procedure for providing alternative criteria when factory pollution equipment or acceptable alternatives are unavailable due to the discontinuation of parts inventory.
 - c) The modification of the analyzer calibration procedures for licensed self-inspecting fleets.
3. It is the staff's technical opinion that the request by Chrysler Corp. for an additional variance in the test procedure not be approved. The reasons for not approving the request are based on safety and the fact that a field-fix alternative is available.
4. The hearings will allow comments to be received on the appropriateness of including heavy duty diesel vehicles and motorcycles in the testing program.
5. The hearing will allow comments to be received on all aspects of the inspection program operation and on other areas in the rules that might be in need of amendment.

Director's Recommendation

Based upon the Summation, it is recommended that the public hearings be authorized to take testimony on the proposed rule modifications and related items. The public hearings are tentatively scheduled for February 19, 1985.


Fred Hansen

Attachments

- Appendix A - Draft Public Notice
- Appendix B - Draft Statement of Need and Fiscal Impact
- Appendix C - Proposed Rule Revision
- Appendix D - Chrysler Letter

William P. Jasper:s
229-5081
November 29, 1984

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

**Public Hearing on Proposed Amendments to Vehicle Emission Program Rules
NOTICE OF PUBLIC HEARING**

Date Prepared: November 9, 1984
Hearing Date: February 19, 1985
Comments Due: February 20, 1985

**WHO IS
AFFECTED:**

Motor vehicle owners, people engaged in the business of repairing vehicles and licensed fleets operating in the Portland metropolitan area will be affected by this proposal.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340-24-300 through 24-350, the operating rules of the Motor Vehicle Inspection Program.

**WHAT ARE THE
HIGHLIGHTS:**

The Department of Environmental Quality is preparing modifications to the current inspection program rules. Interested parties should request a copy of the complete proposed rule package. Some highlights are:

- o Rule modifications in the test method section detailing specific changes in the inspection test procedure for late model Fords (OAR 340-24-310).
- o Changes in the test criteria section, which provides for limited alternative criteria to the emission equipment inspection (OAR 340-24-320 and 325).
- o Changes in the licensed fleet analyzer calibration protocol requiring more frequent gas calibrations (OAR 340-24-350).

In addition to the above referenced changes, the Department solicits public comments on all of the program rules. The Department also specifically requests that interested parties comment on the appropriateness of including of heavy duty diesel powered vehicles and motorcycles in the inspection program - specifically on the air quality benefits that might be accrued and on possible test procedures and standards that might be used. No test procedures or inspection standards are being proposed at this time.



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 Vehicle Inspection Program in Portland (522 S.W. Fifth Avenue) or the regional office nearest you. For further information contact William Jasper at (503) 229-6235.

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

10:a.m.		7:00 p.m.
February 19, 1985		February 19, 1985
Department of Environmental Quality	and	State Office Building
Yeon Building, Room 1400		Room 707
522 SW Fifth Avenue		1400 SW Fifth Avenue
Portland, Oregon		Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Vehicle Inspection Program, P.O. Box 1760, Portland, OR 97207, but must be received by no later than February 20, 1985.

**WHAT IS THE
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in April 1985 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.

RULEMAKING STATEMENTS
for
Department of Environmental Quality
Vehicle Inspection Program
Proposed Rules Revisions

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 340-24-300 through 24-350. It is proposed under authority of ORS 468.370 and 183.341.

Need for the Rule

The proposed amendments are needed to modify and update the inspection program to reflect changes in operational criteria, test procedures and licensed fleet requirements.

Principal Documents Relied Upon

The existing rules, a letter from Chrysler Corp. (dated September 14, 1984), automobile and motor vehicle manufacturer's shop manuals and service manuals have been relied upon. Exhaust gas analyzer procedure manuals have also been relied upon.

FISCAL AND ECONOMIC IMPACT STATEMENT:

Estimated fiscal impacts are that some motorists will experience savings. There should be no significant adverse economic impact on small businesses. Some small businesses will continue to economically benefit from the Department's operation of the inspection program. There should be only a minimal fiscal impact on licensed fleets due to increased calibration requirements.

LAND USE CONSISTENCY STATEMENT:

The proposed rule does not affect land use as defined in the Department's coordination program approved by the Land Conservation and Development Commission.

Light Duty Motor Vehicle Emission Control Test Method

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

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

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

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

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

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

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

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

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

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

(11) If the vehicle is equipped with a multiple exhaust system, then steps (7) through (10) are to be repeated on the other exhaust outlet(s). The readings from the exhaust outlet, or the average reading from the exhaust outlets are to be compared to the standards of rule 340-24-330.

(12) If the vehicle does not comply with the standards specified in rule 340-24-330, and it is a 1981 [through 1983] or newer Ford Motor Company vehicle, the vehicle shall have the ignition turned off, be restarted, and have steps (8) through (11) repeated.

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

(14) If it is judged that the vehicle may be emitting propulsion exhaust noise in excess of the noise standards of rule 340-24-337, adopted pursuant to ORS 467.030, then a noise measurement is to be conducted and recorded while the engine is at the speed specified in Section (9) of this rule. A reading from each exhaust outlet shall be recorded at the raised engine speed.

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

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

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

Stat. Auth.: ORS Ch. 468

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

NOTE: Paragraphs 14, 15, and 17 contain wording adopted at the November 2, 1984 EQC meeting to be effective April 1, 1985.

Light Duty Motor Vehicle Emission Control Test Criteria

340-24-320 (1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, except for diesel vehicles, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 8 percent or less, and on 1975 and newer vehicles with air injection systems 7 percent or less.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1968 and newer model vehicles, or exceeds 1,250 RPM for any pre-1968 model vehicle.

(3) (a) No vehicle emission control test for a 1970 through 1974 model year vehicle shall be considered valid if any of the following elements of the original factory installed pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5) or as provided by 40 CFR 85, 1701-1709.

(A) Positive crankcase ventilation (PCV) system.

(B) Air injector reactor (AIR) system.

(C) Evaporative control system.

(b) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5) or as provided for by 40 CFR 85.1701-1709. Motor vehicle pollution control systems include, but are not necessarily limited to:

(A) Positive crankcase ventilation (PCV) system.

(B) Exhaust modifier system:

(i) Air injection reactor system;

(ii) Thermal reactor system;

(iii) Catalytic converter system;

- (C) Exhaust gas recirculation (EGR) systems;
- (D) Evaporative control system;
- (E) Spark timing system:
 - (i) Vacuum advance system;
 - (ii) Vacuum retard system.
- (F) Special emission control devices. Examples:
 - (i) Orifice spark advance control (OSAC);
 - (ii) Speed control switch (SCS).
 - (iii) Thermostatic air cleaner (TAC).
 - (iv) Transmission controlled spark (TCS).
 - (v) Throttle solenoid control (TSC).
 - (vi) Fuel filler inlet restrictors.
 - (vii) Oxygen Sensor
 - (ix) Emission Control Computer

(c) The Department may provide alternative criteria for (a) and (b) of this section when it can be determined that the component or an acceptable alternative is unavailable. Relief may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 483.825(2), except as noted in section (5). For the purposes of this section, the following apply:

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 483.825(2), if a reasonable basis exists for knowing that such use will not adversely effect

emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such a part or system is listed on the exemption list of "Modifications to Motor Vehicle Emission Control System Permitted Under California Vehicle Code Section 27156 granted by the Air Resources Board," or is on the list maintained by the U.S. Environmental Protection Agency of "Certified to EPA Standards," or has been determined after review of testing data by the Department that there is no decrease in the efficiency or effectiveness in the control of air pollution.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825(2).

(5) A 1970 and newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 483.825(1) or (2) when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 483.825(3).

(6) The following applies:

(a) to 1970 through 1979 model year motor vehicles. When a motor vehicle is equipped with other than the original engine and its factory installed vehicle pollution control systems, it shall be classified by the model year and manufacture make of the non-original engine and its factory-installed motor vehicle pollution control systems, except that when the nonoriginal engine is older than the motor vehicle any requirement for evaporative control system and fuel filler inlet restrictor and catalytic convertor shall be based on the model year of the vehicle chassis. Diesel (compression ignition) engine powered vehicles changed to gasoline (spark ignition) engine power shall be required to maintain that model years equivalent or better factory pollution control system, including, but not limited to, catalytic convertors, unleaded fuel requirements, and computer controls.

(b) to 1980 and newer motor vehicles. These motor vehicles shall be classified by the model year and make of the vehicle as designated by the original chassis, engine, and its factory-installed motor vehicle pollution control systems, or

equivalent. This in no way prohibits the vehicle owner from upgrading the engine and emission control system to a more recent model year category including a diesel (compression ignition) power plant providing that all of the newer factory installed pollution control system is maintained.

Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria

340-24-325 (1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 8 percent or less.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1970 and newer model vehicles, or exceeds 1000 RPM for any age model vehicle.

(3) (a) No vehicle emission control test for a 1970 through 1974 heavy duty vehicle shall be considered valid if any of the following elements of the factory installed motor vehicle pollution control system has been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5):

- (A) Positive Crankcase
- (B) Evaporative Emission System
- (C) Air Injection System

(b) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 483.825(1), except as noted in section (5):

- (A) Positive crankcase ventilation;
- (B) Exhaust modifier system. Examples:
 - (i) Air injection system

- (ii) Thermal reactor system
- (iii) Catalytic convertor system.
- (C) Exhaust gas recirculation (EGR) systems;
- (D) Evaporative control system;
- (E) Spark timing system. Examples:
 - (i) Vacuum advance system;
 - (ii) Vacuum retard system.
- (F) Special emission control devices. Examples:
 - (i) Orifice spark advance control (OSAC);
 - (ii) Speed control switch (SCS);
 - (iii) Thermostatic air cleaner (TAC);
 - (iv) Transmission controlled spark (TCS);
 - (v) Throttle solenoid control (TSC);
 - (vi) Fuel filler inlet restrictor.

(c) The Department may provide alternative criteria for (a) and (b) of this section when it can be determined that the component or an acceptable alternative is unavailable. Relief may be granted on the basis of the nonavailability of the original part, replacement part, or comparable alternative solution.

(4) No vehicle emission control test conducted for a 1975 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 483.825(2), except as noted in section (3). For the purposes of this section, the following apply;

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 483.825(2), if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such part or system is listed on the exemption list maintained by the Department.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825(2).

(5) A 1970 or newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 483.825(1) or (2) when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 483.825(3).

(6) For the purposes of these rules, a 1970 or newer motor vehicle with an exchange engine shall be classified by the model year and manufacturer make of the exchange engine, except that any requirement for evaporative control systems shall be based upon the model year of the vehicle chassis.

GAS ANALYTICAL SYSTEM LICENSING CRITERIA

340-24-350 (1) To be licensed, an exhaust gas analyzer must:

(a) Conform substantially with either:

(A) All specifications contained in the document "Specifications for Exhaust Gas Analyzer System Including Engine Tachometers" dated July 9, 1974, prepared by the Department and on file in the office of the Vehicle Inspection Program of the Department,

(B) The technical specifications contained in the document "Performance Criteria, Design Guidelines, and Accreditation Procedures for Hydrocarbon (HC) and Carbon Monoxide (CO) Analyzers Required in California Official Motor Vehicle Pollution Control Stations," issued by the Bureau of California, and on file in the office of the Vehicle Inspection Program of the Department. Evidence that an instrument model is approved by the California Bureau of Automotive Repair will suffice to show conformance with this technical specification, or

(C) If a gas analytical system is purchased after January 1, 1982, the technical specifications contained in the document "The California Exhaust Gas Analyzer Specification - 1979" on file in the office of the Vehicle Inspection Program of the Department.

(D) Notwithstanding any of the above certifications, no license shall be issued or renewed for any battery powered exhaust gas analytical system after December 31, 1984.

(b) Be owned by the licensed motor vehicle fleet operation or the Department.

(c) Be span gas calibrated and leak checked within a [minimum of once a month (at least every 30] 14 calendar day[s] period prior to the test date []] by the licensed inspector. The calibration and leak check is to be performed following the analyzer manufacturer's specified procedures. The manufacturer's operation manual and calibration and leak check procedures are defined as an integral part of the analyzer, and shall be kept with the analyzer at all times. The date of calibration and leak check and the inspector's initials are to be recorded on a form provided by the Department [the back of the exhaust gas analyzer's license] for verification [by the Department]. Prior to any day of testing for the purposes of issuing a Certificate of Compliance, the analyzer shall be mechanically checked and corrected for zero and span drift.

(2) Application for a license must be completed on a form provided by the Department.

(3) Each license issued for an exhaust gas analyzer shall be valid through December 31 of each year, unless returned to the Department or revoked.

(4) A license for an exhaust gas analyzer system shall be renewed upon submission of a statement by the motor vehicle fleet operation that all conditions pertaining to the original license issuance are still valid and that the unit has been gas calibrated and its proper operation verified [within the last 30 days] by a vehicle emission inspector in their employment.

(5) Grounds for revocation of a license issued for an exhaust gas analyzer system include the following:

(a) The unit has been altered, damaged, or modified so as to no longer conform with the specifications of subsection (1)(a) of this rule.

(b) The unit is no longer owned by the motor vehicle fleet operation to which the license was issued.

(c) The Department verifies that a Certification of Compliance has been issued to a vehicle which has been emission tested by an analyzer that has not met the requirements of subsection (1)(c) of this section.

(6) No license shall be transferable.

(7) No license shall be issued until all requirements of section (1) of this section are fulfilled and required fees paid.



September 14, 1984

Mr. Ron Householder
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dear Mr. Householder:

Subject: Inspection/Maintenance (I/M) Idle Testing of Certain 1984 Model Chrysler Built Cars

Models Affected: 1984 Chrysler Laser, LeBaron, New Yorker & E-Class; and Dodge Daytona & 600 cars equipped with automatic transmission and the 2.2L EFI engine (non-turbo charged). This engine is identified by the letter 'D' in the eighth character of the VIN.

Chrysler has recently determined that the above model cars may not pass your state I/M CO requirement when subjected to an idle test in neutral. This is due to a unique neutral idle enrichment electronic circuit incorporated in these cars to enhance neutral idle quality.

These cars do pass the official EPA "Federal Test Procedure" test and will consistently pass your idle CO requirement if tested in drive rather than neutral. We are in the process of resolving this matter with EPA, and Chrysler intends to petition EPA to approve an alternative test procedure for these cars. However, the petition and approval process will take some time to complete and, in the interim, it is likely that a high percentage of these cars may fail an idle test in neutral.

A vehicle which fails an I/M idle test for this reason cannot be corrected by any field repair action. A spark control computer electronic circuit modification is being made early in the 1985 model year to eliminate the condition, but the revised 1985 computer cannot be installed on 1984 model cars.

Chrysler feels, and I am sure you will agree, that it is in the best interest of all concerned (affected vehicle owners, State I/M Programs, Chrysler, and clean air) to not inconvenience vehicle owners regarding an issue that they are not responsible for, cannot have corrected, and does not cause air quality deterioration.

Therefore, we request that you modify your state I/M idle test procedures to allow the affected model cars to be tested in drive. Chrysler will honor its emission performance warranty obligation if a vehicle fails to pass an I/M idle test performed in drive.

We sincerely appreciate your consideration and cooperation on this matter, and request that you inform us regarding your resolution of it as soon as possible.

Sincerely,

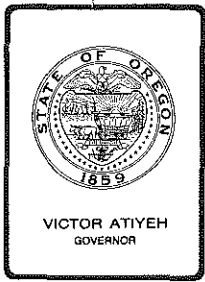
James V. Tracy
Manager, Product Investigation
and Government Liaison

STATE OF OREGON
RECEIVED

SEP 21 1984

Dept. of Environmental Quality
Vehicle Inspection Division

JVT/dc
cc: Phil Lorang, EPA
Richard Friedman, EPA
All State I/M Program Managers



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, December 14, 1984, EQC Meeting

Request for Authorization to Conduct a Public Hearing on
Pollution Control Tax Credit Rule Amendments, Chapter 340,
Division 16.

Background

On June 29, 1984, the Commission adopted pollution control tax credit rules. Since that time, the Legislative Counsel has commented on these rules, stating that portions of the rules need to be amended to bring them within the scope of the enabling legislation. In addition, it appears that, contrary to the rules' intent, certain provisions of the rules impose unnecessary restraints on the applicants for preliminary certification. The following proposed rule changes are intended to remedy these problems.

1. Definitions of Commencement of Erection, Construction or Installation - OAR 340-16-010.

"Commencement of erection, construction or installation" is currently defined to include "site clearing, grading, dredging, landfilling or similar physical change made in preparation for a facility." This definition is important in determining when an application for preliminary certification must be submitted, since an application for preliminary certification must be submitted before commencement of erection, construction or installation. This may create a problem since site clearing, etc., often occurs several months before construction of the pollution control facility begins. Since the applicant may not have plans for the pollution control equipment until close to the actual date of erection, construction or installation a hardship would be imposed if the applicant becomes ineligible for tax credit due to failure to apply for preliminary certification before "site clearing, grading, dredging, landfilling or similar physical change made in preparation for a facility."

The intent of the statute is to allow DEQ the opportunity to review facility plans and recommend necessary facility changes before erection, construction or installation begins. This review does not need to be done before site preparation. Therefore, the proposed rule amendment eliminates "site clearing, grading, dredging, landfilling or similar physical changes made in preparation for a facility" from the definition of "commencement of construction, erection or installation."

2. Deadline for Preliminary Certification Application - OAR 340-16-015(1).

Currently the rule requires an applicant to file an application before "commencement of erection, construction or installation of a facility" and an application shall not be considered filed until 30 days after the Department receives the application (OAR 340-16-015(1)(a) and (b)). In other words, an application must be received by the Department 30 days before commencement of erection, construction or installation.

The intent of this requirement is to assure the Department adequate time to review an application and submit comments to the applicant, before construction begins. This requirement, however, has proved to be overly restrictive, especially in those cases where the applicant wants to begin construction immediately and submits a complete application for preliminary certification for Department review less than 30 days before construction would begin. The proposed rule amendment would allow the applicant to proceed with construction without waiting 30 days after the Department receives the preliminary certification application, if the Department finds the application complete and sends to applicant notice of receipt of this complete application. The rule has, also, been reworded to clarify the currently confusing language which states that "an application must be filed before construction, erection or installation" and "an application will not be considered filed until 30 days after receipt" (OAR 340-16-015(1)(b)). The recommended amendment states simply that a preliminary certification application "must be filed 30 days before commencement of erection, construction or installation" (OAR 340-16-015(1)(a)).

3. Formula for Determining Percent Allocable - OAR 340-16-030(6)(e).

The proposed rule amendments change the abbreviations in the formula so that they better identify the factors in the formula which they represent. Therefore, annual percent return on investment would be represented by ROI, instead of R_A , and reference annual percent return on investment would be represented by RROI, instead of R_R .

4. Revocation of Certification - OAR 340-16-035(5).

The current practice of the Commission is to withhold revocation of certification of a pollution control facility when operation of a facility ceases if the certificate holder indicates in writing that the facility will be put back into operation within a "reasonable time." This practice assures that the certification will not be revoked for a facility which will continue to be used for pollution control at some later date, but which, due to a temporary shutdown of part or all of the business, the pollution control facility is not in use at this time. The proposed rule amendment reflects this practice, thereby providing clear guidance to certificate holders. The proposed rule amendment would require the facility to be returned to operation within 3 years or the certificate would be revoked. Three years is deemed to be a "reasonable time" by the Department.

5. Refund of Processing Fee for Final Certification Application - OAR 340-16-045(3) (a), (3) (c) and (4).

The Legislative Counsel has commented on the current rules, stating they appear to be inconsistent with pertinent statutory provisions related to processing fee refunds and, therefore, are not within the intent and scope of the enabling legislation (Attachment V). The tax credit legislation specifically allows refund of the processing fee when an application is rejected. Legislative Counsel indicates that these are the only circumstances when a processing fee may be refunded (ORS 468.165(4) and (5)). The proposed rule amendments delete those portions of the rule which allow refunds, in whole, under other circumstances including when the application is not completed within 180 days of receipt and when the application is withdrawn. Also deleted is the portion of the rule which allows partial refunds to be made when the final certified cost is less than the facility cost claimed in the original application. To avoid unfair treatment of applicants who fail to complete their application within 180 days of a Department request for additional information, a proposed amendment to OAR 340-16-020(1) (h) would order the Department to reject the application without prejudice to reapply, thereby allowing the Department to refund the application processing fee. Proposed rule amendments would also allow an application to be withdrawn and resubmitted without paying any additional processing fee unless the cost of the facility has increased (OAR 340-16-020(1) (h)).

Alternatives and Evaluation

1. The definition of commencement of construction (OAR 340-16-010(2)) could be left as it is, it could be amended to delete the phrase "including site clearing, grading, dredging, landfilling or similar physical change made in preparation for the facility," or it could be amended to include a more specific definition of commencement of construction. The Department chose the latter alternative because it provides greater guidance and flexibility

to the applicant without limiting the Department's opportunity to review the application before erection, construction or installation of the facility.

2. The requirement for applications to be submitted 30 days before commencement of erection, construction or installation could remain unchanged, could be written to accommodate those cases where the Department requires erection, construction or installation to begin immediately or could allow erection, construction or installation to proceed in any case where a completed application has been received by the Department. The Department chose the latter alternative because it would allow construction to proceed if a completed application is received by the Department, whether the Department has required erection, construction or installation to proceed immediately or whether the applicant for some other reason must begin construction immediately. This allows the Department the opportunity to review the application before construction while still allowing the construction to commence, thereby avoiding undue hardship to applicants.
3. The Department agrees with the Legislative Counsel that the rules related to processing fees for final certification applications (OAR 340-16-045) go beyond the intent and scope of the enabling legislation by allowing fee refunds in cases other than where the application is rejected. The following alternatives are available to address this problem:
 - a. Allow refunds only upon rejection of a final application, and retain current rules related to application rejections. Under current rules rejection of an application would occur only when the facility is not eligible for tax credit or when the Commission fails to act on an application before the 120th day after the filing of a complete application.
 - b. Allow refunds only upon rejection of a final application and amend current rules to require the Department to reject applications not completed within 180 days of a Department request for additional information. This would, thereby, allow refund of fees to applicants not interested in pursuing pollution control tax credits at this time and follows the focus of the current rule to refund the fee under these circumstances (OAR 340-16-045(3) (a)).
 - c. Allow refunds only upon rejection of a final application and amend current rules to make an additional processing fee unnecessary if an applicant withdraws an application and reapplies later, unless the cost of the facility increases. Similar to the current rule (OAR 340-16-045(3) (c)), the proposed rule amendment would not penalize an applicant for withdrawal and resubmittal of an application since a second processing fee would not be required for resubmittal.

Alternatives B and C were chosen by the Department because they are consistent with statutory authority and provide fairer treatment to the applicant.

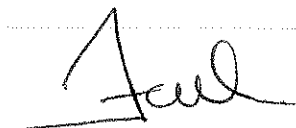
During development of these proposed rules, assistance was sought from the air and water quality, solid waste, and noise control divisions of the Department; the Association of Oregon Industries; the Oregon Environmental Council; and the Oregon Attorney General's Office. Comments were received from all Department divisions and the Association of Oregon Industries. These comments were incorporated into the proposed rule amendments as appropriate.

Summation

1. The Commission adopted pollution control tax credit rules June 29, 1984.
2. Through application of the current rules, the Department has determined that certain provisions of the rules impose unnecessary restraints on applicants for preliminary certification. The proposed rules would eliminate these problems.
3. The Legislative Counsel has determined that portions of the rules related to fees need to be amended to bring them within the scope of the enabling legislation. The proposed rules would eliminate these problems.

Director's Recommendation

Based on the summation, it is recommended that the Commission authorize public hearings to take testimony on the proposed Pollution Control Tax Credit Rule Amendments, Chapter 340, Division 16.



Fred Hansen
Director

- Attachments:
- I Statement of Need for Rules
 - II Statement of Land Use Consistency
 - III Draft Public Notice of Rules Adoption
 - IV Proposed Amendments to Chapter 340, Division 16
 - V Letter to DEQ from Legislative Counsel

Maggie Conley:d
229-6408
November 29, 1984
MD1346

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF AMENDING)
OAR CHAPTER 340,) STATEMENT OF NEED FOR RULES
DIVISION 16)

Statutory Authority:

Amendment of the Pollution Control Tax Credit Rules is consistent with enabling legislation, ORS 468.150 to 468.190.

Need for Rule Amendments:

Through application of the current rules, it has been determined that certain provisions of the rules impose unnecessary restraints on applicants for preliminary certification. In addition, Legislative Counsel has determined that portions of the rules needed to be amended to bring them within the scope of the enabling legislation.

Principal Documents Relied Upon:

Existing state statute, ORS 468.150 to 468.190 and existing state rules OAR Chapter 340-16-010 to 340-16-050.

Fiscal and Economic Impact:

Amending the rules to allow construction of pollution control facilities to begin within 30 days of filing an application for preliminary certification, under certain circumstances, would probably allow more applicants to be eligible for tax credits. Amending the rules to allow refund of processing fees only when an application for final certification is rejected may result in more applicants losing part or all of their processing fee under circumstances where they previously might have received a refund. However, the Department has also proposed to amend the rules so that applicants who withdraw their application and reapply would not pay an additional processing fee unless the cost of the facility increased. Also, if an application is not completed within 180 days of the Department's request for additional information, the application is rejected and the processing fee refunded.

The overall impact of the rule would not be significant or adverse to small business.

Attachment II
Agenda Item No.
December 14, 1984 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF AMENDING)
OAR CHAPTER 340,) LAND USE CONSISTENCY
DIVISION 16)

The proposal described appears to be consistent with all statewide planning goals. Specifically, the rule amendments comply with Goal 6 because they would provide tax credits for pollution control facilities, thereby contributing to the protection of air, water and land resource quality.

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

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

After public hearing, the Commission may adopt permanent rules identical to the proposal, adopt modified rules on the same subject matter, or decline to act. The Commission's deliberation should come on March 8, 1985 as part of the agenda of a regularly scheduled Commission meeting.

MC:d
MD146.B

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Pollution Control Tax Credit Rule Amendments Public Hearing

Date Prepared: November 14, 1984
Hearing Date: January 17, 1985
Comments Due: January 17, 1985

**WHO IS
AFFECTED:**

Amendment of the rules will affect people applying for pollution control tax credits.

**WHAT IS
PROPOSED:**

The DEQ proposes to adopt amendments to OAR Chapter 340, Division 16 to improve the the Pollution Control Tax Credit Rules (OAR 340-16-010 through 340-16-050) so that requirements for applying for pollution control tax credit are less restrictive and so the rules are within the bounds of the enabling legislation.

**WHAT ARE THE
HIGHLIGHTS:**

Amendment of the rules would make the process for applying for preliminary certification less restrictive.

Amendment of the rules would allow refund of the processing fee only when the application is rejected.

Amendment of the rules would require the Department to reject an application and refund the processing fee if the application is not completed within 180 days of Department request for additional information. Applicant would be allowed to reapply under these circumstances.

**HOW TO
COMMENT:**

Copies of the proposed rule amendments can be obtained from:

Sherry Chew
Management Services Division
P.O. Box 1760
Portland, OR 97207
Telephone: 229-6484
toll-free 1-800-452-4011



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call ~~1-800-452-7813~~ and ask for the Department of Environmental Quality.
1-800-452-4011



Written comments should be sent to the same address by January 17, 1985. Verbal comments may be given during the public hearing scheduled as follows:

3:00 p.m.
January 17, 1985
Room 1400
522 SW Fifth Avenue
Portland, Oregon

**WHAT IS THE
NEXT STEP:**

After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberations should come on March 8, 1985 as part of the agenda of a regularly scheduled Commission meeting.

ATTACHMENTS:

Statement of Need for Rules (including Fiscal Impact)
Statement of Land Use Consistency

DRAFT

Attachment IV
Agenda Item No.
12/14/84 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of Modifying)
OAR 340-16-010, 340-16-015,)
340-16-020, 340-16-035, and)
340-16-045) Proposed Modification

340-16-005 PURPOSE

The purpose of these rules is to prescribe procedures and criteria to be used by the Department and Commission for issuance of tax credits for pollution control facilities. These rules are to be used in connection with ORS 468.150 to 468.190 and apply only to facilities on which construction has been completed after December 31, 1983, except where otherwise noted herein.

340-16-010 DEFINITIONS

(1) "Circumstances beyond the control of the applicant" means facts, conditions and circumstances which applicant's due care and diligence would not have avoided.

11

- (2) "Commencement of erection, construction or installation" means the beginning of a continuous program of on-site construction, erection or modification of a facility which is completed within a reasonable time, and shall not include [including] site clearing, grading, dredging, landfilling or similar physical change made in preparation for the facility.
- (3) "Commission" means Environmental Quality Commission.
- (4) "Department" means Department of Environmental Quality.
- (5) "Facility" means a pollution control facility.
- (6) "Like-for-like replacement cost" means the current price of providing a new facility of the same type, size and construction materials as the original facility.
- (7) "Principal purpose" means the most important or primary purpose. Each facility may have only one principal purpose.
- (8) "Reconstruction or replacement" means the provision of a new facility with qualities and pollution control characteristics equivalent to the original facility. This does not include repairs or work done to maintain the facility in good working order.

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

- (9) "Sole purpose" means the exclusive purpose.
- (10) "Special circumstances" means emergencies which call for immediate erection, construction or installation of a facility, cases where applicant has relied on incorrect information provided by Department personnel as demonstrated by letters, records of conversations or other written evidence, or similar adequately documented circumstances which directly resulted in applicant's failure to file a timely application for preliminary certification. Special circumstances shall not include cases where applicant was unaware of tax credit certification requirements or applied for preliminary certification in a manner other than that prescribed in 340-16-015(1).
- (11) "Substantial completion" means the completion of erection, installation, modification, or construction of all elements of the facility which are essential to perform its purpose.
- (12) "Useful life" means the number of years the claimed facility is capable of operating before replacement or disposal.

340-16-015 PROCEDURES FOR RECEIVING PRELIMINARY TAX CREDIT CERTIFICATION

(1) Filing of Application

- (a) Any person proposing to apply for certification of a pollution control facility pursuant to ORS 468.165, shall file an application for

preliminary certification with the Department of Environmental Quality 30 days before the commencement of erection, construction or installation of the facility. The application shall be made on a form provided by the Department. The preliminary certificate need not be issued prior to construction for compliance with this requirement.

[(b) The application shall be considered filed 30 days after the Department has received the application.]

(b) [(c)] If the application is filed less than 30 days before commencement of construction [construction commenced before the application is filed], the application will be rejected as incomplete due to failure to comply with ORS 465.175(1) and OAR 340-16-015(a).

(c) If the Department reviews the application within 30 days of filing, and finds it complete, the Department may notify the applicant in writing that the application is complete and ready for processing and then the applicant may proceed with construction without waiting 30 days and without being rejected as incomplete.

(d) [(d)] The Commission may waive the filing of the application if it finds the filing inappropriate because special circumstances render the filing unreasonable and if it finds such facility would otherwise qualify for tax credit certification pursuant to ORS 468.150 to 468.190.

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

(e) [(e)] Within 30 days of the filing of an application the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. After examination thereof, the Department may request corrections and revisions to the plans and specifications. The Department may, also, require any other information necessary to determine whether the proposed construction is in accordance with Department statutes, rules and standards.

(f) [(f)] The application shall not be considered complete until the Department receives the information requested and notifies the applicant in writing that the application is complete and ready for processing. However, if the Department does not make a timely request pursuant to subsection (d) above, the application shall be deemed complete 30 days after filing [on the date it is considered filed].

(g) [(g)] Notice of the Department's recommended action to deny an application shall be mailed at least seven days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing.

(2) Approval of Preliminary Certification

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

- (a) If the Department determines that the proposed facility is eligible it shall issue a preliminary certificate approving the erection, construction or installation within 60 days of receipt of a completed application. It is not necessary for this certificate to include a determination of the full extent a facility is eligible for tax credit.

- (b) If within 60 days of the receipt of a completed application, the Department fails to issue a preliminary certificate of approval and the Commission fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The construction must comply with the plans, specifications and any corrections or revisions thereto, if any, previously submitted.

- (c) Issuance of a preliminary tax credit certification does not guarantee final tax credit certification.

(3) Denial of Preliminary Certification

If the Department determines that the erection, construction or installation does not comply with the Department statutes, rules and standards, the Commission shall issue an order denying certification within 60 days of receipt of a completed application.

(4) Appeal

Within 20 days from the date of mailing of the order the applicant may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the Director of the Department. The hearing shall be conducted in accordance with the applicable provisions of ORS 183.310 to 183.550.

340-16-020 PROCEDURES FOR RECEIVING FINAL TAX CREDIT CERTIFICATION

(1) Filing of Application

- (a) A written application for final tax credit certification shall be made to the Department on a form provided by the Department.
- (b) Within 30 days of receipt of an application, the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. The Department may also require any other information necessary to determine whether the construction is in accordance with Department statutes, rules and standards.
- (c) An application shall not be considered filed until all requested information is furnished by the applicant, and the Department notifies the applicant in writing that the application is complete and ready for processing.

- (d) The application shall be filed within two years of substantial completion of construction of the facility. Failure to file a timely application shall make the facility ineligible for tax credit certification.
- (e) The Commission may grant an extension of time to file an application if circumstances beyond the control of the applicant would make a timely filing unreasonable.
- (f) An extension shall only be considered if applied for within two years of substantial completion of construction of the facility. An extension may be granted for no more than one year. Only one extension may be granted.
- (g) An application may be withdrawn and resubmitted by applicant at any time within two years of substantial completion of construction of the facility without paying an additional processing fee, unless the cost of the facility has increased. An additional processing fee shall be assessed by subtracting the cost of the facility on the original application from the cost of the facility on the resubmitted application and multiplying that figure by one-half of one percent.
- (h) If the Department determines the application is incomplete for processing and applicant fails to submit requested information within

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

180 days of the date when the Department requested the information.
the application will be rejected, unless applicant requests in writing
additional time to submit requested information.

(2) Commission Action

- (a) Notice of the Department's recommended action on the application shall be mailed at least seven days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing. The Commission shall act on an application for certification before the 120th day after the filing of a complete application. The Commission may consider and act upon an application at any of its regular or special meetings. The matter shall be conducted as an informal public informational hearing, not a contested case hearing, unless ordered otherwise by the Commission.

(b) Certification

- (A) If the Commission determines that the facility is eligible, it shall certify the actual cost of the facility and the portion of the actual cost properly allocable to pollution control, resource recovery or recycling as set forth in ORS 468.190. Each certificate shall bear a separate serial number for each such facility.

NOTE: Underlined _____ material is new. Bracketed [] material is deleted.

- (B) No determination of the proportion of the actual cost of the facility to be certified shall be made until receipt of the application.
- (C) If two or more facilities constitute an operational unit, the commission may certify such facilities under one certificate.
- (D) A certificate is effective for purposes of tax relief in accordance with ORS 307.405, 316.097 and 317.116 if erection, construction or installation of the facility was begun before December 31, 1988.
- (E) Certification of a pollution control facility qualifying under ORS 468.165(1) shall be granted for a period of 10 consecutive years. The 10-year period shall begin with the tax year of the person in which the facility is certified under this section. However, if ad valorem tax relief is utilized by a corporation organized under ORS Chapter 61 or 62 the facility shall be exempt from ad valorem taxation, to the extent of the portion allocable, for a period of 20 consecutive years from the date of its first certification by the Commission.
- (F) Portions of a facility qualifying under ORS 468.165(1)(c) may be certified separately under this section if ownership of the portions is in more than one person. Certification of such portions of a facility shall include certification of the actual cost of the portion of the facility to the person receiving the certification. The actual cost certified for all portions of a facility separately certified under this subsection shall not exceed the total cost of the facility that would have been certified under one certificate. The provisions

of ORS 316.097(8) or 317.116 whichever is applicable, shall apply to any sale, exchange or other disposition of a certified portion to a facility.

(c) Rejection

If the Commission rejects an application for certification, or certifies a lesser actual cost of the facility or a lesser portion of the actual cost properly allocable to pollution control, resource recovery or recycling than was claimed in the application for certification, the Commission shall cause written notice of its action, and a concise statement of the findings and reasons therefore, to be sent by registered or certified mail to the applicant within 120 days after the filing of the application. Failure of the Commission to act constitutes rejection of the application.

(3) Appeal

If the application is rejected for any reason, or if the applicant is dissatisfied with the certification of actual cost or portion of the actual cost properly allocable to pollution control, resource recovery or recycling, the applicant may appeal from the rejection as provided in ORS 468.110. The rejection of the certification is final and conclusive on all parties unless the applicant takes an appeal therefrom as provided in ORS 468.110 before the 30th day after notice was mailed by the Commission.

- (1) "Pollution control facility" or "facility" shall include any land, structure, building, installation, excavation, machinery, equipment or device, or alternative methods for field sanitation and straw utilization and disposal as approved by the Field Burning Advisory Committee and the Department, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person, which will achieve compliance with Department statutes and rules or Commission orders or permit conditions, where applicable, if:
- (a) The principal purpose of the facility is to comply with a requirement imposed by the Department, the Federal Environmental Protection Agency or regional air pollution authority to prevent, control or reduce air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil; or
- (b) The sole purpose of the facility is to prevent, control or reduce a substantial quantity of air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil.
- (2) Such prevention, control or reduction required by this subsection shall be accomplished by:

- (a) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468.700;
- (b) The disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468.275;
- (c) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the commission;
- (d) The use of a resource recovery process which obtains useful material or energy resources from material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 459.410, or used oil as defined in ORS 468.850;
- (e) Subsequent additions to a solid waste facility, made either to an already certified facility or to an operation which would have qualified as a facility but for the fact that it was erected, constructed or installed before January 1, 1973, which will increase the production or recovery of useful materials or energy over the amount being produced or recovered by the original facility whether or not the materials or energy produced or recovered are similar to those of the original facility.

- (f) The treatment, substantial reduction or elimination of or redesign to treat, substantially reduce or eliminate hazardous waste as defined in ORS 459.410; or

- (g) Approved alternative field burning methods and facilities which shall be limited to:
 - (A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning;
 - (B) Propane flammers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts; and
 - (C) Drainage tile installations which will result in a reduction of grass seed acreage under production.

- (3) "Pollution control facility" or "facility" does not include:
 - (a) Air conditioners;
 - (b) Septic tanks or other facilities for human waste;
 - (c) Property installed, constructed or used for moving sewage to the collecting facilities of a public or quasi-public sewerage system;

(d) Any distinct portion of a solid waste, hazardous waste or used oil facility that makes an insignificant contribution to the purpose of utilization of solid waste, hazardous waste or used oil including the following specific items:

- (A) Office buildings and furnishings;
- (B) Parking lots and road improvements;
- (C) Landscaping;
- (D) External lighting;
- (E) Company signs;
- (F) Artwork; and
- (G) Automobiles.

(e) Facilities not directly related to the operation of the industry or enterprise seeking the tax credit;

(f) Replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued under ORS 468.170, except:

- (A) If the cost to replace or reconstruct the facility is greater than the like-for-like replacement cost of the original facility due to a requirement imposed by the department, the federal Environmental Protection Agency or a regional air pollution authority, then the facility may be eligible for tax credit certification up to an amount equal to the difference between the cost of the new facility and the like-for-like replacement cost of the original facility; or
- (B) If a facility is replaced or reconstructed before the end of its useful life then the facility may be eligible for the remainder of the tax credit certified to the original facility.
- (4) Any person may apply to the commission for certification under ORS 468.170 of a pollution control facility or portion thereof erected, constructed or installed by the person in Oregon if:
- (a) The air or water pollution control facility was erected, constructed or installed on or after January 1, 1967.
- (b) The noise pollution control facility was erected, constructed or installed on or after January 1, 1977.
- (c) The solid waste facility was under construction on or after January 1, 1973, or the hazardous waste, used oil, resource recovery, or recycling facility was under construction on or after October 3, 1979, and if:

- (A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1);

- (B) The facility will utilize material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 459.410 or used oil as defined in ORS 468.850:
 - (i) By burning, mechanical processing or chemical processing; or

 - (ii) Through the production, processing, presegregation, or use of:
 - (I) Materials for their heat content or other forms of energy of or from the material; or

 - (II) Materials which have useful chemical or physical properties and which may be used for the same or other purposes; or

 - (III) Materials which may be used in the same kind of application as its prior use without change in identity;

- (C) The end product of the utilization is a usable source of power or other item of real economic value;

- (D) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and

- (E) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.

- (d) The hazardous waste control facility was erected, constructed or installed on or after January 1, 1984 and if:
 - (A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1) and
 - (B) The facility is designed to treat, substantially reduce or eliminate hazardous waste as defined in ORS 459.410.

- (5) The Commission shall certify a pollution control, solid waste, hazardous waste or used oil facility or portion thereof, for which an application has been made under ORS 468.165, if the Commission finds that the facility:
 - (A) Was erected, constructed or installed in accordance with the requirements of ORS 468.165(1) and 468.175;
 - (B) Is designed for, and is being operated or will operate in accordance with the requirements of ORS 468.155; and
 - (C) Is necessary to satisfy the intents and purposes of and is in accordance with the applicable Department statutes, rules and standards.

340-16-030 DETERMINATION OF PERCENTAGE OF CERTIFIED FACILITY COST
ALLOCABLE TO POLLUTION CONTROL

(1) Definitions

- (a) "Annual operating expenses" means the estimated costs of operating the claimed facility including labor, utilities, property taxes, insurance, and other cash expenses, less any savings in expenses attributable to installation of the claimed facility. Depreciation, interest expenses, and state and federal taxes are not included.
- (b) "Average annual cash flow" means the estimated average annual cash flow from the claimed facility for the first five full years of operation calculated as follows:
- (A) Calculate the annual cash flow for each of the first five full years of operation by subtracting the annual operating expenses from the gross annual income for each year and
- (B) Sum the five annual cash flows and divide the total by five. Where the useful life of the claimed facility is less than five years, sum the annual cash flows for the useful life of the facility and divide by the useful life.
- (c) "Claimed facility cost" means the actual cost of the claimed facility minus the salvage value of any facilities removed from service.

- (d) "Gross annual income" means the estimated total annual income from the claimed facility derived from sale or reuse of recovered materials or energy or any other means.
 - (e) "Salvage value" means the value of a facility at the end of its useful life minus what it costs to remove it from service. Salvage value can never be less than zero.
- (2) In establishing the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil for facilities qualifying for certification under ORS 468.170, the Commission shall consider the following factors, if applicable:
- (a) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity;
 - (b) The estimated annual percent return on the investment in the facility;
 - (c) The alternative methods, equipment and costs for achieving the same pollution control objective;
 - (d) Related savings or increase in costs which occur or may occur as a result of the installation of the facility; or

(e) Other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

(3) For facilities that have received preliminary certification and on which construction has been completed before January 1, 1984, the portion of actual costs properly allocable shall be:

(a) Eighty percent or more.

(b) Sixty percent or more but less than 80 percent.

(c) Forty percent or more but less than 60 percent.

(d) Twenty percent or more but less than 40 percent.

(e) Less than twenty percent.

(4) For facilities on which construction has been completed after December 31, 1983, the portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent, the Commission shall issue an order denying certification.

- (5) In considering the factors listed in 340-16-030 to establish the portion of costs allocable to pollution control, the Commission will use the factor, or combination of factors, that results in the smallest portion of costs allocable.
- (6) When the estimated annual percent return on investment in the facility, 340-16-030(2)(b), is used to establish the portion of costs allocable to pollution control, the following steps will be used:
- (a) Determine the claimed facility cost, average annual cash flow and useful life of the claimed facility.
- (b) Determine the return on investment factor by dividing the claimed facility cost by the average annual cash flow.
- (c) Determine the annual percent return on investment by using Table 1. At the top of Table 1, find the number equal to the useful life of the claimed facility. In the column under this useful life number, find the number closest to the return on investment factor. Follow this row to the left until reaching the first column. The number in the first column is the annual percent return on investment for the claimed facility. For a useful life greater than 30 years, or percent return on investment greater than 25 percent, Table 1 can be extended by utilizing the following equation:

$$I_R = \frac{1 - (1+i)^{-n}}{i}$$

Where: I_R is the return on investment factor.
 i is the annual percent return on investment.
 n is the useful life of the claimed facility.

(d) Determine the reference annual percent return on investment from Table 2. Select the reference percent return from Table 2 that corresponds with the year construction was completed on the claimed facility. For each future calendar year not shown in Table 2, the reference percent return shall be the five-year average of the rate of return before taxes on stockholders' equity for all United States manufacturing corporations for the five years prior to the calendar year of interest.

(e) Determine the portion of actual costs properly allocable to pollution control from the following equation:

$$\left[P_A = \frac{R_R - R_A}{R_R} \times 100\% \right]$$

$$P_A = \frac{RROI - ROI}{RROI} \times 100\%$$

Where: P_A is the portion of actual costs properly allocable to pollution control in percent, rounded off to the nearest whole number.

$ROI [R_A]$ is the annual percent return on investment from Table 1.
 $RROI [R_R]$ is the reference annual percent return on investment from Table 2.

If $ROI [R_A]$ is greater than or equal to $RROI [R_R]$, then the portion of actual costs properly allocable to pollution control shall be zero percent.

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

X R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
0.00	1.000	2.000	3.000	4.000	5.000	6.000	7.000	8.000	9.000	10.000
0.25	0.998	1.993	2.985	3.975	4.963	5.948	6.931	7.911	8.889	9.864
0.50	0.995	1.985	2.970	3.950	4.926	5.896	6.862	7.823	8.779	9.730
0.75	0.993	1.978	2.956	3.926	4.889	5.846	6.795	7.737	8.672	9.600
1.00	0.990	1.970	2.941	3.902	4.853	5.795	6.728	7.652	8.566	9.471
1.25	0.988	1.963	2.927	3.878	4.818	5.746	6.663	7.568	8.462	9.346
1.50	0.985	1.956	2.912	3.854	4.783	5.697	6.598	7.486	8.361	9.222
1.75	0.983	1.949	2.898	3.831	4.748	5.649	6.535	7.405	8.260	9.101
2.00	0.980	1.942	2.884	3.808	4.713	5.601	6.472	7.325	8.162	8.983
2.25	0.978	1.934	2.870	3.785	4.679	5.554	6.410	7.247	8.066	8.866
2.50	0.976	1.927	2.856	3.762	4.646	5.503	6.349	7.170	7.971	8.752
2.75	0.973	1.920	2.842	3.739	4.613	5.462	6.289	7.094	7.878	8.640
3.00	0.971	1.913	2.829	3.717	4.580	5.417	6.230	7.020	7.786	8.530
3.25	0.969	1.907	2.815	3.695	4.547	5.373	6.172	6.946	7.696	8.422
3.50	0.966	1.900	2.802	3.673	4.515	5.329	6.115	6.874	7.608	8.317
3.75	0.964	1.893	2.788	3.651	4.483	5.285	6.058	6.803	7.521	8.213
4.00	0.962	1.886	2.775	3.630	4.452	5.242	6.002	6.733	7.435	8.111
4.25	0.959	1.879	2.762	3.609	4.421	5.200	5.947	6.664	7.351	8.011
4.50	0.957	1.873	2.749	3.588	4.390	5.158	5.893	6.596	7.269	7.913
4.75	0.955	1.866	2.736	3.567	4.360	5.117	5.839	6.529	7.188	7.816
5.00	0.952	1.859	2.723	3.546	4.329	5.076	5.786	6.463	7.108	7.722
5.25	0.950	1.853	2.711	3.525	4.300	5.035	5.734	6.398	7.029	7.629
5.50	0.949	1.846	2.698	3.505	4.270	4.996	5.683	6.335	6.952	7.538
5.75	0.946	1.840	2.685	3.485	4.241	4.956	5.632	6.272	6.876	7.448

-23(a)-

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

λ R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
0.00	11.000	12.000	13.000	14.000	15.000	16.000	17.000	18.000	19.000	20.000
0.25	10.837	11.807	12.775	13.741	14.704	15.665	16.623	17.580	18.533	19.484
0.50	10.677	11.619	12.556	13.489	14.417	15.340	16.259	17.173	18.082	18.937
0.75	10.521	11.435	12.342	13.243	14.137	15.024	15.905	16.779	17.647	18.508
1.00	10.368	11.255	12.134	13.004	13.865	14.713	15.562	16.393	17.225	18.046
1.25	10.218	11.079	11.930	12.771	13.601	14.420	15.230	16.030	16.819	17.599
1.50	10.071	10.908	11.732	12.543	13.343	14.131	14.908	15.673	16.426	17.169
1.75	9.927	10.740	11.538	12.322	13.093	13.850	14.595	15.327	16.046	16.753
2.00	9.787	10.575	11.348	12.106	12.849	13.578	14.292	14.992	15.678	16.351
2.25	9.649	10.415	11.164	11.896	12.612	13.313	13.998	14.668	15.323	15.964
2.50	9.514	10.258	10.983	11.691	12.381	13.055	13.712	14.353	14.979	15.589
2.75	9.382	10.104	10.807	11.491	12.157	12.805	13.435	14.049	14.646	15.227
3.00	9.253	9.954	10.635	11.295	11.938	12.561	13.166	13.754	14.324	14.877
3.25	9.126	9.807	10.467	11.106	11.725	12.324	12.905	13.467	14.012	14.539
3.50	9.002	9.663	10.303	10.921	11.517	12.094	12.651	13.190	13.710	14.212
3.75	8.880	9.523	10.142	10.740	11.315	11.870	12.405	12.920	13.417	13.896
4.00	8.760	9.385	9.985	10.563	11.118	11.652	12.166	12.659	13.134	13.590
4.25	8.644	9.250	9.833	10.391	10.927	11.440	11.933	12.406	12.859	13.294
4.50	8.529	9.119	9.683	10.223	10.740	11.234	11.707	12.160	12.593	13.008
4.75	8.417	8.990	9.537	10.059	10.557	11.033	11.488	11.921	12.335	12.731
5.00	8.305	8.863	9.394	9.899	10.380	10.833	11.274	11.690	12.085	12.462
5.25	8.198	8.740	9.254	9.742	10.206	10.647	11.066	11.465	11.843	12.202
5.50	8.093	8.619	9.117	9.590	10.038	10.462	10.865	11.246	11.608	11.950
5.75	7.989	8.500	8.983	9.441	9.873	10.282	10.688	11.034	11.379	11.706

-23(b)-

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
0.00	21.000	22.000	23.000	24.000	25.000	26.000	27.000	28.000	29.000	30.000
0.25	20.433	21.389	22.324	23.266	24.205	25.143	26.077	27.010	27.940	28.868
0.50	19.889	20.794	21.676	22.563	23.446	24.324	25.198	26.063	26.933	27.794
0.75	19.363	20.211	21.033	21.889	22.719	23.542	24.359	25.171	25.976	26.775
1.00	18.857	19.660	20.456	21.243	22.023	22.795	23.560	24.316	25.066	25.808
1.25	18.370	19.131	19.882	20.624	21.357	22.081	22.796	23.503	24.200	24.889
1.50	17.900	18.621	19.331	20.030	20.720	21.399	22.068	22.727	23.376	24.016
1.75	17.448	18.130	18.801	19.461	20.109	20.746	21.372	21.987	22.592	23.186
2.00	17.011	17.653	18.292	18.914	19.523	20.121	20.707	21.281	21.844	22.396
2.25	16.590	17.203	17.803	18.389	18.962	19.523	20.072	20.608	21.132	21.645
2.50	16.185	16.765	17.332	17.885	18.424	18.951	19.464	19.965	20.454	20.930
2.75	15.793	16.343	16.879	17.401	17.908	18.402	18.883	19.351	19.806	20.249
3.00	15.415	15.937	16.444	16.936	17.413	17.877	18.327	18.764	19.188	19.600
3.25	15.050	15.545	16.024	16.488	16.938	17.373	17.795	18.203	18.599	18.982
3.50	14.698	15.167	15.620	16.058	16.482	16.893	17.285	17.667	18.036	18.392
3.75	14.358	14.803	15.232	15.645	16.043	16.427	16.797	17.154	17.498	17.829
4.00	14.029	14.451	14.857	15.247	15.622	15.983	16.330	16.663	16.984	17.292
4.25	13.712	14.112	14.496	14.864	15.217	15.556	15.881	16.193	16.492	16.779
4.50	13.405	13.784	14.148	14.495	14.828	15.147	15.451	15.743	16.022	16.289
4.75	13.108	13.468	13.812	14.141	14.454	14.753	15.039	15.312	15.572	15.820
5.00	12.821	13.163	13.489	13.799	14.094	14.375	14.643	14.898	15.141	15.372
5.25	12.544	12.868	13.176	13.469	13.747	14.012	14.263	14.502	14.728	14.944
5.50	12.275	12.583	12.875	13.152	13.414	13.662	13.898	14.121	14.333	14.534
5.75	12.015	12.308	12.584	12.846	13.093	13.326	13.547	13.756	13.954	14.141

-23(c)-

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
6.00	0.943	1.833	2.673	3.465	4.212	4.917	5.582	6.210	6.802	7.360
6.25	0.941	1.827	2.661	3.445	4.184	4.879	5.533	6.149	6.728	7.274
6.50	0.939	1.821	2.648	3.426	4.156	4.841	5.485	6.089	6.656	7.189
6.75	0.937	1.814	2.636	3.406	4.128	4.804	5.437	6.030	6.585	7.105
7.00	0.935	1.803	2.624	3.387	4.100	4.767	5.389	5.971	6.515	7.024
7.25	0.932	1.802	2.612	3.368	4.073	4.730	5.343	5.914	6.447	6.943
7.50	0.930	1.796	2.601	3.349	4.046	4.694	5.297	5.857	6.379	6.864
7.75	0.928	1.789	2.589	3.331	4.019	4.658	5.251	5.802	6.312	6.786
8.00	0.926	1.783	2.577	3.312	3.993	4.623	5.206	5.747	6.247	6.710
8.25	0.924	1.777	2.566	3.294	3.967	4.588	5.162	5.693	6.182	6.635
8.50	0.922	1.771	2.554	3.276	3.941	4.554	5.119	5.639	6.119	6.561
8.75	0.920	1.765	2.543	3.258	3.915	4.520	5.075	5.587	6.057	6.489
9.00	0.917	1.759	2.531	3.240	3.890	4.486	5.033	5.535	5.995	6.418
9.25	0.915	1.753	2.520	3.222	3.865	4.453	4.991	5.484	5.935	6.348
9.50	0.913	1.747	2.509	3.204	3.840	4.420	4.950	5.433	5.875	6.279
9.75	0.911	1.741	2.498	3.187	3.815	4.387	4.909	5.384	5.817	6.211
10.00	0.909	1.736	2.487	3.170	3.791	4.355	4.868	5.335	5.759	6.145
10.25	0.907	1.730	2.476	3.153	3.767	4.324	4.829	5.287	5.702	6.079
10.50	0.905	1.724	2.465	3.136	3.743	4.292	4.789	5.239	5.646	6.015
10.75	0.903	1.718	2.454	3.119	3.719	4.261	4.751	5.192	5.591	5.951
11.00	0.901	1.713	2.444	3.102	3.696	4.231	4.712	5.146	5.537	5.889
11.25	0.899	1.707	2.433	3.086	3.673	4.200	4.674	5.101	5.484	5.828
11.50	0.897	1.701	2.423	3.070	3.650	4.170	4.637	5.056	5.431	5.768
11.75	0.895	1.696	2.412	3.053	3.627	4.141	4.600	5.011	5.379	5.709

-23(d)-

TABLE 1

 RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

X R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
6.00	7.887	8.384	8.853	9.295	9.712	10.106	10.477	10.829	11.158	11.470
6.25	7.787	8.270	8.725	9.153	9.556	9.935	10.291	10.627	10.943	11.241
6.50	7.689	8.159	8.600	9.014	9.403	9.768	10.111	10.432	10.735	11.019
6.75	7.593	8.050	8.477	8.878	9.253	9.605	9.935	10.243	10.532	10.803
7.00	7.499	7.943	8.358	8.745	9.108	9.447	9.763	10.059	10.336	10.594
7.25	7.406	7.838	8.240	8.616	8.966	9.292	9.596	9.880	10.145	10.391
7.50	7.315	7.735	8.126	8.489	8.827	9.142	9.434	9.706	9.959	10.194
7.75	7.226	7.635	8.014	8.365	8.692	8.995	9.276	9.537	9.779	10.004
8.00	7.139	7.536	7.904	8.244	8.559	8.851	9.122	9.372	9.604	9.813
8.25	7.053	7.439	7.796	8.126	8.430	8.712	8.971	9.212	9.433	9.633
8.50	6.969	7.345	7.691	8.010	8.304	8.575	8.825	9.055	9.268	9.463
8.75	6.886	7.252	7.582	7.897	8.181	8.442	8.683	8.904	9.107	9.294
9.00	6.805	7.161	7.487	7.786	8.061	8.313	8.544	8.756	8.950	9.129
9.25	6.726	7.071	7.388	7.678	7.943	8.186	8.408	8.612	8.798	8.968
9.50	6.647	6.984	7.291	7.572	7.828	8.062	8.276	8.471	8.650	8.812
9.75	6.570	6.898	7.196	7.468	7.716	7.942	8.147	8.335	8.505	8.661
10.00	6.495	6.814	7.103	7.367	7.606	7.824	8.022	8.201	8.365	8.514
10.25	6.421	6.731	7.012	7.267	7.499	7.709	7.899	8.072	8.228	8.370
10.50	6.348	6.650	6.923	7.170	7.394	7.596	7.779	7.945	8.095	8.231
10.75	6.277	6.570	6.836	7.075	7.291	7.486	7.663	7.822	7.966	8.095
11.00	6.207	6.492	6.750	6.982	7.191	7.379	7.549	7.702	7.839	7.963
11.25	6.138	6.416	6.666	6.891	7.093	7.274	7.438	7.584	7.716	7.835
11.50	6.070	6.341	6.583	6.801	6.997	7.172	7.329	7.470	7.596	7.710
11.75	6.003	6.267	6.503	6.714	6.903	7.072	7.223	7.358	7.480	7.598

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVPG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
6.00	11.764	12.042	12.303	12.550	12.783	13.003	13.211	13.406	13.591	13.765
6.25	11.521	11.784	12.032	12.266	12.485	12.692	12.887	13.070	13.242	13.404
6.50	11.285	11.535	11.770	11.991	12.198	12.392	12.575	12.746	12.907	13.059
6.75	11.057	11.294	11.517	11.725	11.921	12.104	12.275	12.436	12.586	12.727
7.00	10.836	11.061	11.272	11.469	11.654	11.826	11.987	12.137	12.278	12.409
7.25	10.621	10.836	11.036	11.222	11.396	11.558	11.709	11.850	11.981	12.104
7.50	10.413	10.617	10.807	10.983	11.147	11.299	11.441	11.573	11.696	11.810
7.75	10.212	10.406	10.585	10.752	10.907	11.050	11.184	11.307	11.422	11.529
8.00	10.017	10.201	10.371	10.529	10.675	10.810	10.935	11.051	11.158	11.258
8.25	9.827	10.002	10.164	10.313	10.451	10.578	10.696	10.804	10.905	10.997
8.50	9.644	9.810	9.963	10.104	10.234	10.354	10.465	10.566	10.660	10.747
8.75	9.465	9.623	9.769	9.902	10.025	10.138	10.242	10.337	10.425	10.506
9.00	9.292	9.442	9.580	9.707	9.823	9.929	10.027	10.116	10.198	10.274
9.25	9.124	9.267	9.398	9.517	9.627	9.727	9.819	9.903	9.980	10.050
9.50	8.961	9.097	9.221	9.334	9.438	9.532	9.618	9.697	9.769	9.835
9.75	8.803	8.932	9.049	9.157	9.254	9.343	9.425	9.498	9.566	9.627
10.00	8.649	8.772	8.883	8.985	9.077	9.161	9.237	9.307	9.370	9.427
10.25	8.499	8.616	8.722	8.818	8.905	8.984	9.056	9.121	9.180	9.234
10.50	8.354	8.465	8.566	8.657	8.739	8.814	8.881	8.942	8.997	9.047
10.75	8.212	8.318	8.414	8.500	8.578	8.648	8.712	8.769	8.821	8.868
11.00	8.075	8.176	8.266	8.348	8.422	8.488	8.548	8.602	8.650	8.694
11.25	7.941	8.037	8.123	8.201	8.270	8.333	8.389	8.440	8.485	8.526
11.50	7.811	7.903	7.984	8.058	8.124	8.183	8.236	8.283	8.326	8.364
11.75	7.685	7.772	7.850	7.919	7.981	8.037	8.087	8.131	8.171	8.207

-23(F)-

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
12.00	0.893	1.690	2.402	3.037	3.605	4.111	4.564	4.968	5.328	5.650
12.25	0.891	1.685	2.392	3.021	3.583	4.082	4.528	4.925	5.278	5.593
12.50	0.889	1.679	2.381	3.006	3.561	4.054	4.492	4.882	5.228	5.536
12.75	0.887	1.674	2.371	2.990	3.539	4.026	4.457	4.840	5.180	5.481
13.00	0.885	1.668	2.361	2.974	3.517	3.998	4.423	4.799	5.132	5.426
13.25	0.883	1.663	2.351	2.959	3.496	3.970	4.388	4.758	5.084	5.372
13.50	0.881	1.657	2.341	2.944	3.475	3.943	4.355	4.718	5.038	5.320
13.75	0.879	1.652	2.331	2.929	3.454	3.915	4.321	4.678	4.992	5.267
14.00	0.877	1.647	2.322	2.914	3.433	3.889	4.288	4.639	4.946	5.216
14.25	0.875	1.641	2.312	2.899	3.413	3.862	4.256	4.600	4.902	5.166
14.50	0.873	1.636	2.302	2.884	3.392	3.836	4.224	4.562	4.858	5.116
14.75	0.871	1.631	2.293	2.869	3.372	3.810	4.192	4.524	4.814	5.067
15.00	0.870	1.626	2.283	2.855	3.352	3.784	4.160	4.487	4.772	5.017
15.25	0.868	1.621	2.274	2.841	3.332	3.759	4.129	4.451	4.729	4.971
15.50	0.866	1.615	2.264	2.826	3.313	3.734	4.099	4.415	4.688	4.925
15.75	0.864	1.610	2.255	2.812	3.293	3.709	4.068	4.379	4.647	4.879
16.00	0.862	1.605	2.246	2.798	3.274	3.685	4.039	4.344	4.607	4.833
16.25	0.860	1.600	2.237	2.784	3.255	3.660	4.009	4.309	4.567	4.789
16.50	0.858	1.595	2.228	2.770	3.236	3.636	3.980	4.274	4.527	4.745
16.75	0.857	1.590	2.219	2.757	3.219	3.613	3.951	4.241	4.489	4.701
17.00	0.855	1.585	2.210	2.743	3.199	3.589	3.922	4.207	4.451	4.659
17.25	0.853	1.580	2.201	2.730	3.181	3.566	3.894	4.174	4.413	4.617
17.50	0.851	1.575	2.192	2.716	3.163	3.543	3.866	4.142	4.376	4.575
17.75	0.849	1.570	2.183	2.703	3.145	3.520	3.839	4.109	4.339	4.534

-23 (g) -

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

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EXPECTED USEFUL LIFE IN YEARS

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R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
12.00	5.938	6.194	6.424	6.628	6.811	6.974	7.120	7.250	7.366	7.469
12.25	5.873	6.123	6.346	6.544	6.721	6.878	7.019	7.143	7.255	7.354
12.50	5.810	6.053	6.270	6.462	6.633	6.785	6.920	7.040	7.147	7.241
12.75	5.748	5.985	6.195	6.381	6.547	6.693	6.823	6.939	7.041	7.132
13.00	5.687	5.918	6.122	6.302	6.462	6.604	6.729	6.840	6.938	7.025
13.25	5.627	5.852	6.050	6.225	6.380	6.516	6.637	6.743	6.837	6.921
13.50	5.568	5.787	5.979	6.149	6.299	6.431	6.547	6.649	6.739	6.819
13.75	5.510	5.723	5.910	6.075	6.220	6.347	6.459	6.557	6.644	6.720
14.00	5.453	5.660	5.842	6.002	6.142	6.265	6.373	6.467	6.550	6.623
14.25	5.397	5.599	5.776	5.931	6.066	6.185	6.289	6.380	6.459	6.529
14.50	5.341	5.533	5.710	5.861	5.992	6.106	6.206	6.294	6.370	6.437
14.75	5.287	5.479	5.646	5.792	5.919	6.029	6.126	6.210	6.283	6.347
15.00	5.234	5.421	5.583	5.724	5.847	5.954	6.047	6.126	6.198	6.259
15.25	5.181	5.363	5.521	5.658	5.777	5.881	5.970	6.048	6.115	6.174
15.50	5.130	5.307	5.461	5.594	5.709	5.803	5.895	5.969	6.034	6.090
15.75	5.079	5.252	5.401	5.530	5.641	5.738	5.821	5.893	5.955	6.009
16.00	5.029	5.197	5.342	5.466	5.575	5.668	5.749	5.818	5.877	5.929
16.25	4.979	5.144	5.285	5.406	5.511	5.601	5.678	5.745	5.802	5.851
16.50	4.931	5.091	5.228	5.346	5.447	5.534	5.609	5.673	5.728	5.775
16.75	4.883	5.039	5.173	5.287	5.385	5.469	5.541	5.603	5.655	5.700
17.00	4.836	4.988	5.118	5.229	5.324	5.405	5.475	5.534	5.584	5.628
17.25	4.790	4.938	5.065	5.172	5.264	5.343	5.410	5.467	5.515	5.557
17.50	4.745	4.889	5.012	5.117	5.206	5.281	5.346	5.401	5.447	5.487
17.75	4.700	4.841	4.960	5.062	5.148	5.221	5.283	5.336	5.381	5.419

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-23(h) -

TABLE 1

 RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

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% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
12.00	7.562	7.645	7.718	7.784	7.843	7.896	7.943	7.984	8.022	8.055
12.25	7.442	7.521	7.591	7.653	7.709	7.759	7.803	7.842	7.877	7.908
12.50	7.326	7.401	7.467	7.526	7.579	7.626	7.667	7.704	7.737	7.766
12.75	7.212	7.283	7.347	7.403	7.453	7.497	7.536	7.571	7.602	7.629
13.00	7.102	7.170	7.230	7.283	7.330	7.372	7.409	7.441	7.470	7.496
13.25	6.994	7.059	7.116	7.166	7.211	7.250	7.285	7.316	7.343	7.367
13.50	6.889	6.951	7.005	7.053	7.095	7.132	7.165	7.194	7.219	7.242
13.75	6.787	6.845	6.897	6.942	6.982	7.017	7.048	7.075	7.099	7.120
14.00	6.687	6.743	6.792	6.835	6.873	6.906	6.935	6.961	6.983	7.003
14.25	6.590	6.643	6.690	6.731	6.766	6.798	6.825	6.849	6.870	6.889
14.50	6.495	6.546	6.590	6.629	6.663	6.693	6.718	6.741	6.761	6.778
14.75	6.403	6.451	6.493	6.530	6.562	6.590	6.615	6.636	6.654	6.670
15.00	6.312	6.359	6.399	6.434	6.464	6.491	6.514	6.534	6.551	6.566
15.25	6.225	6.269	6.307	6.340	6.369	6.394	6.415	6.434	6.450	6.465
15.50	6.139	6.181	6.217	6.249	6.276	6.299	6.320	6.337	6.353	6.366
15.75	6.055	6.095	6.130	6.159	6.185	6.208	6.227	6.243	6.258	6.270
16.00	5.973	6.011	6.044	6.073	6.097	6.118	6.136	6.152	6.166	6.177
16.25	5.893	5.930	5.961	5.988	6.011	6.031	6.048	6.063	6.076	6.087
16.50	5.815	5.850	5.880	5.905	5.927	5.946	5.962	5.976	5.988	5.999
16.75	5.739	5.772	5.801	5.825	5.846	5.864	5.879	5.892	5.903	5.913
17.00	5.665	5.696	5.723	5.746	5.766	5.783	5.798	5.810	5.820	5.829
17.25	5.592	5.622	5.648	5.670	5.689	5.705	5.718	5.730	5.740	5.748
17.50	5.521	5.550	5.574	5.595	5.613	5.628	5.641	5.652	5.661	5.669
17.75	5.452	5.479	5.502	5.522	5.539	5.553	5.565	5.576	5.584	5.592

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TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
18.00	0.847	1.566	2.174	2.690	3.127	3.498	3.812	4.078	4.303	4.494
19.25	0.846	1.561	2.166	2.677	3.110	3.475	3.785	4.046	4.267	4.454
18.50	0.844	1.556	2.157	2.664	3.092	3.453	3.758	4.015	4.232	4.415
18.75	0.842	1.551	2.148	2.651	3.075	3.431	3.732	3.985	4.198	4.377
19.00	0.840	1.547	2.140	2.639	3.058	3.410	3.706	3.954	4.163	4.339
19.25	0.839	1.542	2.131	2.626	3.041	3.388	3.680	3.925	4.130	4.302
19.50	0.837	1.537	2.123	2.613	3.024	3.367	3.655	3.895	4.096	4.265
19.75	0.835	1.532	2.115	2.601	3.007	3.346	3.629	3.866	4.063	4.228
20.00	0.833	1.528	2.106	2.589	2.991	3.326	3.605	3.837	4.031	4.192
20.25	0.832	1.523	2.098	2.577	2.974	3.305	3.580	3.809	3.999	4.157
20.50	0.830	1.519	2.090	2.564	2.958	3.285	3.556	3.781	3.967	4.122
20.75	0.828	1.514	2.082	2.552	2.942	3.265	3.532	3.753	3.936	4.088
21.00	0.826	1.509	2.074	2.540	2.926	3.245	3.508	3.726	3.905	4.054
21.25	0.825	1.505	2.066	2.529	2.910	3.225	3.484	3.699	3.875	4.021
21.50	0.823	1.500	2.058	2.517	2.895	3.205	3.461	3.672	3.845	3.988
21.75	0.821	1.496	2.050	2.505	2.879	3.186	3.438	3.645	3.815	3.955
22.00	0.820	1.492	2.042	2.494	2.864	3.167	3.416	3.619	3.786	3.923
22.25	0.818	1.487	2.034	2.482	2.848	3.148	3.393	3.593	3.757	3.892
22.50	0.816	1.483	2.027	2.471	2.833	3.129	3.371	3.568	3.729	3.860
22.75	0.815	1.478	2.019	2.459	2.818	3.111	3.349	3.543	3.701	3.830
23.00	0.813	1.474	2.011	2.448	2.803	3.092	3.327	3.518	3.673	3.799
23.25	0.811	1.470	2.004	2.437	2.789	3.074	3.306	3.493	3.646	3.769
23.50	0.810	1.465	1.996	2.426	2.774	3.056	3.284	3.469	3.619	3.740
23.75	0.808	1.461	1.989	2.415	2.760	3.038	3.263	3.445	3.592	3.711

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TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

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EXPECTED USEFUL LIFE IN YEARS

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% R.O.I.	11	12	13	14	15	16	17	18	19	20
18.00	4.656	4.793	4.910	5.008	5.092	5.162	5.222	5.273	5.316	5.353
18.25	4.613	4.746	4.860	4.955	5.036	5.105	5.162	5.211	5.253	5.288
18.50	4.570	4.700	4.810	4.903	4.982	5.048	5.104	5.151	5.191	5.224
18.75	4.528	4.655	4.762	4.852	4.928	4.992	5.046	5.091	5.130	5.162
19.00	4.486	4.611	4.715	4.802	4.876	4.938	4.990	5.033	5.070	5.101
19.25	4.446	4.567	4.668	4.753	4.824	4.884	4.934	4.976	5.012	5.041
19.50	4.406	4.523	4.622	4.705	4.774	4.832	4.880	4.921	4.954	4.983
19.75	4.366	4.481	4.577	4.657	4.724	4.780	4.827	4.866	4.898	4.926
20.00	4.327	4.439	4.533	4.611	4.675	4.730	4.775	4.812	4.843	4.870
20.25	4.289	4.398	4.489	4.565	4.628	4.680	4.723	4.760	4.790	4.815
20.50	4.251	4.358	4.446	4.520	4.581	4.631	4.673	4.708	4.737	4.761
20.75	4.214	4.318	4.404	4.475	4.534	4.583	4.624	4.657	4.685	4.708
21.00	4.177	4.278	4.362	4.432	4.489	4.536	4.576	4.608	4.635	4.657
21.25	4.141	4.240	4.321	4.389	4.444	4.490	4.528	4.559	4.585	4.606
21.50	4.105	4.202	4.281	4.347	4.401	4.445	4.481	4.511	4.536	4.557
21.75	4.070	4.164	4.242	4.305	4.358	4.400	4.436	4.465	4.488	4.508
22.00	4.035	4.127	4.203	4.265	4.315	4.357	4.391	4.419	4.442	4.460
22.25	4.001	4.091	4.164	4.224	4.274	4.314	4.347	4.374	4.396	4.414
22.50	3.968	4.055	4.127	4.185	4.233	4.272	4.303	4.329	4.350	4.368
22.75	3.935	4.020	4.090	4.146	4.193	4.230	4.261	4.286	4.306	4.323
23.00	3.902	3.985	4.053	4.108	4.153	4.189	4.219	4.243	4.263	4.279
23.25	3.870	3.951	4.017	4.071	4.114	4.149	4.178	4.201	4.220	4.235
23.50	3.838	3.917	3.982	4.034	4.076	4.110	4.138	4.160	4.178	4.193
23.75	3.807	3.884	3.947	3.997	4.033	4.071	4.098	4.120	4.137	4.151

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TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
18.00	5.384	5.410	5.432	5.451	5.467	5.480	5.492	5.502	5.510	5.517
18.25	5.317	5.342	5.363	5.381	5.397	5.409	5.420	5.429	5.437	5.444
18.50	5.252	5.276	5.296	5.313	5.328	5.340	5.350	5.359	5.366	5.372
18.75	5.189	5.212	5.231	5.247	5.261	5.272	5.282	5.290	5.297	5.303
19.00	5.127	5.149	5.167	5.182	5.195	5.206	5.215	5.223	5.229	5.235
19.25	5.066	5.087	5.104	5.119	5.131	5.141	5.150	5.157	5.163	5.168
19.50	5.007	5.026	5.043	5.057	5.069	5.079	5.086	5.093	5.099	5.104
19.75	4.948	4.967	4.983	4.996	5.007	5.017	5.024	5.031	5.036	5.041
20.00	4.891	4.909	4.925	4.937	4.948	4.956	4.964	4.970	4.975	4.979
20.25	4.836	4.853	4.867	4.879	4.889	4.897	4.904	4.910	4.915	4.919
20.50	4.781	4.797	4.811	4.823	4.832	4.840	4.846	4.852	4.856	4.860
20.75	4.727	4.743	4.756	4.767	4.776	4.783	4.790	4.795	4.799	4.802
21.00	4.675	4.690	4.703	4.713	4.721	4.728	4.734	4.739	4.743	4.746
21.25	4.624	4.638	4.650	4.660	4.668	4.674	4.680	4.685	4.688	4.691
21.50	4.573	4.587	4.598	4.608	4.615	4.622	4.627	4.631	4.635	4.638
21.75	4.524	4.537	4.548	4.557	4.564	4.570	4.575	4.579	4.582	4.585
22.00	4.476	4.488	4.499	4.507	4.514	4.520	4.524	4.528	4.531	4.534
22.25	4.428	4.440	4.450	4.458	4.465	4.470	4.475	4.479	4.481	4.484
22.50	4.382	4.393	4.403	4.410	4.417	4.422	4.426	4.429	4.432	4.434
22.75	4.336	4.347	4.356	4.364	4.369	4.374	4.378	4.381	4.384	4.386
23.00	4.292	4.302	4.311	4.316	4.323	4.323	4.332	4.335	4.337	4.339
23.25	4.248	4.258	4.266	4.273	4.278	4.282	4.286	4.289	4.291	4.293
23.50	4.205	4.214	4.222	4.228	4.234	4.238	4.241	4.244	4.246	4.248
23.75	4.163	4.172	4.179	4.185	4.190	4.194	4.197	4.200	4.202	4.203

-23 (1) -

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

X R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	1	2	3	4	5	6	7	8	9	10
24.00	0.806	1.457	1.981	2.404	2.745	3.020	3.242	3.421	3.566	3.682
24.25	0.805	1.453	1.974	2.393	2.731	3.003	3.222	3.398	3.539	3.653
24.50	0.803	1.448	1.967	2.383	2.717	2.986	3.201	3.375	3.514	3.625
24.75	0.802	1.444	1.959	2.372	2.703	2.968	3.181	3.352	3.488	3.596
25.00	0.800	1.440	1.952	2.362	2.689	2.951	3.161	3.329	3.463	3.571

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

% R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	11	12	13	14	15	16	17	18	19	20
24.00	3.776	3.851	3.912	3.962	4.001	4.033	4.059	4.080	4.097	4.110
24.25	3.745	3.819	3.879	3.926	3.965	3.996	4.021	4.041	4.057	4.070
24.50	3.715	3.787	3.845	3.892	3.929	3.959	3.983	4.003	4.018	4.031
24.75	3.686	3.756	3.812	3.858	3.894	3.923	3.946	3.965	3.980	3.992
25.00	3.656	3.725	3.780	3.824	3.859	3.887	3.910	3.928	3.942	3.954

TABLE 1

RETURN ON INVESTMENT PERCENTAGE
 BASED ON R.O.I. FACTOR (FACILITY COST/AVRG. ANNUAL CASH FLOW)
 AND THE EXPECTED USEFUL LIFE OF THE NEW FACILITY
 01/06/84

R.O.I.	EXPECTED USEFUL LIFE IN YEARS									
	21	22	23	24	25	26	27	28	29	30
24.00	4.121	4.130	4.137	4.143	4.147	4.151	4.154	4.157	4.159	4.160
24.25	4.081	4.089	4.096	4.101	4.106	4.109	4.112	4.114	4.116	4.113
24.50	4.041	4.049	4.055	4.060	4.065	4.068	4.071	4.073	4.075	4.076
24.75	4.002	4.009	4.015	4.020	4.024	4.028	4.030	4.032	4.034	4.035
25.00	3.963	3.970	3.976	3.981	3.985	3.988	3.990	3.992	3.994	3.995

Table 2

Reference Annual Percent Return on Investment

<u>Year Construction Completed</u>	<u>Reference Percent Return</u>
1975	19.1
1976	19.8
1977	21.0
1978	21.9
1979	22.5
1980	23.0
1981	23.6
1982	23.4
1983	21.5
1984	19.9

Calculation of the reference percent return was made by averaging the average annual percent return before taxes on stockholders' equity for all manufacturing corporations as found in the Quarterly Financial Report for Manufacturing, Mining and Trade Corporations, published by the U.S. Department of Commerce, Bureau of the Census, for the five years prior to the year shown.

340-16-035 PROCEDURE TO REVOKE CERTIFICATION

- (1) Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, the Commission may order the revocation of the final tax credit certification if it finds that:
 - (a) The certification was obtained by fraud or misrepresentation or
 - (b) The holder of the certificate has failed substantially to operate the facility for the purpose of, and to the extent necessary for, preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or recycling or disposing of used oil as specified in such certificate, or has failed to operate the facility in compliance with Department or Commission statutes, rules, orders or permit conditions where applicable.
- (2) As soon as the order of revocation under this section has become final, the Commission shall notify the Department of Revenue and the county assessor of the county in which the facility is located of such order.
- (3) If the certification of a pollution control or solid waste, hazardous wastes or used oil facility is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax relief provided to the holder of such certificate by virtue of such certificate shall be forfeited and the Department of Revenue or the proper county

officers shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder under any provision of ORS 307.405, 316.097 and 317.116.

- (4) If the certification of a pollution control or solid waste, hazardous wastes or used oil facility is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further relief provided under ORS 307.405, 316.097 or 317.116 in connection with such facility, as the case may be, from and after the date that the order of revocation becomes final.

- (5) The Department may withhold revocation of a certificate when operation of a facility ceases if the certificate holder indicates in writing that the facility will be returned to operation within three years time.

340-16-040 PROCEDURES FOR TRANSFER OF A TAX CREDIT CERTIFICATE

To transfer a tax credit certificate from one holder to another, the Commission shall revoke the certificate and grant a new one to the new holder for the balance of the available tax credit following the procedure set forth in ORS 307.405, 316.097, and 317.116.

NOTE: Underlined _____ material is new. Bracketed [] material is deleted.

340-16-045 FEES FOR FINAL TAX CREDIT CERTIFICATION

(1) An application processing fee of one-half of one percent of the cost claimed in the application of the pollution control facility to a maximum of \$5,000 shall be paid with each application. However, if the application processing fee is less than \$50, no application processing fee shall be charged. A non-refundable filing fee of \$50 shall be paid with each application. No application is complete until the filing fee and processing fee are submitted. An amount equal to the filing fee and processing fee shall be submitted as a required part of any application for a pollution control facility tax credit.

(2) Upon the Department's receipt of an application, the filing fee becomes non-refundable.

(3) The application processing fee shall be refunded in whole if[:]

[(a) The Department determines the application is incomplete for processing and applicant fails to submit requested information within 180 days of date when the Department requested the information; or]

[(b)][The] the application is rejected[; or]

[(c) The applicant withdraws the application before final certification or denial by the Commission.]

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

[(4) The application processing fee shall be refunded in part if the final certified cost is less than the facility cost claimed in the original application. The refund shall be calculated by subtracting one-half of one percent of the actual certified cost of the facility from the amount of the application processing fee submitted with the application. If that calculation yields zero or a negative number, no refund shall be made.]

(4) [(5)] The fees shall not be considered by the Environmental Quality Commission as part of the cost of the facility to be certified.

(5) [(6)] All fees shall be made payable to the Department of Environmental Quality.

340-16-050 TAXPAYERS RECEIVING TAX CREDIT

(1) A person receiving a certificate under this section may take tax relief only under ORS 316.097 or 317.116, depending upon the tax status of the person's trade or business except if the taxpayer is a corporation organized under ORS chapter 61 or 62, or any predecessor to ORS chapter 62 relating to incorporation of cooperative associations, or is a subsequent transferee of such a corporation, the tax relief may be taken only under ORS 307.405.

NOTE: Underlined ____ material is new. Bracketed [] material is deleted.

- (2) If the person receiving the certificate is an electing small business corporation as defined in section 1361 of the Internal Revenue Code, each shareholder shall be entitled to take tax credit relief as provided in ORS 316.097, based on that shareholder's pro rata share of the certified cost of the facility.
- (3) If the person receiving the certificate is a partnership, each partner shall be entitled to take tax credit relief as provided in ORS 316.097, based on that partner's pro rata share of the certified cost of the facility.
- (4) Upon any sale, exchange or other disposition of a facility written notice must be provided to the Department of Environmental Quality by the company, corporation or individual for whom the tax credit certificate has been issued. Upon request, the taxpayer shall provide a copy of the contract or other evidence of disposition of the property to the Department of Environmental Quality.
- (5) The company, corporation or individual claiming the tax credit for a leased facility must provide a copy of a written agreement between the lessor and lessee designating the party to receive the tax credit and a copy of the complete and current lease agreement for the facility.
- (6) The taxpayer claiming the tax credit for a facility with more than one owner shall provide a copy of a written agreement between the owners designating the party or parties to receive the tax credit certificate.

THOMAS G. CLIFFORD
LEGISLATIVE COUNSEL



ATTACHMENT V
Agenda Item No.
12/14/84 EQC Meeting

STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

October 17, 1984

To: Office of the Director
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

From: Robert W. Lundy
Chief Deputy Legislative Counsel

Enclosed is a copy of our staff report ARR 5664, reflecting our review of rules of the Environmental Quality Commission relating to pollution control facility tax credits.

The staff report includes a negative determination under Question 1.

The Legislative Counsel Committee requests your response to that determination. The Committee wishes to consider that response when it considers the report at its next meeting.

We would appreciate receiving that response by November 6, 1984.

Encl.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
OCT 18 1984

OFFICE OF THE DIRECTOR

LEGISLATIVE COUNSEL
S101 State Capitol
Salem, Oregon 97310

ARR Number: 5664

October 12, 1984

Administrative Rule Review
REPORT
to the
Legislative Counsel Committee
(Pursuant to ORS 183.720)

State Agency: Environmental Quality Commission

Rule: Pollution control facility tax credits

These rules were filed with the Secretary of State on July 13, 1984, and became effective on that date.

The rules consist of new rules (designated OAR 340-16-005 to 16-050), amendments of existing rules (OAR 340-11-200, which appears to be new rule 16-045, and 340-26-001) and repeal of an existing rule (OAR 340-26-030).

The amendment of rule 26-001 and repealed rule 26-030 deal with tax credits for approved alternative field sanitation methods and facilities, a matter incorporated in the new rules. The new rules include provisions relating to purpose, definitions, procedures for receiving preliminary and final tax credit certification, qualification of facilities for tax credits, determination of percentage of certified facility cost allocable to pollution control, procedure to revoke certification, procedures for transfer of tax credit certificates, fees for final tax credit certification and taxpayers receiving tax credits.

The rules are described as "needed to carry out the statutory authority given the EQC to adopt rules and to provide better guidance to the DEQ staff, the EQC and tax credit applicants." The rules also purport to reflect changes in the statutes relating to the pollution control tax credit program made by the 1983 legislature.

DETERMINATIONS

(Questions 1 and 2 pursuant to ORS 183.720(3))

(Question 3 pursuant to request of Committee)

1. Does the rule appear to be within the intent and scope of the enabling legislation purporting to authorize its adoption? No, in part. The enabling legislation is ORS 468.020 and 468.150 to 468.190.
2. Does the rule raise any constitutional issue other than described in Question 1? No.
3. Does violation of the rule subject the violator to a criminal or civil penalty? Yes. ORS 468.140 (1)(c) imposes a civil penalty for violation of any rule of the commission adopted pursuant to ORS chapter 468, and that penalty may apply in respect to some provisions of these rules.

DISCUSSION AND COMMENT

Intent and scope of enabling legislation

Two provisions of these rules of the Environmental Quality Commission relating to pollution control facility tax credits appear to be inconsistent with pertinent statutory provisions and, for that reason, do not appear to be within the intent and scope of the enabling legislation.

The rule in question is new OAR 340-16-045, relating to fees for final tax credit certification. The rule provisions in question appear in subsections (3) and (4) of the rule, which read:

(3) The application processing fee shall be refunded in whole if:

(a) The Department determines the application is incomplete for processing and applicant fails to submit requested information within 180 days of date when the Department requested the information; or

(b) The application is rejected; or

(c) The applicant withdraws the application before final certification or denial by the Commission.

(4) The application processing fee shall be refunded in part if the final certified cost is less than the facility cost claimed in the original application. The refund shall be calculated by subtracting one-half of one percent of the actual certified cost of the facility from the amount of the application processing fee submitted with the application. If that calculation yields zero or a negative number, no refund shall be made.

The pertinent statutory provisions appear in ORS 468.165 (4) and (5), which read:

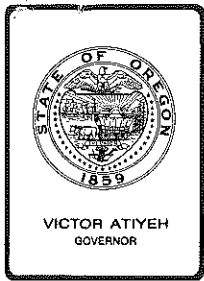
(4) The application shall be accompanied by a fee established under subsection (5) of this section. The fee may be refunded if the application for certification is rejected.

(5) By rule and after hearing the commission may adopt a schedule of reasonable fees which the department may require of applicants for certificates issued under ORS 468.170. Before the adoption or revision of any such fees the commission shall estimate the total cost of the program to the department. The fees shall be based on the anticipated cost of filing, investigating, granting and rejecting the applications and shall be designed not to exceed the total cost estimated by the

commission. Any excess fees shall be held by the department and shall be used by the commission to reduce any future fee increases. The fee may vary according to the size and complexity of the facility. The fees shall not be considered by the commission as part of the cost of the facility to be certified.

ORS 468.165 (4) permits an application fee to be refunded in whole only if the application for certification is rejected. The provisions in OAR 340-16-045 (3)(a) and (c) allowing the fee to be refunded in its entirety if the applicant fails to provide additional information or if the applicant withdraws the application before the commission approves or denies the certification appear to include instances for allowing a refund that are not permitted under the statute.

To the extent excess fees are refunded under subsection (4) of the rule, the rule appears to conflict with ORS 468.165 (5), which specifically addresses the disposition of excess fees by stating that "[a]ny excess fees shall be held by the department and shall be used by the commission to reduce any future fee increases."



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, December 14, 1984, EQC Meeting
Sewage Works Operator Training and Certification in Oregon--
Past, Present, and Proposal for the Future

Background

There are over 325 sewage treatment plants in Oregon. More than 850 people are employed to operate and maintain these facilities. Daily, these facilities collect and treat over 200 million gallons of sewage.

Oregon cities and special districts have spent in excess of one billion dollars to finance the construction of sewage collection, treatment and disposal facilities. Substantial additional monies are expended each year to operate and maintain these facilities. Development and maintenance of a qualified operator workforce in Oregon is a necessity if the investment in sewerage facilities is to be protected and state water quality objectives are to be achieved.

Beginning in 1952, the Oregon State Sanitary Authority (now DEQ), in conjunction with Oregon State University (OSU) and the League of Oregon Cities, started conducting annual training sessions for sewage treatment plant operators. Operators came from across the state to the OSU campus for intensive training in the principles of waste treatment. This program has continued to develop, evolve, and expand.

Oregon State University has recently discontinued its extensive participation in the operator training program. This decision, together with other changing conditions, makes it desirable to review the present program and establish its direction for the future.

Description of Present Training Efforts

Community College Programs

Linn Benton Community College and Clackamas Community College both have well developed first and second year associate degree programs in water supply and waste water technology. In addition to their enrolled students, both offer special workshops and training sessions concentrating on mathematics, laboratory procedures, microbiology, treatment process controls, pump maintenance and repair, disinfection, safety, etc. They also accept special training grants to be able to give special on-site training for selected facilities having special problems.

Linn Benton Community College has established an extensive library of water and waste water training aids under the name "Oregon Resource Center for Environmental Training" (ORCET). ORCET materials can be rented, purchased, or loaned for use in regional training activities.

The level of involvement in the programs at Linn Benton and Clackamas Community Colleges is approximately as follows:

1. First and second year associate degree programs in water/waste water technology at Linn Benton and Clackamas Community Colleges. Students enrolled 95
2. Workshops in basic Math, Lab, Process Control, Pumps, Chlorination, Safety, Microbiology, etc. Annual attendance at twenty to thirty workshops 550
3. Specialized on-site training for designated facilities through EPA grant assistance. Approximate number of facilities per year 10

Short Schools

A variety of "short schools" are sponsored each year to reach a broad spectrum of operators. Historically, the mainstay was the annual 3-day short school held at Oregon State University. As participation increased, the school was split into separate basic and advanced sessions. Sponsorship of these larger annual sessions has recently been picked up by the Oregon Region of the Pacific Northwest Pollution Control Association.

In addition to the larger short schools, DEQ conducts periodic smaller group seminars at various locations around the state. These are usually one or two days (depending on the needs of the operators) in length and are located at a treatment facility in the vicinity to minimize the travel of participating operators. These seminars tend to concentrate on smaller community facilities. Subject matter covered has included sewage lagoon biology, laboratory testing and reporting, aerobic digestion plant process control, disinfection, etc.

The level of participation in these short schools and seminars is approximately as follows:

1. Special process seminars conducted by DEQ staff at selected locations statewide. Total attendance at three to five seminars yearly 80
2. Annual operator sponsored three-day Short Schools attended by operators, laboratory technicians, collection system and maintenance personnel:
 - Clackamas Community College site, 1984 250
 - Southern Oregon Community College site, 1984 86

Individual Operator Assistance

Additional training opportunities are available to operators on an individual basis. Correspondence courses are available and are pursued by some operators.

DEQ also works with selected plant operators in a one-on-one basis as needed to respond to special problems. These efforts are frequently the result of small communities employing a new untrained operator. Other sessions are designed to assist an operator in trouble shooting and correcting operating problems.

The approximate number of individual training opportunities are as follows:

1. DEQ staff trouble shooting and one-on-one upgrading sessions requested by regional staff and plant personnel. Approximate number of facilities receiving technical assistance annually 50
2. Correspondence courses in "Operations of Waste Water Treatment Plants." Number enrolled 16

Coordination of Training Efforts

Water supply and waste water training efforts are coordinated by an informally established group called the Environmental Service Advisory Committee (ESAC). The ESAC Committee consists of representatives from the training institutions, industry, regulatory agencies, and municipalities. The secretary is a standing member from the State Department of Education representing vocational education. Training needs for other state agencies such as DEQ, State Health Division, and Department of Energy, have been identified on a statewide basis.

ESAC reviews and evaluates all training courses and provides for the Continuing Education Unit (CEU) credit to be awarded to trainees upon successful completion of recognized and approved training courses. For all waste water plant operators, the record of those credits is currently maintained by the DEQ representative on the ESAC Committee.

Operator Certification

Operator Certification is provided through a voluntary program that was developed and placed in operation on May 5, 1956. The operators, in conjunction with Oregon State University, Oregon State Board of Health, Oregon State Sanitary Authority (DEQ), and the Pacific Northwest Pollution Control Association organized the certification program.

The purpose of the certification program is to provide a system whereby people in the waste water works profession can be examined and rated by qualified persons in their own field, thereby establishing a standard of proficiency for those occupying the position of waste water treatment works operator.

Employers can use certification as partial indication of qualification for operator positions. The committee responsible for administering the certification program has consisted of 6 plant operators who serve two-year terms, a standing DEQ staff member, and a standing member to serve as secretary. The secretary of the committee, since its creation, has been a staff member of the OSU Civil Engineering faculty.

Since 1956, over 2,500 certificates have been issued. A total of about 600 operators are currently certified in one or more of four levels. About 100 to 200 certificates are issued annually based on results of examinations (given 2 times per year) or by reciprocity with other states. Until recently, all records from the beginning of this program have been kept by the OSU Civil Engineering Department.

Evaluation of Present Programs

The sewage works operator training and certification programs have made very effective use of resources available. This has been accomplished through an informal structure relying on DEQ staff personnel as well as those engaged in providing training opportunities. A close relationship has existed between DEQ staff and OSU Civil Engineering staff. Costs of the training program have been supported in part by registration fees.

Martin Northcraft, Associate Professor of Civil Engineering at OSU, has served as Secretary of the Certification Program and provided overall support and coordination for these training activities for over twenty years. Professor Northcraft is retiring at the end of 1984. Oregon State University has made the decision to discontinue its allocation of resources to the program. It will no longer host annual short schools or provide a staff person to serve as secretary of the certification program.

This change creates a need for providing a more formal coordinating structure between the Department and other agencies and institutions who conduct training courses and staff support for the certification program.

The continuing need for operator training is recognized by EPA. Sections of the Federal Clean Water Act authorize funds for training efforts. Section 109(b) authorizes the state to use up to \$500,000 of its Sewage Works Construction Grant allocation for construction of a "State Training Center."

With the variety of training opportunities and facilities currently available, the construction of a training center has not been pursued and does not appear to be essential. Other sections of the Federal Clean Water Act authorize funds for operation of training programs. In order to make the best use of any funds that may be appropriated by Congress, a state training coordination group is needed to receive and/or direct grant funds to the appropriate institution or training efforts.

In anticipation of Professor Northcraft's retirement, a search to locate a new secretary for both the water supply and waste water operator certification programs was initiated in early 1983. A number of proposals were

evaluated by the two committees. John Stoner, a retired sanitarian from Lane County, was selected to pick up the certification secretary duties. Through the American Water Works Association, a two-year federal grant was secured to help the transition. The move was made in July and August of 1983. The Oregon Region of the Pacific Northwest Pollution Control Association also provided some front-end funds from their training programs to help get an office established.

After one year of operating experience away from the University, it appears that additional support for the certification program may be necessary. Even with substantial increases in annual certification renewal and examination fees, the water and waste water programs will have to rely on some other sources of revenue. Dedication of some training registration fees to help fund the certification program has been identified as one possible source. Further EPA grant assistance for this purpose does not appear likely.

Proposed Operator Training and Certification Program

In order to continue to make maximum use of training resources and facilities available through community colleges, agencies, and operator organizations, a coordinating committee, patterned after the existing informal ESAC committee, should be formally established. Since multiple state agencies should be involved, an Executive Order from the Governor could be an appropriate vehicle to formalize such a committee. Formal establishment of a coordinating committee for sewage works operator training could also be accomplished by Commission Rule but may be less effective.

Such a committee should consist of a chairperson from an agency such as the State Department of Education, one representative from both the water supply and waste water field, one representative from each state agency with oversight responsibility, and the secretary of the water and waste water operator certification programs.

The role of this committee should be to act as a statewide coordinator on such matters as:

- a. Determining where and what types of training are needed to keep pace with changing technology and environmental regulations.
- b. Determining how and when various courses can best be scheduled to make most efficient use of all training resources available.
- c. Allocating grant funds that may become available for training.

The Department should continue to support the current voluntary operator certification program and its operation through a joint water and waste water operator certification committee. If sufficient funding to support the costs of the secretary of the certification committee and operation of the certification program cannot be raised through fees and other sources, the Department should consider assuming the secretarial functions for waste water operator voluntary certification as an integral part of the Department operator training and assistance functions.

Summation

1. Training and certification programs for waste water treatment plant operators dating from 1956 have been extensive and good. The value of these programs is well documented.
2. Hundreds of operators from Oregon communities have participated in both programs.
3. In the past, these programs have relied heavily on informal support from Oregon State University and other training facilities.
4. Support from OSU will not be available after the retirement of Professor Martin Northcraft in December 1984.
5. The operator training and certification programs should be continued largely in their current form--relying on a variety of existing training opportunities.
6. A coordination committee should be formalized to oversee training activities and assure appropriate and efficient use of resources.
7. The continuation of the voluntary operator certification program should be supported.

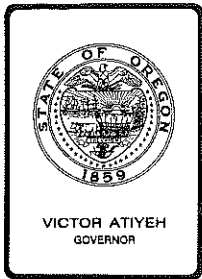
Director's Recommendation

Based on the summation, it is recommended that the Environmental Quality Commission:

1. Provide an expression of support for continuation of the training and certification programs for waste water treatment plant operators.
2. Authorize the Department to seek an Executive Order to designate a statewide training committee to provide overall direction and coordination of state training programs.


Fred Hansen

E. R. Lynd:l
WL3874
229-5371
November 29, 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. G, December 14, 1984, EQC Meeting

Proposed Adoption of Hazardous Waste Generator Fees,
OAR 340-102-060

Background

In anticipation of declining federal fund support for the hazardous waste program, the Department sought authority from the 1983 Legislature to assess hazardous waste generator fees. Although the authority was granted (see ORS 459.610), a budget note limited its use to funding adequate staff to achieve authorization of the state program rather than expand into new program areas. Through June 30, 1984, adequate federal funds were available to maintain legislatively approved staff of 15.40 full time equivalents (FTE). Maintaining a staff of 14.90 FTE (a 0.5 FTE reduction in the area of public participation/public education) for the fiscal year that ends June 30, 1985, results in a projected deficit of approximately \$115,000 (see Figure 1) if generator fees are not implemented.

Although Congress recently voted additional funding for state hazardous waste programs, restrictions are attached to these funds that make their availability to Oregon limited at best; if available, they probably cannot be used to maintain existing program activities. Furthermore, for the past two years Alaska did not utilize its base federal grant funds. Instead, Alaska's allotment was distributed as supplementary funding to the other EPA - Region 10 states, including Oregon. This year, Alaska is applying for its full allocation; hence, Region 10 will have no supplementary funds to reprogram.

Also complicating Oregon's dilemma is a recent EPA - Region 10 Audit and Capability Assessment that identifies a lack of resources and expertise to properly carry out the permitting activities required of an equivalent state hazardous waste program. EPA estimates at least two additional persons are needed to handle the projected permitting workload. They also expect to see expertise developed in the area of hydrogeology.

In planning for the hazardous waste permitting workload several years ago, the Department expected one person to handle five to ten permit applications per year, based on its experience with major new facilities in

the Air and Water Quality permitting programs. EPA, on the other hand, is currently using the following workload measures for hazardous waste permitting:

<u>Hazardous Waste Permit Type</u>	<u>Workload Measure</u>
Disposal sites, surface impoundments, waste piles	2.3 person-years per permit
Incinerators	1.6 person-years per permit
Storage	0.6 person-years per permit

The reason for the apparent difference is that, once issued, a federal hazardous waste permit operates in lieu of the administrative rules upon which it was based (permit-as-a-shield). To insure the permit can operate in lieu of the rules, a very detailed and comprehensive permit application is needed. To verify its completeness, a very thorough review of an application is performed by EPA. Even though EPA does not expect states to adopt the "permit-as-a-shield" concept, they are expecting states to still require comprehensive applications and to complete thorough reviews as if EPA were doing the work. Consequently, just to implement an equivalent state program requires more staff than DEQ budgeted for.

Additionally, groundwater protection is probably the single most important element of EPA's hazardous waste program. Any facility potentially impacting groundwater must install a comprehensive groundwater monitoring program. States are expected to have specific hydrogeologic expertise to evaluate any proposed groundwater monitoring program submitted as part of a permit application. The Water Resources Department is not adequately staffed to handle this major new workload as well as ongoing Department requests for technical assistance and support.

Therefore, if the Department is to continue to actively pursue Final Authorization, the Department needs additional staff to implement an equivalent state program in the area of permitting. An additional \$50,000 is needed for the remainder of this biennium to hire the staff necessary to properly carry out proposed permitting activities. Added to the \$115,000 previously identified means the hazardous waste generator fees need to raise \$165,000 per year.

On November 9, 1984, the Legislative Emergency Board approved Department requests to assess generator fees to fund existing staff and add two limited duration permitting positions. By these actions, the Emergency Board agreed with the Department that the proposed fees were being used consistent with a budget note limiting their use to gaining Final Authorization rather than expanding into new program areas.

On November 19, 1984, public hearings on the proposed fee schedule were held in Portland and Eugene as authorized on November 2, 1984. Sixteen persons attended the Portland hearing and six written comments were received. No one attended the Eugene hearing. Of those persons formally commenting, five were primarily in favor of the proposed rule while eight were primarily opposed. Those opposed felt a different formula should be used (per ton charge at disposal sites or flat fee); more general funds should be put into program and wastes that are used, reused, recycled or reclaimed should be exempted or at least be given preferential treatment. Additional comments received were that a unit of measure conversion table should be included and that on a dollar per cubic foot basis there did not seem to be internal consistency in the rate schedule. Specifically on this latter point, Table 1 was submitted:

Table 1

<u>Generator Rate</u> <u>(cu.ft./yr.)</u>	<u>Fee</u> <u>(dollars)</u>	<u>Average</u> <u>Generator Rate</u> <u>(cu.ft./yr.)</u>	<u>Dollars</u> <u>per cu.ft.</u>
<35	--	--	--
35-99	\$ 150	67	2.24
100-499	375	299	* * 1.25 * *
500-999	1,500	749	* * 2.00 * *
1,000-4,999	2,250	2,999	.75
5,000-9,999	5,250	7,499	.70
>10,000	7,500	15,000	.50

In addition to public testimony, the Department introduced revised hazardous waste generation data. In preparing the November 2, 1984 EQC staff report, the Department was only able to summarize information on waste receipts at the Arlington disposal site (see Table 2). Since then the Department has been able to write the necessary computer programs to also summarize data on waste shipped out of state and to treatment facilities. This new data significantly increased the number of generators and volume of waste generated as shown in Table 3.

Table 2

Preliminary 1983 Data
 Based on Disposal Site Waste Receipts

<u>Generation Rate</u> <u>(cu.ft./year)</u>	<u>Fee</u> <u>(dollars)</u>	<u>Number of</u> <u>Generators</u>	<u>Estimated</u> <u>Revenue</u> <u>(dollars)</u>
<35	--	59	--
35-99	\$ 150	28	\$ 4,200
100-499	375	41	15,375
500-999	1500	21	31,500
1,000-4,999	2250	25	56,250
5,000-9,999	5250	6	31,500
>10,000	7500	6	45,000
		Totals - 186	\$183,825

Table 3

Revised 1983 Data
 Includes Treatment Waste Receipts and Out-of-State Shipments
 Excludes PCBs and Industrial Wastes

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>	<u>Number of Generators</u>	<u>Estimated Revenue (dollars)</u>
<35	--	63	--
35-99	\$ 150	51	\$ 7,650
100-499	375	62	23,250
500-999	1500	33	49,500
1,000-4,999	2250	29	62,250
5,000-9,999	5250	7	36,750
>10,000	7500	<u>13</u>	<u>97,500</u>
		Totals - 258	\$279,900

The Commission is authorized to adopt a schedule of hazardous waste generator fees by ORS Chapter 468, including 468.020; 459, including 459.440 and 459.610 and 183. A statement of need for rulemaking is Attachment II to this report.

Alternatives and Evaluation

Using information from Figure 1 for FY 83-85 estimated expenditures, and adding in an additional \$43,562 of direct program cost for two limited duration positions, reveals the following proportionate funding of the hazardous waste program:

<u>Revenue Source</u>	<u>Direct Program Costs</u>	<u>Percent of Program Support</u>
Generator Fees	\$ 139,086	10.0
Permit Fees	222,130	16.0
Federal Funds	875,800	63.5
General Funds	<u>144,316</u>	<u>10.5</u>
Total	\$1,381,332	100

Although the Department may agree that more general funds should be used to support the hazardous waste program, as a practical matter the Governor's office and Legislature have previously determined that the program must be supported principally through fees and federal funds. Fees collected from treatment and storage permittees were purposefully set low so as to not act as a further deterrent to recycling. Fees from disposal sites have been set high enough to recover most of the Department's cost. The Public Utility Commissioner supports the hazardous waste transporter inspection program principally through a weight/mile tax. Hazardous waste generators, on the other hand, have not been required to pay for any portion of the hazardous waste regulatory program to date.

Recognizing that generator fees would ultimately be required, the Department in early 1982 worked with a task force on the issue of hazardous waste generator fees. Several alternative fee schedules were considered:

1. A per-ton charge at disposal facilities.
2. A flat fee for each registered generator.
3. A flat fee plus a variable fee based on waste generation.
4. A variable fee based on waste generation.

Even though alternative 1 would be the easiest to administer, the task force felt it inappropriate to pass the Department's generator compliance and enforcement program costs through to out-of-state generators (about 80% of the waste coming to Arlington is from out-of-state). The Department believes this is still a valid concern even though we received testimony to the contrary. There was also concern that a fairly large per-ton charge would place the disposal site at a competitive disadvantage with other similar sites, reducing revenue that would go toward proper management. The disadvantage of alternative 2 is that on a per-unit of waste produced basis, small companies would be paying substantially more for the same services that a larger generator would receive. As with alternative 2, alternative 3 would still impact small businesses, but not to the same extent. Alternative 4, on the other hand, minimizes the impact on small businesses while assessing the program costs on the basis of waste generation. After all things were considered, the task force recommended that any hazardous waste generator fee be based solely on the amount of hazardous waste generated (see Task Force Recommendation - Attachment I).

The Department agrees that the fee should be based on waste produced. It should also be noted that by basing it on waste generated, the fee most closely parallels the levels of effort put forth by the Department in dealing with the various hazardous waste generators. Based on preliminary 1983 waste generation rates, the fee schedule shown in Table 2 was identified in the November 2, 1984 staff report.

Based on revised 1983 waste generation rates that include out-of-state shipments and shipments to treatment facilities, the Department has determined that the proposed schedule can be reduced by one-third and still generate the estimated \$165,000 needed to maintain program and expand staff to meet minimum EPA expectations for permitting and Final Authorization, accommodate annual fluctuations in rates of generation and provide a small carryover into the next biennium. The revised schedule, including a correction for the anomaly in the dollar-per-cubic-foot analysis, is shown in Table 4.

Table 4

Revised 1983 Data
 Based on Fee Schedule Reduced by 1/3

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>	<u>Number of Generators</u>	<u>Estimated Revenue (dollars)</u>
<35	--	63	--
35-99	\$ 100	51	\$ 5,100
100-499	350	62	21,700
500-999	625	33	20,625
1,000-4,999	1500	29	43,500
5,000-9,999	3500	7	24,500
>10,000	5000	<u>13</u>	<u>65,000</u>
	Totals -	258	\$180,425

Table 5 shows the dollar-per-cubic-foot analysis for the revised schedule, a flat fee required to raise \$180,425 and the dollar-per-cubic-foot cost to small generators associated with a flat fee.

Table 5

Dollars-per-Cubic-Foot Analysis

<u>Average Generator Rate (cubic feet)</u>	<u>Sliding Scale Fee Dollars</u>	<u>Dollars per cubic foot</u>	<u>Flat Fee Dollars</u>	<u>Dollars per cubic foot</u>
<35	--	--		
67	100	1.49	970	14.48
299	350	1.17	970	3.24
749	625	0.83	970	1.30
2,999	1,500	0.50	970	0.32
7,499	3,500	0.46	970	0.13
15,000	5,000	0.33	970	0.06

Since the additional \$50,000 funds the added staff for only a six-month period (January through July), an adjustment to this fee schedule, or the treatment, storage and disposal fee schedule adopted May 18, 1984, will be needed before July 1, 1985, to carry the positions on a full-time (12 month) permanent basis, if these positions are authorized as a part of the Department's FY 85-87 budget. The Department proposes returning to the Commission in March-April 1985 to recommend how to fund these two positions for a full year.

As to the concern that fees should not be collected based on waste that is used, reused, recycled or reclaimed, it is important to note that the program currently regulates these materials until they reach the use, reuse, recycle or reclamation facility. Consequently, the Department is expending compliance and enforcement effort to insure hazardous waste generators and transporters are properly managing waste prior to its actual use, reuse, recycle or reclamation. For this reason, the Department believes it appropriate to include those wastes in the annual waste generation amount subject to a fee.

Summation

1. The Department has determined that to maintain the hazardous waste program at its current staffing level of 14.90 FTE, a deficit of approximately \$115,000 would accrue by June 30, 1985. This deficit requiring generator fees is principally due to less federal fund support for the base program.
2. The Department and EPA have also determined that to operate an equivalent hazardous waste program, 2.0 additional FTE are needed to properly handle the permitting activities. Expertise in the area of hydrogeology is also needed to evaluate those facilities conducting groundwater monitoring programs.
3. On November 9, 1984, the Legislative Emergency Board approved Department requests for instituting hazardous waste generator fees to maintain program and add two limited duration positions in hazardous waste permitting.
4. Hazardous waste generator fees and/or treatment, storage and disposal fees will have to be increased prior to July 1, 1985 to support the added staff on a permanent basis, if the positions are authorized by the Legislature.
5. Public hearings were held on November 19, 1984 in Portland and Eugene.
6. The Department has determined that a fee schedule based on volume is the most equitable, best reflects compliance and enforcement effort required of the Department, and represents a lower actual cost to small generators than would a flat fee.
7. As a result of new information assembled by the Department, the proposed fee can be reduced by one-third (1/3) and still generate the estimated \$165,000 needed to operate an equivalent state program.
8. The Commission is authorized to adopt such rules by ORS Chapter 468, including 468.020; 459, including 459.440 and 459.610; and 183.

Director's Recommendation

Based upon the Summation, it is recommended that the Commission adopt the proposed hazardous waste generator fee schedule (OAR 340-101-060).



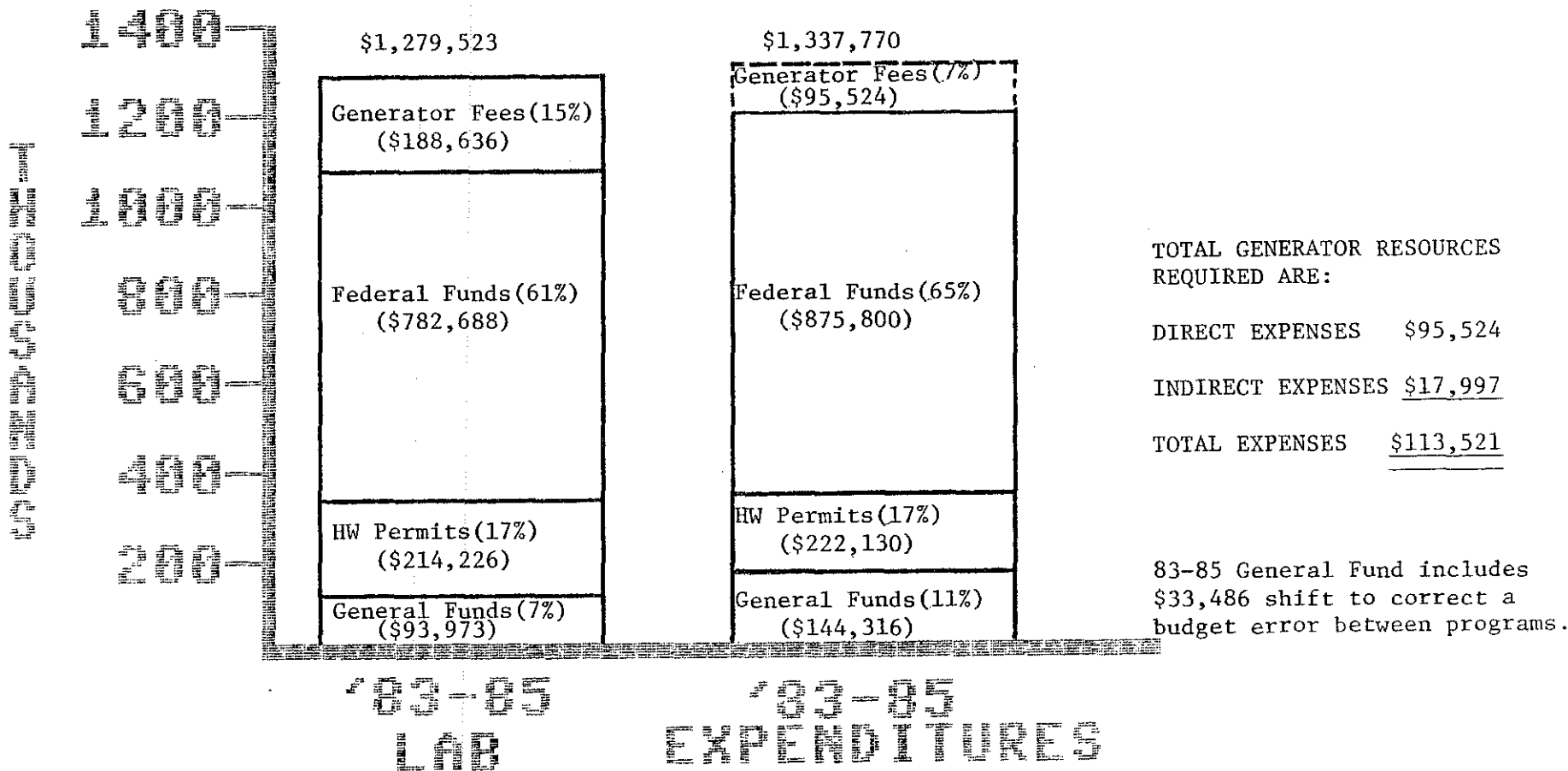
Fred Hansen

- Attachments:
- I. July 13, 1982 Task Force Resolution on Permit and Generator Fees
 - II. Statement of Need and Fiscal Impact
 - III. Hearing Notice
 - IV. Land Use Consistency Statement
 - V. Hearing Officer's Report - Portland Hearing
 - VI. Hearing Officer's Report - Eugene Hearing
 - VII. Proposed Rule OAR 340-105-075

Richard P. Reiter:b
229-6434
November 21, 1984
ZB3996

FIGURE 1

DEPARTMENT OF ENVIRONMENTAL QUALITY
 HAZARDOUS WASTE PROGRAM
 1983-85 APPROVED BUDGET & ESTIMATED
 EXPENDITURE BY FUND*



*Exclusive of indirect cost assessments

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: DEQ Task Force

DATE: July 13, 1982

FROM: Jack Johnston, VW&R
Tom Donaca, AOI
Roger Nelson, CSSI

SUBJECT: Permit and Generator Fees Financing a Portion of DEQ's Hazardous Waste Program

The Task Force has concluded that it is in the state's best interest to maintain a strong, viable state program (in lieu of a federal program run by EPA). In line with this conclusion, this subcommittee has reviewed the estimated financial needs of the DEQ to conduct such a program. We note at the outset that the estimated needs from other funds, due to anticipated reduction in federal and state funds, will tend to cause fees of some magnitude due primarily to the small number of generators and operators of storage, treatment, and disposal facilities (less than 250). If such estimated funds are necessary to carry on the Hazardous Waste Program, then the following financing recommendations are made:

1. Every effort shall be made to arrive at a more equitable balance between general, other, and federal funding of the hazardous waste program. Since October, 1979 (federal FY 80), a disproportionate share of federal funds have been used to implement this state program (supported 12.35 FTE during FY 82). Conversely, due to strains on state general funds, a disproportionate share of general (supported 1.0 FTE) funds have been used. Other funds in the form of an annual license fee at the state's only hazardous waste disposal site have supported 2.0 FTE.
2. Even in these very difficult financial times for the State of Oregon, the general fund support for the hazardous waste program should be increased by at least 3.0 FTE.
3. Constant efforts shall be made to run an efficient, cost-effective program. Cost saving ideas have been identified which could lead to very significant budget reductions as the Hazardous Waste Program matures in future years. A cost/benefit analysis should be completed so these ideas can be implemented.
4. Fees should be established on the basis of services rendered similar to Attachment 1, except that companies that hold multiple licenses (i.e., storage, treatment and/or disposal) shall only be charged one fee (that fee being the single highest fee from the storage, treatment or disposal schedule) plus a flat fee of \$250

for each additional licensed activity. Further, storage, treatment, and disposal license fees shall not be so high as to drive these essential activities out of business. Other funding sources, including state general and federal funds should be used to fund the balance of the program.

5. As in air and water discharge permits, license fees shall be limited to the following uses:
 - A. Issuance and renewal of licenses
 - B. Inspections and environmental monitoring
 - C. Compliance and enforcement activities, including manifest and other record reviews
 - D. Administrative costs associated with A, B, and C above

6. A generator fee schedule shall be developed and limited to the following uses:
 - A. Generator registration activities
 - B. Inspections and environmental monitoring
 - C. Compliance and enforcement activities, including manifest and other record reviews
 - D. Administrative costs associated with A, B, and C above.

NOTE: The Department shall make every effort to avoid multiple-counting of a waste stream when assessing the generation fee. For example, a generator sends waste solvent to a recycler. By definition, the recycler becomes a generator of that portion of the waste solvent not recoverable. Since the original generator has already paid a fee on generation, and the recycler will be paying a treatment site license fee, the Department should not charge another fee on the residue from the treatment process.

7. As with air and water discharge permits, license and generator fees shall be set by the EQC within guidelines established by statute and budgets adopted by the legislature.

HAZARDOUS WASTE FEE SCHEDULE

Disposal Site

	FY 84	FY 85
Direct service	65,560	70,150
Monitoring	12,735	13,626
Administration	<u>21,854</u>	<u>23,383</u>
Totals	100,149	107,159
	Average 103,654/year	

Storage & Treatment Sites

Treatment

<u>Facility Size</u>	<u>Number of Facilities</u>	<u>Fee</u>	<u>Revenue</u>
<25 gal/hr still cap or 50,000 gal/day other cap.	5 (est.)	250	1,250
25-200 gal/hr still cap or 50,000 to 500,000 gal/day other cap.	3	1,000	3,000
>200 gal/hr still cap. or >500,000 gal/day other cap.	2	2,500	5,000

Storage

<u>Facility Size</u>	<u>Number of Facilities</u>	<u>Fee</u>	<u>Revenue</u>
5-55 gal/drums or 250 gallons bulk	10 (est.)	250	2,500
5 to 250 - 55 gal/ drums or 250 to 10,000 gallons bulk	5	1,000	5,000
>250 - 55 gal/drums or >10,000 gallons bulk	1	2,500	2,500
<u>TOTAL (storage & treatment)</u>			\$19,250

Generators

Generation Rate (cubic feet)	Fee Dollars	1980 Data		1981 Data	
		Number of Generators	Revenue (Dollars)	Number of Generators	Revenue (Dollars)
<35	-	6	-	10	-
35-99	100	8	800	14	1,400
100-499	250	17	4,250	33	8,250
500-999	1,000	12	12,000	18	18,000
1,000-4,999	1,500	20	30,000	15	22,500
5,000-9,999	3,500	6	21,000	7	24,500
>10,000	5,000	8	<u>40,000</u>	12	<u>60,000</u>
			\$108,050		\$134,650
			Average		\$121,350

TOTALS

Disposal site fee	\$103,654
Storage & Treatment Site Fees	19,250
Generator Fees	<u>121,350</u>
	\$244,254

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

In the Matter of the Adoption of)	Statutory Authority,
Hazardous Waste Generator Fees)	Statement of Need, Principal
(OAR 340-102-060))	Documents Relied Upon, and
)	Statement of Fiscal Impact

1. Citation of Statutory Authority

ORS Chapter 468, including 468.020; 459, including 459.440 and 459.610; and 183, which allow the Environmental Quality Commission to adopt rules pertaining to hazardous waste management. Specifically, ORS 459.610 authorizes the assessment of generator fees to carry on a hazardous waste monitoring, inspection and surveillance program and related administration costs.

2. Statement of Need

In order to maintain its current hazardous waste program, the Department of Environmental Quality needs to raise an additional \$115,000 for FY 84 (July 1, 1984 to June 30, 1985). In order to upgrade its current program to EPA expectations for Final Authorization, the Department needs to raise an additional \$50,000 to add 2 persons in the area of permitting treatment, storage and disposal facilities. The Department is proposing to raise this revenue through an annual fee on the volume of hazardous waste generated by Oregon companies.

3. Principal Documents Relied Upon in this Rulemaking

- a. ORS Chapter 459, including 459.440 and 459.610
- b. Resolution on Hazardous Waste Fees by the DEQ Task Force on Rules on Program Direction - July 13, 1982

4. Statement of Fiscal Impact

This action will have fiscal and economic impact upon persons and companies generating hazardous waste in excess of 35 cubic feet per year (approximately five 55-gallon drums per year). Such persons and companies will be assessed a fee to cover the Department's cost for monitoring, inspecting and surveillance of waste generation activities, including related administrative costs (i.e., generator registration; review of quarterly generator reports; review of contingency plans, emergency preparedness plans and training programs). Small businesses generating less than 35 cubic feet per

year are exempted from regulation and will pay no generator fee. Businesses generating greater than 35 cubic feet per year will be assessed a fee based on their waste generation rate with larger generators paying a greater percentage of the Department's costs. The Department expects to generate \$165,000 per year with the smallest fee being \$150 and the largest fee being \$7,500. Approximately 125 to 200 Oregon companies in the fields of electronics, metal plating, metal fabricating and pesticide formulation will be affected.

ZC1800.1

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Hazardous Waste Generator Fees

Date Prepared: October 10, 1984
Hearing Date: November 19, 1984
Comments Due: November 19, 1984

WHO IS AFFECTED: Persons and companies generating more than 35 cubic feet of hazardous waste per year (approximately five 55-gallon drums).

WHAT IS PROPOSED: The Department is proposing to adopt by rule hazardous waste generator fees. The fees would be used to maintain existing staff levels as well as add 2 persons to address a resource deficiency identified by EPA as an impediment to Final Authorization.

WHAT ARE THE HIGHLIGHTS: According to the following schedule, the fee would vary based on the amount of hazardous waste generated:

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>
<35	--
35-99	\$ 150
100-499	375
500-999	1500
1,000-4,999	2250
5,000-9,999	5250
>10,000	7500

HOW TO COMMENT: Public Hearings
Monday, November 19, 1984

10:00 a.m.
DEQ Headquarters
Room 1400
522 SW Fifth Ave.
Portland, OR

9:00 a.m.
Lane County Courthouse
Conf. Rooms B and C
(Cafeteria Conference Rm.)
8th & Oak St.
Eugene, OR

Written comments should be sent to the Department of Environmental Quality, Solid Waste Division, PO Box 1760, Portland, OR 97207, by November 19, 1984.

WHAT IS THE NEXT STEP: The Environmental Quality Commission may adopt a fee schedule identical to the one proposed, adopt a modified schedule as a result of the hearing testimony, or decline to adopt a fee schedule.

Statement of Need, Fiscal Impact, Land Use Consistency, Statutory Authority and Principal Documents Relied Upon are filed with the Secretary of State.



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



Before the Environmental Quality Commission
of the State of Oregon

In the Matter of the Adoption of) Land Use Consistency
Hazardous Waste Generator Fees,)
OAR Chapter 340, Section 102-060)

The proposal described herein appears to be consistent with statewide planning goals. This proposal appears to conform with Goal No. 6 (Air, Water and Land Resources Quality) and Goal No. 11 (Public Facilities and Services). There is no apparent conflict with the other goals.

With regard to Goal No. 6, the proposal would establish a schedule of hazardous waste generator fees. The fees will help support the Department's existing regulatory program. The proposed fees are necessary to assure continued protection of public health and safety, and the air, water and land resources of the state. This action by definition complies with Goal No. 6.

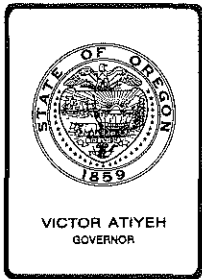
With regard to Goal No. 11, the proposed fees would allow the Department to conduct inspections and investigations to ensure that hazardous waste generators are properly managing their waste and using only authorized treatment, storage and disposal facilities.

Public comment on these proposals is invited and may be submitted in the manner described in the accompanying NOTICE OF PUBLIC HEARING.

It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts brought to our attention by local, state or federal authorities.

After public hearing the Commission may adopt a fee schedule identical to the one proposed, adopt a modified schedule as a result of hearing testimony, or decline to adopt a fee schedule. The Commission's deliberation should come in December 1984 as part of the agenda of a regularly scheduled Commission meeting.



Attachment V
Agenda Item No. G
12/14/84 EQC Meeting

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 Reiter, Hearings Officer
Subject: Agenda Item No. G, December 14, 1984 EQC Meeting

Summary of Public Testimony on Proposed Adoption of Hazardous Waste Generator Fees, OAR 340-102-060

Pursuant to notice, a hearing was conducted on November 19, 1984 in Room 1400 of the Department's offices in Portland, Oregon to receive testimony on the Department's proposal to assess hazardous waste generator fees to partially fund the Hazardous Waste Program. The hearing was authorized by the EQC on November 2, 1984. Sixteen persons in addition to DEQ staff attended. Of the eight public persons offering testimony, three were primarily in favor, four were primarily opposed and one person indicated no preference but had a suggestion to make. Of six written comments received, two were primarily in favor and four were primarily opposed.

The Department opened the hearing by introducing two documents that have a bearing on this proposed rulemaking. Exhibit I was the result of Legislative Emergency Board action of November 9, 1984 approving the Department's proposals to assess \$95,525 in generator fees to support existing staff and \$43,562 in additional generator fees to hire two staff to accomplish hazardous waste permitting. By these actions, the Emergency Board has given the Department the necessary authorization to expend other funds that would be collected from a fee program adopted by the Commission. Exhibit II reflects a more complete analysis of hazardous waste generation during calendar year 1983. At the time the Department prepared its November 2, 1984 staff report, only information on waste disposal receipts was accessible for complete analysis. Since that time, the necessary programming has been done to also computer analyze information on out-of-state shipments and wastes sent to treatment facilities. As a result of this more complete analysis, the Department concluded that a fee schedule of two-thirds would still raise the projected revenue of approximately \$185,000.

Verbal and written public testimony raised the following issues:

- (1) The legislature should be requested to provide more general fund support for the program before fees are actually imposed. General funds more equitably distribute the cost to all Oregonians since all Oregonians benefit by having a strong state program.
- (2) A per ton charge at commercial disposal sites should be instituted since that would have the affect of distributing program costs to out-of-state generators as well as in-state generators. Furthermore, insufficient information seems to exist to support the task force's conclusion that additional fees at Arlington may create a competitive disadvantage for the site operator.
- (3) A fee schedule based solely on volume tends to penalize high volume, low hazard wastes. A more equitable schedule should incorporate a degree of hazard approach. No alternate schedule was offered, however, at this time.
- (4) A question was raised on the merits of including used, reused, recycled or reclaimed wastes when calculating which fee a particular company would pay. To not serve as a disincentive to use, reuse, recycling and reclamation, it was suggested that these wastes be excluded when determining what fee a company would pay.
- (5) Since different wastes are manifested using different units of measure (i.e., pounds, gallons, tons, cubic feet, etc.), the Department should provide conversion tables so that companies might be able to reconstruct how the Department determined a particular company's waste generation.
- (6) Evaluating the proposed fee schedule on page 3 of the November 2, 1984 EQC staff report on a dollar per average cubic foot basis reveals an apparent inconsistency in the 100-499 and 500-999 schedule. While in general, the dollar per average cubic foot decreases with increased volume just the opposite happens for the above two mentioned categories as shown below:

<u>Generation Rate</u> <u>cu. ft./year</u>	<u>Fee</u> <u>(Dollars)</u>	<u>Average Generation</u> <u>Rate</u>	<u>Dollars</u> <u>Per cu. ft.</u>
<35	--	--	
35-99	150	67	2.24
100-499	375	299	** 1.25 **
500-999	1,500	749	** 2.00 **
1,000-4,999	2,250	2,999	.75
5,000-9,999	5,250	7,499	.70
>10,000	7,500	15,000	.50

EQC Agenda Item No. G
December 14, 1984
Page 3

- (7) Three of the commenters recommended a flat fee, or flatter fee schedule, on the theory that on a dollar per cubic foot basis it would be more equitable to the small generator.

In addition to testimony, the hearings officer accepted questions of clarification during the course of the hearing. Answers were given where the information was known.

Attachments

Richard P. Reiter:b
229-6434
November 20, 1984
ZB3992

EXHIBIT I

A G E N D A

EMERGENCY BOARD SUBCOMMITTEES

Thursday, November 8, 1984

10:30 a.m.

General Government - Room H177

Senator Potts, Chairman
Senator Brown
Representative Gilmour
Representative Mason
Representative Hanneman

Education - Room H174

Senator Ripper, Chairman
Senator Thorne
Senator Trow
Representative Jones
Representative Fawbush

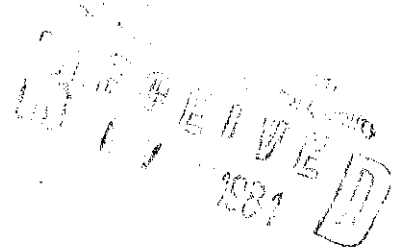
Human Resources - Room H170

Representative Katz, Chairperson
Representative Van Vliet
Representative Bauman
Senator Meeker
Senator McCoy

General Government Subcommittee - Room H177

Agenda Item

- 1 Judicial Department
- 6 Department of Agriculture
- 4-a Executive Department
- 4-b " "
- 4-c " "
- 4-d " "
- 4-e " "
- 4-f " "
- 4-g " "
- 5-a Department of General Services
- 5-b " " "
- 8 Department of Veterans' Affairs
- Secretary of State (possible rules suspension)



Education Subcommittee - Room H174

Agenda Item

- 2 Department of Education
- 3 Legislative Administration Committee
- 13-a Division of State Lands
- 13-b " " "
- 7-a Economic Development Department
- 7-b " " "
- 7-c " " "
- 11-a Department of Environmental Quality APPROVED
- 11-b " " " APPROVED
- 12 Department of Fish and Wildlife
- 14 Commission on Public Broadcasting
- 15 Department of Higher Education

Human Resources Subcommittee - Room H170

- 9 Board on Police Standards and Training
- 10 Department of Transportation
- 17 Commission for the Handicapped
- 16 Commission for the Blind
- 19-a Department of Human Resources-Mental Health Division
- 19-b " " " - " " "
- 19-c " " " - " " "
- 19-d " " " - " " "
- 20 Department of Human Resources-Senior Services Division
- 18 Department of Human Resources-Employment Division



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

October 19, 1984

The Honorable Edward N. Fadeley, Co-Chairman
The Honorable Gratten Kerans, Co-Chairman
State Emergency Board
115 State Capitol
Salem, OR 97310

Gentlemen:

The Department of Environmental Quality (DEQ) respectfully requests approval to make a technical budget adjustment and increase the Federal Fund expenditure limitation in our Hazardous Waste program by \$93,112 with a corresponding reduction in the program's Other Fund limitation.

Nature of Emergency

In anticipation of declining federal fund support for the Department's Hazardous Waste program, authority to establish a fee for generators of hazardous waste was sought from the 1983 Legislature. Although the authority was granted, a budget note limited its use to program maintenance rather than expansion and indicated that any increase in federal funds would be used to offset the amount assessed to generators. Because the Department's approved budget reflected a reduced level of federal funding, whatever funding increase occurred would require additional Federal Fund expenditure limitation. This increase would need to be offset by a reduction in Other Funds expenditure limitation, however, in order to maintain the same level of program activity.

Agency Action

In a letter to the December 1983 Emergency Board, the Department stated that, for the State fiscal year 1984, the level of federal funding was higher than previously anticipated in the approved budget and, therefore, it would not be necessary to implement the fee program as soon as previously projected. In fact, adequate federal funds were available to maintain the SFY 84 existing program and the Department was able to postpone implementation of the fee. The letter also indicated that, once the level of federal funding for SFY 85 was known, the Department would return to the Emergency Board for approval of the necessary changes to the biennial expenditure authority.

The Honorable Edward N. Fadeley, Co-Chairman
The Honorable Gratten Kerans, Co-Chairman
October 19, 1984
Page 2

The Department has now received its target level of federal funding for SFY 85 which, when added to the SFY 84 award, results in the need for a federal fund limitation increase of \$93,112 for the biennium (see Attachment I). Furthermore, the total award means that, although implementation of the fee program for generators of hazardous waste will be necessary in FY 85 to maintain the existing program, the generator fee limitation required will be \$93,112 less than originally approved.

Financial Arrangement

The proposed revision would increase the Federal Fund expenditure limitation by \$93,112 and reduce the Other Fund expenditure limitation by the same amount as outlined in Attachment I.

Action Required

The Department respectfully requests Emergency Board approval of the following:

1. Increase the Federal Funds expenditure limitation established by Section 3, Chapter 116, Oregon Laws 1983, by \$93,112.
2. Decrease the Other Funds expenditure limitation established by Section 2, Chapter 116, Oregon Laws 1983, by \$93,112.

Sincerely,

Michael Hansen
for
Fred Hansen
Director

FH:d
BD1277
Attachment
cc: Pat Amedeo, Assistant to the Governor

Attachment I

Department of Environmental Quality
 Hazardous Waste Program
 Detail of Budget Limitation Shift

	<u>Generator Fees</u>	<u>Federal Funds</u>
1983-85 Federal Funds Revenue		\$1,003,705 ⁽¹⁾
Less: Indirect Cost Assessments		<u>(127,905)</u>
Estimated Biennial Direct Expenditures		875,800
1983-85 Approved Budget Limitation	<u>\$188,636</u>	<u>782,688</u>
Surplus/(Deficit) of Available Limitation	188,636	(93,112)
Budget Shift Requested	<u>(93,112)</u>	<u>93,112</u>
Revised 83-85 Approved Limitation	<u>\$ 95,524⁽²⁾</u>	<u>\$ 875,800</u>

(1) 1983-85 Federal Funds revenue calculated as follows:

FY84 Award -	\$ 552,305
FY85 Anticipated Award -	<u>\$ 451,400</u>
Total Award	<u>\$1,003,705</u>

(2) The projected level of expenditures create indirect cost charges of \$17,997, resulting in total revenue required of approximately \$115,000.



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

• The Honorable Edward N. Fadeley, Co-Chairman
The Honorable Grattan Kerans, Co-Chairman
State Emergency Board
115 State Capitol
Salem, OR 97310

Gentlemen:

The Department of Environmental Quality (DEQ) respectfully requests authorization to assess and collect an additional \$50,000 in hazardous waste generator fees pursuant to ORS 459.610 and expend monies for additional permitting effort in the Hazardous Waste Management program.

Nature of Emergency

The Environmental Protection Agency (EPA) recently conducted an audit and capability assessment of the Department's hazardous waste program in response to an application to operate its program in lieu of the federal program (Final Authorization). EPA concluded that the Department had insufficient resources and expertise to carry out an equivalent program in the area of issuing permits to facilities that store, treat and dispose of hazardous wastes. Having worked with EPA over the last two years on issuance of joint permits, the Department agrees with EPA's assessment. Permit issuance under the federal hazardous waste program requires substantially more effort than the Department estimated when it prepared its 1983-85 budget.

In response to this capability assessment, the Department proposes to add, to the Hazardous Waste Program staff, two (2) limited-duration positions (1.0 FTE) as discussed in the Agency Action (below) and identified in Attachment II. The Department's existing, authorized staff level and other funds limitation are insufficient to support this additional work effort and additional cost.

Agency Action

The Department is proposing to assess and collect hazardous waste generator fees January 1, 1985 for these positions, based on the following position information:

1. Environmental Engineer (Position No. 0451)

This new position would be assigned the responsibility of evaluating hazardous waste permit applications for completeness and compliance with hazardous waste rules, prepare draft permits, fact sheets and statement of basis, issue public notice and/or hearing on decision to issue or deny, respond to public comment and recommend issuance/denial of permit.

2. Hydrogeologist (Position No. 0452)

This new position would be required to evaluate the ground water elements of a hazardous waste permit application, determine whether or not uppermost aquifer has been adequately described; evaluate proposed detection monitoring program and evaluate quality and accuracy of ground water data collected.

The Department is also exploring with EPA the opportunity for one or two Intergovernment Personnel Assignees (IPA) in which case it would not fill the two state positions but would still need the additional other funds limitation to pay for half the costs of the IPAs.

Financial Arrangements

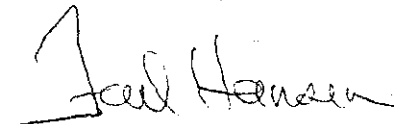
The proposed funding is summarized in Attachment I.

Action Required

The Department respectfully requests Emergency Board approval of the following:

1. Authority to assess and collect \$50,000 in hazardous waste generator fees for the additional permitting effort.
2. The establishment of two (2) limited-duration positions, as shown under Agency Action above and in Attachment II.
3. That Chapter 116, Oregon Laws 1983 be amended as follows - - -
. . . Section 2: Increase the limit for payment of expenses from other funds by \$43,562.

Sincerely,



Fred Hansen
Director

RPR:b

ZB3867

Attachments: I. Funding Detail
II. Limited Duration Position Analysis

ATTACHMENT I

Department of Environmental Quality

Funding Detail for Proposed Increase in Hazardous Waste Other Funds

Resources

Hazardous Waste Generator Fees \$50,000

Requirements

Personal Services

(1) Direct Salary \$25,314
 OPE @ 35% of Direct Salary 8,860
 Subtotal \$34,174

Services and Supplies \$9,388

Total Direct Program Costs \$43,562

Indirect Costs @ 18.84% of Personal Services 6,438

Total Requirements \$50,000

NOTES:

(1) From Attachment II

BD1280

ATTACHMENT II

Department of Environmental Quality
 Hazardous Waste Program
 Limited Duration Position Analysis

Pos. #	Program/Division	FROM			TO			# Mos. Increase/ (Reduc.)	24-Mo. Cost		Additional Cost		24-Mo. Total (Savings)
		Class/Title	# Mos.	Range	Class/Title	# Mos.	Range		Total/Fund Type	Total/Fund Type			
0451 New Limited Duration	Hazardous Waste (Headquarters)	C3057U Env. Engr.	6	24E	6		6	\$10,866	O.F. (1)	\$10,866	O.F.	—	
0452 New Limited Duration	Hazardous Waste (Headquarters)	C3064U Geologist 4	6	28	6		6	\$14,448	O.F. (2)	\$14,448	O.F.	—	
Total Additional Cost/(Savings)										<u>\$25,314</u>	O.F.		

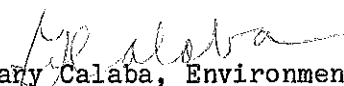
NOTES:

- (1) Gross salary computed at step 2 (1811) of the salary range for the 6 month period.
- (2) Gross salary computed at step 2 (2408) of the salary range for the 6 month period.

STATE OF OREGONDEPARTMENT OF ENVIRONMENTAL QUALITYINTEROFFICE MEMO

TO: Hearings Officer

DATE: November 19, 1984

FROM: 
Gary Calaba, Environmental Specialist
Hazardous Waste OperationsSUBJECT: Public Hearing
Proposed Adoption of Hazardous Waste Generator Fees
November 19, 1984

On November 2, 1984, the Environmental Quality Commission (EQC) authorized a hearing on proposed hazardous waste generator fees. Contained within the staff report was an estimate of revenue that could be collected based on preliminary 1983 data (see page 3 of Agenda Item No. D, November 2, 1984 EQC Meeting). The preliminary 1983 data considered Oregon waste receipts at the Arlington disposal site only. It did not include out-of-state shipments or shipments to treatment facilities. Since preparation of the staff report, it has been possible to write the necessary computer programs to also summarize this additional data.

Exhibit I displays three tables based on the preliminary and revised data. Table 1 is the preliminary 1983 data included in the EQC staff report, Table 2 is a revised estimate of revenue using the November 2 fee schedule but revised data, and Table 3 is a revised estimate of revenue using the revised data and a revised fee schedule (only 2/3 of that in the November 2 report).

It is recommended that the Commission consider this more complete information when determining an appropriate hazardous waste generator fee schedule.

RPR:c
ZC1895
Attachment

EXHIBIT I

Table 1

Preliminary 1983 Data
Based on Disposal Site Waste Receipts

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>	<u>Number of Generators</u>	<u>Estimated Revenue (dollars)</u>
<35	--	59	--
35-99	\$ 150	28	\$ 4,200
100-499	375	41	15,375
500-999	1500	21	31,500
1,000-4,999	2250	25	56,250
5,000-9,999	5250	6	31,500
>10,000	7500	6	45,000
		<u>186</u>	<u>\$183,825</u>

Table 2

Revised 1983 Data
Includes Treatment Waste Receipts and Out-of-State Shipments
Excludes PCBs and Industrial Wastes

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>	<u>Number of Generators</u>	<u>Estimated Revenue (dollars)</u>
<35	--	63	--
35-99	\$ 150	51	\$ 7,650
100-499	375	62	23,250
500-999	1500	33	49,500
1,000-4,999	2250	29	62,250
5,000-9,999	5250	7	36,750
>10,000	7500	13	97,500
		<u>258</u>	<u>\$279,900</u>

Table 3

Revised 1983 Data
Based on Fee Schedule Reduced by 1/3

<u>Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>	<u>Number of Generators</u>	<u>Estimated Revenue (dollars)</u>
<35	--	63	--
35-99	\$ 100	51	\$ 5,100
100-499	250	62	15,500
500-999	1000	33	33,000
1,000-4,999	1500	29	43,500
5,000-9,999	3500	7	24,500
>10,000	5000	13	65,000
		<u>258</u>	<u>\$186,600</u>



STATE OF OREGON

INTEROFFICE MEMO

TO: Environmental Quality Commission

DATE: November 19, 1984

FROM: Jeff Dresser *JED*
Willamette Valley Region

SUBJECT: Proposed Adoption of Hazardous Waste Generator Fees
HW - Hearing Officer Report

On November 19, 1984 I served as hearing officer for one of two public hearings held Statewide. The purpose of the hearing was to obtain public comment on the proposed adoption of hazardous waste generator fees under OAR 340-102-060. The hearing was opened at 9:10 a.m. at the Lane County Courthouse, Conference Rooms B and C. No oral or written testimony was logged during the course of the hearing. As such, the hearing was closed at 10:30 a.m. November 19, 1984.

JFD:gs

A new rule, OAR 340-102-060, is proposed as follows:

Subdivision F: Fees

Hazardous waste generator fees.

340-102-060 (1) Beginning July 1, 1984, each person generating hazardous waste shall be subject to an annual fee based on the volume of hazardous waste generated during the previous calendar year. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1, except that for fiscal year 1985 the fee shall be paid by January 1, 1985.

(2) For the purpose of determining appropriate fees, each hazardous waste generator shall be assigned to a category in Table 1 of this Division based upon the amount of hazardous waste generated in the calendar year identified in subsection (1) of this section except as otherwise provided in subsection (5) of this section.

(3) For the purpose of determining appropriate fees, hazardous waste that is used, reused, recycled or reclaimed shall be included in the quantity determinations required by subsection (1) of this section.

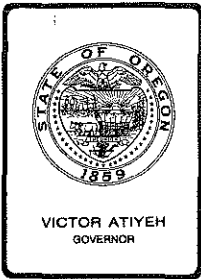
(4) In order to determine annual hazardous waste generation rates, the Department intends to use generator quarterly reports required by rule 340-102-041; treatment, storage and disposal reports required by 340-104-075; and information derived from manifests required by 340-102-020. For wastes reported in the units of measure other than cubic feet, the Department will use the following conversion factors: 1.0 cubic feet = 7.48 gallons = 62.4 pounds = 0.03 tons (English) = 0.14 drums (55 gallon).

(5) Owners and operators of hazardous waste treatment, storage and disposal facilities shall not be subject to the fees required by subsection (1) of this section for any wastes generated as a result of storing, treating or disposing of wastes upon which an annual hazardous waste generation fee has already been paid. Any other wastes generated by owners and operators of treatment, storage and disposal facilities are subject to the fee required by subsection (1) of this section.

(6) All fees shall be made payable to the Department of Environmental Quality.

Table 1

<u>Hazardous Waste Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>
<35	No fee
35-99	\$ 100
100-499	350
500-999	625
1,000-4,999	1500
5,000-9,999	3500
>10,000	5000



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, December 14, 1984, EQC Meeting

Proposed Adoption of "Opportunity to Recycle" Rules
OAR 340-60-005 through -085

Background

At the regularly scheduled Environmental Quality Commission (EQC) meeting held November 2, 1984, the Commission heard the staff presentation of proposed recycling rules (Attachment VI) and received testimony from members of the Solid Waste Advisory Task Force and other members of the public. The Commission postponed adoption of the recycling rules and directed the Department's staff, with the assistance of the Solid Waste Advisory Task Force, to work toward resolving and developing a consensus on the outstanding issues. The Commission gave direction to the staff as follows:

1. The focus of the Recycling Opportunity Act is to establish systems for residential collection of recyclable material. The Commission stated that it is not the intent of the Act to dislocate existing recycling efforts. Local governments should be encouraged to cause only the minimum amount of disruption and to expand the role of existing recyclers in providing the opportunity to recycle, especially in nonresidential collection.
2. Collection service as used in the statute and the rules does not include recycling depots or drop boxes that are set out to receive recyclable material.
3. The staff and the Solid Waste Advisory Task Force should develop alternate language for the fair market value exemption rule OAR 340-60-050 and bring this alternative to the Commission.
4. The staff should develop language that states what constitutes "due consideration."
5. In the proposed rules as presented on November 2, 1984, the section entitled "Preface" OAR 340-60-001 should be removed. The "Preface" should be made into Commission policy guidance on

implementation of the Act and the rules. The staff was directed to make the guidance consistent with all the proposed rules.

6. The Commission felt that yard debris should be considered for addition to the list of principal recyclable material in the Portland wasteshed to strengthen the yard debris collection program that the city of Portland is beginning to develop.

Alternatives and Evaluation

In accordance with the Commission's direction of November 2, the Department staff and the Solid Waste Advisory Task Force met November 7, 9, 19, and 26, 1984 to draft proposed rules (Attachment V) and Commission policy guidance (Attachment IV). The Solid Waste Advisory Task Force focused on developing consensus on alternative language for OAR 340-60-050, the Fair Market Value Exemption. As a result of these efforts, changes appear in two areas, that is, as additional language to the proposed rules and as Commission policy.

ADDITIONS TO PROPOSED RULES

Policy - OAR 340-60-015

The addition of two subsections to this rule are proposed. Subsection 6 states that collection of residentially source separated recyclable material is the primary emphasis of providing the opportunity to recycle. Subsection 7 encourages local governments to cause the minimum of dislocation to existing recycling efforts.

Definitions - OAR 340-60-010

The proposed rule for collection service has been modified so that locations to which the public delivers source separated recyclable material are not included in the definition of "collection service."

By changing the definition of "collection service" to exclude recycling depots and drop boxes, the Department believes it is necessary to further define "affected persons" as used in the statute to include those persons involved in operating a a recycling depot or drop box.

Fair Market Value Exemption - OAR 340-60-050

Three alternatives were considered as proposed language for this rule.

The first alternative (Attachment I) is a restatement of the rule as discussed at the November 2, 1984 Commission meeting.

The second alternative (Attachment II) restates the statutory language for a purchase or exchange for fair market value without further attempt to define it.

The third alternative as stated in OAR 340-60-050 was developed by the Solid Waste Advisory Task Force and represents the closest they came to consensus. The proposed rule contains three provisions. The first subsection is the basic statutory language. The second subsection defines fair market value as it relates to residential collection service for recyclable material. Recyclable material from residential sources is generated as a group. When local government identifies a group of materials as recyclable material, then the exemption as provided in the Act occurs only when all the materials in the group are purchased or exchanged for fair market value. This proposed rule addresses those situations where an unfranchised person wants to collect the most profitable materials while leaving the less profitable materials behind. For such a person to be exempt from the residential recycling collection service franchise, that person would have to take the full group of materials identified by the local government. The most profitable materials could not be taken without taking the other materials. The third subsection states local governments may designate classes of residential dwellings that would receive specific types or levels of collection service. This allows for a distinction to be made between single and multifamily recycling service.

There are parties that object to this language. Dealers and end users of waste paper plus businesses that specialize in providing recycling to multifamily dwellings object to this new language. Their position on this rule is that government cannot restrict purchase or exchange of a material by requiring the collection of other material. They maintain that government does not have the authority to make such a broad definition of fair market value.

The Solid Waste Advisory Task Force indicated that if the Commission did not adopt the proposed language of OAR 340-60-050 then this rule should only restate the statutory language as found in Attachment II.

Due Consideration - OAR 340-60-085

To address "due consideration," the staff developed proposed rule language that included: 1) the statutory requirement for "due consideration" as stated in ORS 459.200(6)(c), and 2) the minimum requirements for providing due consideration (see Attachment III).

After discussion with the Solid Waste Advisory Task Force and at their urging, the staff has removed the minimum requirements for "due consideration" from the rule and have placed it in the Commission policy guidelines document. The proposed rule for due consideration as stated in OAR 340-60-085 contains only the statutory requirement that cities and counties give due consideration when issuing franchises for collection service to provide the opportunity to recycle to any person lawfully providing recycling or collection service on June 1, 1983.

COMMISSION POLICY GUIDANCE DOCUMENT

As requested by the Commission the "Preface" to the proposed rules has been removed and developed into Commission policy guidance (Attachment IV). The guidance has been rewritten and new language has been added that addresses changes in the rules. The staff and the Solid Waste Advisory Task Force agree that addition of this new language will help clarify implementation of the proposed recycling rules.

New language in the policy (Section 1) states the primary focus of implementing the opportunity to recycle should be on improving existing recycling systems and adding new systems for recycling residential recyclable material. Regulatory intervention should be kept to a minimum for nonresidential recycling activities.

The guidance document also has new language (Section 9) that explains the necessity of grouping materials from residential sources of recyclable material in order to provide for the economic feasibility of residential recycling systems.

New language (Section 10) has been added to the principal recyclable material discussion which outlines the Department's role in estimating amounts of principal recyclable material available from each wasteshed, how much is currently being recycled and how much is still available.

Additional language (Section 3) has been added that encourages local governments to support and utilize existing recycling systems, especially for commercial and industrial sources of recyclable material.

Yard Debris

The Department discussed the addition of yard debris to the list of principal recyclable material for the Portland wasteshed with the city of Portland and the Solid Waste Advisory Task Force. Both the city and the task force felt that at this time yard debris should not be added to the principal recyclable material list for the Portland wasteshed. They felt its addition would not aid in the implementation of a yard debris collection system for the city of Portland. The city of Portland responded in writing to the proposed addition requesting that this material not be added to the principal recyclable material list unless the proposed rules make specific adjustments for its addition.

The important factors affecting the identification of yard debris as a recyclable material are: 1) The availability of the collection system, and 2) the processors and markets for the final products.

In Portland the processors and markets for the final products are in place to some extent, however, an area-wide collection system is still underdeveloped.

The recent restrictions on the burning of yard debris in the Portland metropolitan area are based in part on the fact that alternatives to burning are available. Several alternatives to burning do exist. In Portland, a city-wide system for collection and recycling of source separated yard debris would be an improvement over some of the present alternatives. The city of Portland is presently developing such a system. It is the opinion of both the city and the Department that such a system will provide the best alternative and should be put in place to provide the opportunity to recycle this material to all Portland residents.

The task force recommended that it would be most appropriate for the Department to work directly with the city of Portland in developing a feasible collection and recycling program that addressed yard debris solely and for the Commission to postpone the addition of yard debris to the principal recyclable material list until the collection system had been designed. The staff of the Department would then return to the Commission with a proposal to add yard debris to the list of principal recyclable material.

Summation

1. The Commission at its November 2, 1984 meeting:
 - (a) Postponed adoption of proposed recycling rules;
 - (b) Gave policy direction on unresolved issues; and
 - (c) Instructed the Department and the Solid Waste Advisory Task Force to address those issues in the proposed rules and return with acceptable language.

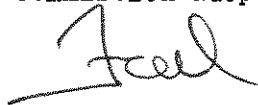
2. The Department is resubmitting the recycling rules with the following changes as directed by the Environmental Quality Commission:
 - (a) The proposed policy for the recycling rules (OAR 340-60-005) places the emphasis of implementing the recycling act on providing more residential collection of recyclable material and on minimizing the dislocation of existing recyclers.
 - (b) Recycling depots and drop-off locations are excluded from the definition of "collection service."
 - (c) The fair market value exemption (OAR 340-60-050) represents a majority consensus of the Solid Waste Advisory Task Force.

- (d) A new proposed rule (OAR 340-60-085) requires that local governments give due consideration. The specifics of what is to be done are included in the Commission policy guidance document.
- (e) The preface has been removed from the proposed rules and is resubmitted as Commission policy guidance.
- (f) Yard debris should not be added to the list of principal recyclable material for the Portland watershed at this time.

Director's Recommendation

Based upon the Summation:

1. It is recommended that the Commission adopt the proposed rules OAR 340-60-005 through 085 as amended.
2. It is recommended that the Commission adopt the policy guidance document.



Fred Hansen

- Attachments
- I. Fair Market Value Exemption Alternative 1
 - II. Fair Market Value Exemption Alternative 2
 - III. Due Consideration Alternative 1
 - IV. Environmental Quality Commission Policy Guidance
 - V. Revised Proposed Rules for the Implementation of the Recycling Opportunity Act
 - VI. Agenda Item G, November 2, 1984 EQC Meeting

Elaine Glendening:b
229-5060
November 15, 1984
YB3980

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 by a franchised collector at no direct charge to the generator for that specific service, then to qualify for an exemption under 459.192 the material must be purchased from the generator.

Fair Market Value Exemption

340-60-050

- (1) To qualify for exemption under ORS 459.192, a source separated recyclable material must be:
 - (a) source separated by the generator; and
 - (b) purchased from or exchanged by the generator for fair market value for recycling or reuse.

Alternative 1

Due Consideration

340-60-085

- (1) In determining who shall provide the opportunity to recycle, a city or county shall first give due consideration to any person lawfully providing recycling or collection service on June 1, 1983, if the person continues to provide the service until the date the determination is made and the person has not discontinued the service for a period of 90 days or more between June 1, 1983, and the date the city or county makes the determination.
- (2) "Due consideration" includes at a minimum:
 - (a) A general notice announcing that the city or county intends to franchise recycling collection service and describing the requirements for the franchise,
 - (b) A timely written notice announcing that the city or county intends to franchise recycling collection service and describing the requirements for the franchise sent to persons entitled by ORS 459.200(6)(c) to due consideration where such persons are known to the city or county or where such person has filed a timely written request for such notices with the city or county,
 - (c) An opportunity for public comment on the proposed franchise, and
 - (d) Consideration of, and response to, a timely application for a recycling collection franchise from a person entitled to "due consideration" and response.

YB3844.2

ENVIRONMENTAL QUALITY COMMISSION POLICY GUIDANCE
OREGON OPPORTUNITY TO RECYCLE ACT

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 the rules and the provisions of Oregon's Recycling Opportunity Act. This guidance document states the policy and intent of the Environmental Quality Commission in adoption of the rules OAR 340-60-005 through 340-60-085. Implementors of this Act should look to those rules for direction in implementation of the Act.

(1) COMMISSION POLICY

- (a) The rules OAR 340-60-005 through 340-60-085 give local governments and persons involved in the solid waste collection service process or in recycling activities guidance to carry out new statutory requirements of Oregon's Recycling Opportunity Act.
- (b) Priorities for solid waste management in Oregon are:
 - (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.Increased emphasis is placed on recycling as a solid waste management method.
- (c) Every person in Oregon should have the opportunity to recycle. Any material which can be collected and received and sold for recycling for a cost less than or equal to the cost associated with collection and disposal of that material should be recycled.

- (d) It is a higher and better use of resources to reuse or recycle materials rather than dispose of them.
- (e) The number of people who make source-separated recyclable material available for recycling and the types and amounts of material which are recycled should be increased.
- (f) The primary focus in providing the opportunity to recycle should be on improving existing and adding new systems for residential recycling. Improving existing and adding new systems for nonresidential recycling should be a secondary focus in providing the opportunity to recycle.
- (g) Regulatory intervention in recycling systems for commercial and industrial sources should be kept to the minimum necessary to accomplish the purposes of the Act.
- (h) It is the intent of the Act and rules to increase the level of recycling and to reduce the amount of material going to disposal. In addition, it is the intent of the rules to require provision of the opportunity to recycle to all areas of the state and for all recyclable material.

(2) IMPLEMENTATION OF THE ACT

- (a) The Oregon Recycling Opportunity Act envisions a cooperative effort by local governments (cities and counties), solid waste collection and disposal services, recyclers, and the public in implementing the Oregon Recycling Opportunity Act. Because the Act does not designate who shall provide the "opportunity to recycle," local government leaders, in conjunction with other affected persons, should decide who in their community can best make available the recycling collection and promotion required by the Act.

- (b) The key to success of the Act will be the cooperative efforts of the local governments and other affected persons in providing the opportunity. Successful implementation will also depend on the cooperation of the local governments and affected persons with the Department.

(3) LOCAL GOVERNMENT ROLE

- (a) Local government will maintain primary responsibility for solid waste management and will be a major factor in both providing for the opportunity to recycle and in preparing the recycling report.
- (b) The role of local government in solid waste management has been increased by the new Recycling Opportunity Act. The Act clarified local government's authority to regulate both solid waste and recyclable material collection service. This authority should be used with discretion. The final result of local government action should be to provide for effective residential recycling systems and to maximize the recovery of recyclable material with a minimal dislocation of existing recycling systems.
- (c) Local government is also directed by this Act to give due consideration to persons who have lawfully provided recycling or collection service before the passage of the Act.
- (d) Due consideration as required in OAR 340-60-085 should include:
 - (A) A general notice announcing that the city or county intends to franchise recycling collection service and describing the requirements for the franchise,

- (B) A timely written notice announcing that the city or county intends to franchise recycling collection service and describing the requirements for the franchise sent to persons entitled by ORS 459.200(6)(c) to due consideration where such persons are known to the city or county or where such person has filed a timely written request for such notices with the city or county,
- (C) An opportunity for public comment on the proposed franchise, and
- (D) Consideration of, and response to, a timely application for a recycling collection franchise from a person entitled to "due consideration."

(4) RECYCLING DEPOTS

Recycling depots and drop-off locations that provide the public with a place to deliver recyclable material should not be regulated as collection service.

(5) WASTESHED DESIGNATION

- (a) By choosing existing local government boundaries as wasteshed boundaries, continued emphasis is placed on the local governments and their role in solid waste management.
- (b) Wasteshed designations do not supplant any existing regulatory structure in the area or require any local government to take on responsibilities beyond its jurisdiction.
- (c) The Department does not intend to deal with the wasteshed as a new form of local government. The wastesheds as designated in

OAR 340-60-025 should be used only for the purposes of the recycling act.

(6) WASTESHED REPRESENTATIVE

Because it will be difficult to communicate with every person in the wasteshed on formal issues which arise relating to the recycling report, each wasteshed should identify a representative to deal with the Department in matters relating to the recycling report. The representative should act on behalf of and represent the diverse views of all affected persons in the wasteshed.

(7) RECYCLING REPORT

- (a) The Recycling Report is a communication from the people in the wasteshed to the Department stating how they will be or are implementing the opportunity to recycle within their wasteshed. It should be viewed as a progress report and not a complex planning document.
- (b) Review of the report is the method by which the Department will determine the wasteshed's compliance with the law.
- (c) The Department should keep reporting requirements to a minimum. Forms for the submittal of the report should be provided by the Department well in advance of the report deadline.
- (d) To develop the information which will go into the report, the affected persons should provide complete and accurate information about how the opportunity to recycle is being provided.

(8) RECYCLABLE MATERIAL

- (a) The opportunity to recycle is to be provided for all recyclable material.
- (b) To determine whether a material is recyclable at a specific location, the economic criteria in the Act should be applied. These criteria compare the net cost of collection or receipt and sale for recycling to the net cost of collection and disposal for the material as solid waste.
- (c) Whether material meets the definition of recyclable material will depend in part upon the method that is used to collect and market a material. It will also depend on both the costs associated with what is charged or levied as taxes to dispose of solid waste and the costs necessary to provide for environmentally acceptable disposal.
- (d) In some cases, the cost of collection of recyclable material is not going to be on a profitable or break-even basis if based solely on the income from sales to markets. In these cases the material is still "recyclable material" if it meets the statutory criteria.
- (e) The cost of providing the opportunity to recycle was addressed in the legislation. In situations involving franchised collection service, the additional costs of providing the opportunity to recycle may be recovered in rates established under franchises.
- (f) Grouping of materials from residential sources is critical to providing multi-material residential recycling collection service and is one justification for regulatory intervention through franchising.

A similar grouping of materials is not appropriate from non-residential sources if individual materials are most effectively handled by specialized recyclers, systems, methods or equipment.

(9) GROUPING RESIDENTIAL RECYCLABLE MATERIAL

- (a) The Recycling Opportunity Act provides a vehicle for increasing the level of recovery of source-separated recyclable material from residential sources.
- (b) Emphasis on providing the opportunity to recycle under the Act should be placed on residential sources. When considered as a class, these sources have the potential to generate a large amount of source-separated recyclable material.
- (c) Residential sources generally generate a common group of recyclable material which can be collected at the same time with some economy over collection of each material separately.
- (d) The grouping of individual materials in a group identified as a "recyclable material" is appropriate and necessary so that the opportunity to recycle is economically feasible for the greatest number of types and the greatest amounts of material from residential sources.
- (e) The value of one material in a group identified as "recyclable material" may make the recycling of the whole group economically feasible. The collection of that valuable material separately from residential sources would then undermine the economics of a system developed to provide the opportunity to recycle for a group of materials which included that material.

(f) If it will increase the overall level of participation in recycling or the level of recovery of recyclable material, material generated by residential sources should be grouped and identified as recyclable material.

(10) PRINCIPAL RECYCLABLE MATERIAL

- (a) The wasteshed's list of principal recyclable material is a list of the most common materials which are "recyclable material" at some place in the wasteshed. Some of the materials on the principal recyclable material list will be generated primarily from residential sources; other material will come primarily from commercial or industrial sources. The lists of principal recyclable material should be used as a starting point for determining the recyclable material at each location where the opportunity to recycle is required.
- (b) The statutory definition of "recyclable material" (ORS 459.005(15)) determines whether a material is a recyclable material that should be included in a program to provide the opportunity to recycle.
- (c) As programs to provide the opportunity to recycle are developed, the affected persons in a wasteshed may wish to identify recyclable material by type of source, type of recycling service or location in the wasteshed.
- (d) Economic, demographic and geographic factors will allow a specific material to be a recyclable material in one portion of a wasteshed and not a recyclable material in another.
- (e) Between the time of the identification of the principal recyclable material in Commission rules and the submittal of the recycling reports, the Department should:

- (A) Work with the affected persons in every wasteshed to assist in identifying materials for which the opportunity to recycle must be provided as required by OAR 340-60-030(2).
- (B) Work with the affected persons in every wasteshed to assist in identifying materials for which the opportunity to recycle does not have to be provided as required by OAR 340-60-030(9)(b).
- (C) For each wasteshed or group of wastesheds, provide its best estimate of the amount of the principal recyclable material which is currently recycled and the amount which is still available for recycling.
- (D) 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.
- (f) The Department shall make a periodic review of the principal recyclable material lists and submit any proposed changes to these rules to the Commission.

(11) EXISTING RECYCLING PROGRAMS

- (a) The Department is aware that many areas of the state presently have recycling programs which meet or exceed the requirements envisioned in these rules. Existing recycling systems, especially the diverse types serving commercial and industrial sources of recyclable material, should be encouraged and assisted.
- (b) Early implementation of the opportunity to recycle will benefit all of the parties involved. 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.

(12) EDUCATION, PROMOTION AND NOTIFICATION

- (a) Education, promotion and notification are key elements of successful recycling programs. Unless people know about the recycling opportunities that are available and the importance of their participation in recycling, even the most efficient programs will not succeed. Recognizing this, the "opportunity to recycle" as defined in the Act includes a public education and promotion program that gives notice to each person of the opportunity to recycle and encourages source separation of recyclable material.

- (b) The education and promotion rule outlines the elements of education and promotion programs. Although it contains some specifics, the rule is intended to allow for creativity and flexibility. Collection service customers and people who utilize disposal sites should be the primary targets of education and promotion efforts. Information should also be made available to the general public.

- (c) Contact should be through written materials, meetings, presentations, articles, press releases, photos and/or public service announcements. Contact should be made frequently so that the recycling effort in the community is seen as an on-going concern.

- (d) The content of the information should;
 - (A) include information about specific recycling opportunities available in the community,
 - (B) the benefits of recycling, and
 - (C) the success of area recycling programs including the amount of materials being recycled and the number of people participating.
- (e) People involved in the coordination of the education program should utilize the skills and resources of a variety of groups, including collectors, recyclers, professional educators, public relations specialists, and citizens groups. Citizen involvement will be essential, both for keeping the costs of programs down and for ensuring credibility.

(13) PURCHASE OR EXCHANGE FOR FAIR MARKET VALUE

- (a) The Act clarified local government authority to regulate collection service for recyclable material. And it also provided 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.
- (b) This exemption should be used for recyclable material which is generated from commercial and industrial sources.
- (c) Recyclable material which is generated as a group should be exempted only if the purchase or exchange for fair market value is for all of the materials collected as a group.

(14) COMMERCIAL AND INDUSTRIAL RECYCLING

- (a) Commercial and industrial generators should be provided with the opportunity to recycle. When it is possible, this opportunity

should be provided through the use of existing recycling programs.

- (b) There are extensive systems for the collection of large amounts of recyclable material from commercial and industrial generators in many areas of the state. As much as possible, these systems should be utilized to provide the opportunity to recycle to the generators whom they presently serve.
- (c) As much as possible, existing recycling systems should be used to provide the opportunity to recycle to all commercial and industrial generators. Because of the diversity of size and business activities, commercial sources tend to generate large amounts of a single recyclable material. Recyclable material generated from industrial and commercial sources should not be grouped together if the individual materials are most effectively handled by specialized recyclers, systems, methods or equipment.
- (d) Regulatory intervention in recycling systems for commercial and industrial sources should be kept to a minimum.

PROPOSED RULES FOR THE IMPLEMENTATION OF THE
RECYCLING OPPORTUNITY ACT

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. For the purposes of these rules "Affected person" also means a person involved in operation of a place to which persons not residing on or occupying the property may deliver source separated recyclable material.
- (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. "Collection service" of recyclable materials does not include a place to which persons not residing on or occupying the property may deliver source separated recyclable material.

- (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) "Depot" means a place for receiving source separated recyclable material.
- (9) "Director" means the Director of the Department of Environmental Quality.
- (10) "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.
- (11) "Generator" means a person who last uses a material and makes it available for disposal or recycling.
- (12) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.
- (13) "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.

- (14) "On-route collection" means pick up of source separated recyclable material from the generator at the place of generation.
- (15) "Opportunity to recycle" means those activities described in OAR 340-60-020:
- (16) "Permit" means a document issued by the Department, bearing the signature of the Director or the Director's authorized representative which by its conditions may authorize the permittee to construct, install, modify or operate a disposal site in accordance with specified limitations.
- (17) "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.
- (18) "Principal recyclable material" means material which is a recyclable material at some place where the opportunity to recycle is required in a wasteshed and is identified by the Commission in OAR 340-60-030.
- (19) "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.
- (20) "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.
- (21) "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.
- (22) "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.

- (23) "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.
- (24) "Source separate" means that the person who last uses recyclable material separates the recyclable material from solid waste.
- (25) "Waste" means useless or discarded materials.
- (26) "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:
 - (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 all affected persons and generators in the planning and development of required recycling programs.
- (6) To place primary emphasis on the provision of the opportunity to recycle to residential generators of source separated recyclable materials.
- (7) To encourage local government to develop programs to provide the opportunity to recycle which cause only minimum dislocation of;
 - (a) existing recycling efforts, especially the activities of charitable, fraternal and civic groups, and
 - (b) existing recycling collection from commercial and industrial sources.

Opportunity to Recycle

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

- (1) (a) A place for receiving 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 OAR 340-60-035.
- (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

- (1) The following areas are designated wastesheds within the state of Oregon:
 - (a) Baker wasteshed is all of the area within Baker County

- (b) 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
- (c) 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
- (d) Clatsop wasteshed is all of the area within Clatsop County
- (e) Columbia wasteshed is all of the area within Columbia County
- (f) Coos wasteshed is all of the area within Coos County
- (g) Crook wasteshed is all of the area within Crook County
- (h) Curry wasteshed is all of the area within Curry County
- (i) Deschutes wasteshed is all of the area within Deschutes County
- (j) Douglas wasteshed is all of the area within Douglas County
- (k) Gilliam wasteshed is all of the area within Gilliam County
- (l) Grant wasteshed is all of the area within Grant County
- (m) Harney wasteshed is all of the area within Harney County
- (n) Hood River wasteshed is all of the area within Hood River County
- (o) Jackson wasteshed is all of the area within Jackson County
- (p) Jefferson wasteshed is all of the area within Jefferson County
- (q) Josephine wasteshed is all of the area within Josephine County

- (r) Klamath wasteshed is all of the area within Klamath County
- (s) Lake wasteshed is all of the area within Lake County
- (t) Lane wasteshed is all of the area within Lane County
- (u) Lincoln wasteshed is all of the area within Lincoln County
- (v) Malheur wasteshed is all of the area within Malheur
County
- (w) 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
- (x) Milton-Freewater wasteshed is all the area within the urban
growth boundary of the city of Milton-Freewater
- (y) Morrow wasteshed is all of the area within Morrow County
- (z) Multnomah wasteshed is all the area within Multnomah County
excluding the area within:
 - (A) the city of Maywood Park
 - (B) the city of Portland and that area within the city
of Portland's urban service boundary
 - (C) the city of Lake Oswego
- (aa) 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
- (bb) Portland wasteshed is all of the area within the city of
Maywood Park, the city of Portland, and that area within the
city of Portland's urban service boundary
- (cc) Sherman wasteshed is all of the area within Sherman County
- (dd) Tillamook wasteshed is all of the area within Tillamook
County

- (ee) Umatilla wasteshed is all of the area within Umatilla County excluding the area within:
 - (A) the urban growth boundary of the city of Milton-Freewater
 - (ff) Union wasteshed is all of the area within Union County
 - (gg) Wallowa wasteshed is all of the area within Wallowa County
 - (hh) Wasco wasteshed is all of the area within Wasco County
 - (ii) 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
 - (jj) Wheeler wasteshed is all of the area within Wheeler County
 - (kk) Yamhill wasteshed is all of the area within Yamhill County and all of the area within the city of Willamina.
- (2) Any affected person may appeal to the Commission for the inclusion of all or part of a city, county, or local government unit in a wasteshed.

Principal Recyclable Material

340-60-030

- (1) The following are identified as the principal recyclable materials in the wastesheds as described in Sections (4) through (8):
- (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 principal recyclable materials listed in (1) above, other materials may be recyclable material at specific locations where the opportunity to recycle is required.
- (3) The statutory definition of "recyclable material" (ORS 459.005(15)) determines whether a material is a recyclable material at a specific location where the opportunity to recycle is required.
- (4) In the following wastesheds, the principal recyclable materials are those listed in Section 1 (a) through (i):
- (a) Benton and Linn wasteshed
 - (b) Clackamas wasteshed
 - (c) Clatsop wasteshed
 - (d) Columbia wasteshed
 - (e) Hood River wasteshed
 - (f) Lane wasteshed
 - (g) Lincoln wasteshed
 - (h) Marion wasteshed
 - (i) Milton-Freewater wasteshed
 - (j) Multnomah wasteshed
 - (k) Polk wasteshed
 - (l) Portland wasteshed
 - (m) Umatilla wasteshed

- (n) Union wasteshed
 - (o) Wasco wasteshed
 - (p) Washington wasteshed
 - (q) Yamhill wasteshed
- (5) In the following wastesheds, the principal recyclable materials are those listed in Section 1 (a) through (g):
- (a) Baker wasteshed
 - (b) Crook wasteshed
 - (c) Jefferson wasteshed
 - (d) Klamath wasteshed
 - (e) Tillamook wasteshed
- (6) In the following wastesheds, the principal recyclable materials are those listed in Section 1 (a) through (h):
- (a) Coos wasteshed
 - (b) Deschutes wasteshed
 - (c) Douglas wasteshed
 - (d) Jackson wasteshed
 - (e) Josephine wasteshed
- (7) In the following wastesheds, the principal recyclable materials are those listed in Section 1 (a) through (e):
- (a) Curry wasteshed
 - (b) Grant wasteshed
 - (c) Harney wasteshed
 - (d) Lake wasteshed
 - (e) Malheur wasteshed
 - (f) Morrow wasteshed
 - (g) Wallowa wasteshed
- (8) In the following wastesheds, the principal recyclable materials are those listed in Section 1 (a) through (d):
- (a) Gilliam wasteshed

- (b) Sherman wasteshed
- (c) Wheeler wasteshed
- (9) (a) The opportunity to recycle shall be provided for each of the principal recyclable materials listed in (4) through (8) above and for other materials which meet the statutory definition of recyclable material at specific locations where the opportunity to recycle is required.
- (b) The opportunity to recycle is not required for any material which a recycling report, approved by the Department, demonstrates does not meet the definition of recyclable material for the specific location where the opportunity to recycle is required.
- (10) Between the time of the identification of the principal recyclable materials in these rules and the submittal of the recycling reports, the Department will work with affected persons in every wasteshed to assist in identifying materials contained on the principal recyclable list which do not meet the statutory definition of recyclable material at some locations in the wasteshed where the opportunity to recycle is required.
- (11) Any affected person may request the Commission modify the list of principal recyclable material identified by the Commission or may request a variance under ORS 459.185.
- (12) The Department will make a periodic review of the principal recyclable material lists and will submit any proposed changes to the Commission.

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 adequacy 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) The alternative will increase recycling opportunities at least to the level anticipated from the general method set forth in OAR 340-60-020 for providing the opportunity to recycle.
 - (b) The conditions and factors which make the alternative method necessary.
 - (c) The alternative method is convenient to the people using or receiving the service.
 - (d) The alternative method is as effective in recovering recyclable materials from solid waste as the general method set forth in OAR 340-60-020 for providing the opportunity to recycle.
- (3) The affected persons in a watershed 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 watershed shall design, commit resources and implement an education and promotion program that provides:
 - (a) A written or more effective notice or combination of both that is reasonably designed to reach each person who generates recyclable materials in the watershed, and 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 or within the urban growth boundary established by a metropolitan service district 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) a listing of depots for recyclable materials at all disposal sites serving the area, including the materials accepted and hours of operation, and
 - (iv) a listing of depots for recyclable material at locations designated as more convenient to the public being served, including the materials accepted and hours of operation, or
 - (v) instead of (iii) and (iv) a phone number to call for all such information about depot locations.

- (B) The notice used for persons not within the urban growth boundary of cities with more than 4,000 people or within the urban growth boundary established by a metropolitan service district, shall include:
- (i) reason why people should recycle, and
 - (ii) a listing of depots for recyclable materials at all disposal sites serving the area, including the materials accepted and hours of operation, and
 - (iii) a listing 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) instead of (ii) and (iii) a phone number to call for all such information about depot locations and collection service.
- (b) A written reminder, a more effective notice or combination of both about the on-route recycling collection program that is reasonably designed to reach all solid waste collection service customers every six (6) months.
- (c) Written information to be distributed to disposal site users 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. The sign shall indicate the materials accepted and hours of operation.
- (d) Recycling information (written materials, displays and/or presentations) to community groups and the general public.
- (2) The affected persons in the wasteshed shall identify a procedure for citizen involvement in the development and implementation of the wasteshed's education and promotion program.
- (3) The affected persons in each wasteshed 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) Affected persons in each wasteshed should identify a person as the education and promotion representative for that wasteshed to be the official contact between the persons in that wasteshed and the Department in matters relating to recycling education and promotion.
- (5) Information about the education and promotion program shall be included in the Recycling Report as outlined in OAR 340-60-045(2).

Standards for Recycling Reports

340-60-045

- (1) The recycling report shall be submitted to the Department not later than July 1, 1986 on forms supplied by the Department.
- (2) The recycling report shall include the following information:
 - (a) The materials which are recyclable at each disposal site and within the urban growth boundary of each city of 4,000 or more population or within the urban growth boundary established by a metropolitan service district;
 - (b) The manner in which recyclable material is to be collected or received;
 - (c) Proposed and approved alternative methods for the opportunity to recycle which are to be used in the watershed and justification for the alternative method;
 - (d) Proposed methods for providing the public education and promotion program; and
 - (e) Other information necessary to describe the proposed programs for providing the opportunity to recycle.
- (3) The recycling report shall include attachments including but not limited to the following materials related to the opportunity to recycle:
 - (a) Copies of materials that are being used in the watershed as part of Education and Promotion,
 - (b) A copy of any city or county collection service franchise, including rates under the franchise, and
 - (c) Other attachments which demonstrate the proposed programs for providing the opportunity to recycle.

- (4) (a) The cities and counties and other affected persons in each wasteshed should before July 1, 1985:
- (A) Jointly identify a person as representative for that wasteshed to act as a 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 a representative.
- (b) 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.
- (5) (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.
- (6) The Department shall review the recycling report to determine whether the opportunity to recycle will be provided to all persons in the wasteshed. The Department shall approve the recycling report if it determines that the wasteshed will:
- (a) Provide the opportunity to recycle, as defined in OAR 340-60-020, for:

- (A) each material identified on the list of principal recyclable material for the wasteshed, as specified in OAR 340-60-030, or has demonstrated that at a specific location in the wasteshed a material on the list of the principal recyclable material is not a recyclable material for that specific location; and
 - (B) other materials which are recyclable material at specific locations where the opportunity to recycle is required;
- (b) Have an effective public education and promotion program which meets the requirements of OAR 340-60-040.

Fair Market Value Exemption

340-60-050

- (1) To qualify for exemption under ORS 459.192 a source separated recyclable material must be:
 - (a) source separated by the generator; and
 - (b) purchased from or exchanged by the generator for fair market value for recycling or reuse.
- (2) If, as part of the opportunity to recycle, a city or county requires by franchise that residential collection service of recyclable material be provided and identifies a group of two or more materials as the recyclable material for which the residential collection service must be provided, then:
 - (a) "Fair market value" of any material within the identified group shall include the provision of collection service for all the material in the identified group; and

- (b) "Recyclable material" means the group identified by the city or county.
- (3) Local government may designate classes of residential dwellings to which specific types or levels of collection service is to be provided.

Recyclable Material

340-60-055 In determining what materials are recyclable materials:

- (1) The cost of collection and sale of a recyclable material shall be calculated by considering the collector's costs from the time the material is source separated and leaves the use of the generator until it is first sold or 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.
- (3) The cost of collection and disposal of material as solid waste shall be calculated by using the total costs of collection and disposal. Costs may include fees charged, taxes levied or subsidy to collect and to dispose of solid waste. Costs may also include but are not limited to the costs to comply with applicable statutes, rules, permit conditions and insurance requirements.
- (4) The amount and value of any source separated material that is collected or received as part of a recycling requirement of a permit or a city or county franchise may be used in determining whether remaining material meets the definition of recyclable material.

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 source separated recyclable material or solid waste containing recyclable material 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 or receive source separated recyclable material which has not been correctly prepared to reasonable specifications which are related to marketing, transportation or storage requirements and which have been publicized as part of an education and promotion program.

Prohibition

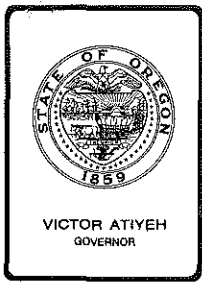
340-60-080 In addition to the provisions set forth in ORS 459.195, no person shall dispose of source separated recyclable material which has been collected or received from the generator by any method other than reuse or recycling.

Due Consideration

340-60-085 In determining who shall provide the opportunity to recycle, a city or county shall first give due consideration to any person lawfully providing recycling or collection service on June 1, 1983, if the person continues to provide the service until the date the determination is made and the person has not discontinued the service for a period of 90 days or more between June 1, 1983, and the date the city or county makes the determination.

Attachment VI
Agenda Item H
December 14, 1984, EQC Meeting

This attachment is Agenda Item G from the November 2, 1984 EQC meeting. If you wish a copy of this attachment, please contact Bill Bree in the Department's Solid Waste Division at (503) 229-6975.



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, December 14, 1984, EQC Meeting

Informational Report: Request by LaPine Sanitary District
for an Extension of the Date for Submittal of a Facilities
Report Required by Oregon Administrative Rule 340-41-580

Background

In May 1983 the Environmental Quality Commission adopted a set of special policies and guidelines to be included in the Deschutes River Basin Management Plan. The management plan is a part of Oregon Administrative Rules (OAR) 340-41-580. One of the special policies required a facilities plan report for sewerage of the LaPine core area to be submitted to the Department by January 1, 1985. The need for sewerage of LaPine was based upon the LaPine Aquifer Management Plan which concluded that sewers are needed to control the levels of nitrate-nitrogen in the groundwater beneath the LaPine core area.

Since the time the special policies and guidelines were adopted, the LaPine Sanitary District has passed a special tax levy to finance part of the report and has selected an engineering consultant to prepare the report. Unfortunately, the report cannot be submitted by January 1, 1985. The District Board has requested that the date for submittal be extended to July 1, 1985.

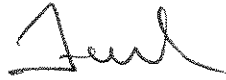
In order to have a chance at federal sewage construction grant funds this year, the facilities plan report must be completed by June 1, 1985. This is critical because funding in subsequent years may not be available for the LaPine project. The Board believes the delays were due to difficulties in obtaining funding and selecting its consultant.

Department's Intended Action

When the January 1, 1985 deadline passes and LaPine Sanitary District is in non-compliance with OAR 340-41-580, the Department intends to initiate formal enforcement action through either a Notice of Intent to Assess Civil Penalties or an Order.

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The Department does not intend to assess civil penalties during the period of January 1 through June 1, 1985, provided the District is actively working on the facility plan report in such a manner that the completed report will be submitted to the Department on or before June 1, 1985.



Fred Hansen

Attachments: Letter of Request from LaPine
Sanitary District

Richard J. Nichols:b
388-6146
November 28, 1984
GB4023

LAPINE SPECIAL SEWER DISTRICT

P. O. Box 477
LaPine OR 97739
503-536-2115
November 19, 1984

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D
NOV 19 1984

Dick Nichols
DEQ
Studio Road
Bend OR

BEND DISTRICT OFFICE


Dear Mr. Nichols:

This is to inform you that our district is now in the process of having our facility study conducted by Sun Country Engineering, of Bend. Sun Country is working in conjunction with Lee Engineering of Lake Oswego on the project. Because of our lack of funds we have not been able to approach the Jan 1, 1985 deadline. However, we succeeded in getting voter approval of a one-year levy which will give us \$15,000 or more toward engineering fees. In addition, the Central Oregon Governmental Council is now applying for a block grant of up to \$10,000 to provide additional funding for the facilities plan. With this assurance of initial funding, we have been able to get the project started.

At this point we have inventoried usage within the district, and hope to get annexation of the school and other segments of the northwest portion of the core area. Our engineers have set up a time schedule for all phases of the study. They are now engaged in an inventory of environmental factors which might be impacted by the sewer. They state they will be able to hold an informational public meeting (not a hearing) to inform the board and the community about possible alternative systems and estimated costs in early January. It has been some time since we received our last progress report from them, so there may be other phases of the study underway.

In view of the above, we are confident that a six-month extension of our deadline can be met with no difficulty. We thank you for any assistance you can give us in obtaining this extension.

Sincerely,


Kay Nelson, Member
BOARD OF DIRECTORS

AO>