

9/27/1985

**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS**



State of Oregon
**Department of
Environmental
Quality**

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

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

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

SEPTEMBER 27, 1985

BEND SCHOOL DISTRICT BUILDING
520 N. W. WALL STREET
BEND, OREGON

A G E N D A

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 July 19, 1985, EQC meeting.
- B. Monthly Activity Report for June and July, 1985.
- C. Tax Credits.

9:10 a.m. PUBLIC FORUM

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

HEARING AUTHORIZATIONS

- D. Request for authorization to conduct a public hearing on proposed amendment of Notice of Violation Rule, OAR 340-12-040.
- E. Request for authorization to conduct a public hearing on proposed changes in rules relating to the "opportunity to recycle" (OAR 340-60-025(1)(c) and OAR 340-60-030(4)), to create a West Linn Wasteshed.
- F. Request for authorization to conduct a public hearing on amendments to the State Implementation Plan regarding the Ozone Control Strategy for the Oregon portion of the Portland-Vancouver Interstate AQMA, OAR 340-20-047, Section 4.3, and Growth Increment Allocation OAR 340-20-241.
- G. Request for authorization to conduct a public hearing on amendments to the Volatile Organic Compound Rules, OAR 340-22-100 to 22-220, and Permit Rules, 340-20-155(1), Table 1; as a revision to the State Implementation Plan.

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.

(over)

- H. Proposed adoption of modifications to a special groundwater quality protection rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580(1), for the LaPine shallow aquifer.
- I. Proposed adoption of amendments to establish boundaries and implement a Motor Vehicle Emission Inspection/Maintenance program in the Medford/Ashland AQMA as a revision to the State Implementation Plan.
- J. Proposed adoption of rules amending standards of performance for New Stationary Sources, OAR 340-25-510 to 25-805, to include new and amended Federal rules and to request delegation from EPA.
- K. Proposed adoption of revisions to New Source Review Rule related to assessment of visibility impacts of major new or modified sources in Class I areas, OAR 340-20-276, as a revision to the State Implementation Plan.
- L. Appeal of subsurface variance denial by Mr. and Mrs. Nile Sponaugle.
- M. Request for a variance from OAR 340-21-027(2) for the Brookings Energy Facility, Curry County.
- N. Request for a variance from OAR 340-21-015 and OAR 340-21-020, boiler visible and particulate matter emissions, and OAR 340-25-315(1) (b), veneer dryer emission limits, for Lang and Gangnes Corporation, dba Medply.
- O. Status of Marion County solid waste program and request for extension on closure of Brown's Island Landfill until Marion County/Ogden Martin waste-to-energy facility becomes operational.
- P. Informational Report: Proposed enforcement guidelines and procedures for the Hazardous Waste Program.
- Q. Informational Report: Water Quality Standards for nutrients.

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 Riverhouse Motor Inn, 3075 N. Hwy 97, Bend. Agenda items may be discussed at breakfast. The Commission will lunch at Bend School District Building.

The next Commission meeting will be November 22 in Eugene.

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.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTY-SEVENTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

September 27, 1985

On Friday, September 27, 1985, the one hundred sixty-seventh meeting of the Oregon Environmental Quality Commission convened at the Bend School District Building, 520 N.W. Wall Street, Bend, Oregon. Present were Commission Chairman James Petersen, Vice Chairman Arno Denecke, and Commission members Mary Bishop, Wallace Brill 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

All Commission members were present at the breakfast meeting.

1. Future Meeting Dates

- October 17 - Public hearing on plan on sewer East Multnomah County (Portland)
- October 18 - Special meeting and work session on plan to sewer East Multnomah County and Salt Caves Hydro Project Petition (Portland)
- November 21 - Work session on hazardous waste enforcement guidelines and Water Quality Compliance Certification (Eugene) (Scheduled after September 27 meeting was held)
- November 22 - Regular meeting (Eugene)
- January 31 - Regular meeting (Portland)
- March 14 - Regular meeting (Portland)
- April 25 - Regular meeting (Portland)

Director Hansen said the staff would prepare a schedule for the rest of 1986 and submit it to the Commission by mail for their approval.

2. Regional Managers Report

Dick Nichols, Manager of the Department's Central Region Office, briefed the Commission on Department activities in the region.

3. Case Management Practices for Hearings Officers in Contested Cases

Commissioner Denecke presented the following proposed guidelines for Commission Hearings Officers.

The Commission requests the hearings officers to set the docket for contested cases assigned to them; that is, determine the date at which hearings and other proceedings will be held. The desires of the Department and other parties will be considered and accommodated if this can be done consistent with the expeditious disposition of the case.

The Commission requests the hearings officers decide all cases submitted to them within three months after submission unless prevented by illness or other unexpected event.

(This is the time limit imposed by the Legislature on Oregon trial judges; ORS 1.050.)

Commissioner Denecke stressed that there had been no complaints about slowness in rendering decisions, but that the Commission's hearings officer had asked for direction. He said the Attorney General's office, with the agreement of Director Hansen, could accommodate this schedule by assigning cases to more than one Assistant Attorney General. Commissioner Denecke also said that "submitted" means after everything needed was in.

Director Hansen noted that these timeframes would also apply to the Attorney General's Office and the Department as well as the Commission's Hearings Officer.

Linda Zucker, the Commission's Hearing Officer, and Arnold Silver, Assistant Attorney General, said they found the guidance very helpful.

4. Portland International Airport Noise Abatement Plan

John Hector of the Department's Noise Section, summarized a written report concerning a citizen petition regarding Portland International Airport's noise impacts during westerly departures. Mr. Hector said that no enforcement action was needed at this time. The Port of Portland was aware of the problem and were making efforts to improve, but it was impossible to guarantee that no errors would occur.

The Commission postponed discussion to their lunch meeting. Subsequently, the Commission informally asked that this item be returned to them at their next meeting.

5. SB 138 (Toxic Waste Incinerator) Implementation

Bob Danko, of the Department's Hazardous and Solid Waste Division, reported on the implementation of SB138. He discussed the Department's work plan which will result in draft rules being presented to the Commission at its April 25, 1986 meeting. Assisting the staff in rule development will be a policy advisory committee appointed by Director Hansen and a technical advisory group appointed by Michael Downs, Administrator of the Hazardous and Solid Waste Division.

6. EQC Trip to Chem-Securities Hazardous Waste Disposal Facility, Arlington

Mike Downs reviewed the difficulty the Department was having in coordinating the Commissioners schedules for a proposed trip to the Chem-Security Systems, Inc. facility in Arlington in October. As an alternative, it was suggested the Commission participate in a tour with the Joint Legislative Committee on Hazardous Materials of both the Arlington facility and Hanford, Washington on November 12 and 13. This tour was being arranged by the Department of Energy. The Commission agreed to try to attend this tour if their individual schedules would allow.

FORMAL MEETING

AGENDA ITEM A: Minutes of the July 19, 1985, EQC Meeting

Commissioner Bishop asked for the deletion of the following sentence on page 20 of the minutes, under Agenda Item N:

If you have questions of staff, we have people here from the noise control and water quality programs and a representative from the laboratory that can address their respective areas.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed with Commissioner Buist abstaining, that the minutes be approved as corrected.

AGENDA ITEM B: Monthly Activity Report for June and July, 1985

Commissioner Denecke asked why plans had been rejected for two Rajneeshpuram water quality projects. Dick Nichols, Manager of the Department's Central Region Office, replied that because of the litigation on the status of the City of Rajneeshpuram, the City was unable to obtain a Land Use Consistency Statement. Without the statement, the Department cannot process plans.

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

AGENDA ITEM C: Tax Credit Applications

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

PUBLIC FORUM

John Churchill presented a written statement contending the Commission bears the sole responsibility for enforcement of water quality standards which includes the mitigation or degradation of water quality standards and the uses authorized in those standards. He said that disinformation surrounding the 401 hydro certifications has clouded the issue and severely damaged the public interest and wasted a lot of people's time.

Jack Smith appeared representing Northwest Environmental Defense Center (NEDC). He sent the Commission a letter before their meeting voicing some of the Center's concerns about its inability to find a forum to make a decision on the matter of administrative rules for the 401 certification process. Dr. Smith said that at the Commission's January 25, 1985 meeting his group attempted to present a number of amendments to proposed 401 certification rules but were unable to reconcile their views with the Department's. Subsequently, when the Commission reviewed the Benham Falls hydro project, Dr. Smith continued, they again tried to assert the argument that the Department and the Commission should be considering impact on uses. At that time NEDC was advised that the Commission was not the appropriate forum and they should take their arguments to the Court of Appeals. Dr. Smith said they had intervened in the Court of Appeals when the Benham Falls developer appealed the Commission's denial; again in an attempt to find a decision on the matter of what Oregon believes the federal definition of water quality standards to be. The Department has now moved to dismiss the Benham Falls appeal on the grounds that there is no controversy between NEDC and the Commission and, that in any event NEDC does not have standing because they were not a party because they did not participate in the Commission's proceedings.

Dr. Smith said that the rules that were being taken to public hearing on October 8, as a result of HB 2290, specifically would exclude the Salt Caves project and they would like some way of including that project in the rules.

Commissioner Denecke asked Representative Tom Throop (who was in the audience) if HB 2990, which Representative Throop primarily drafted and got passed, would adopt the view that Dr. Smith was advocating. Representative Throop said the Legislature did not resolve the issue. They made it clear in the bill they did not feel they had the information, resources, and time to resolve the issue at the time, and did not want to send a message to anyone that the issue was resolved. Essentially, Representative Throop continued, they felt the Commission was probably in a better position to look at the issue and make a determination.

Chairman Petersen asked why the Salt Caves project was specifically excluded from HB 2990. Representative Throop replied it was because the Energy Facility Siting Council and the Water Policy Review Board had been constructing a joint review process for over a year. The Legislature thought the project was too far down the line with that joint review process to have HB 2990 affect it.

Chairman Petersen suggested it might appear the Commission was trying to circumvent the Legislature if they were to adopt interim rules that would apply to the Salt Caves project. Representative Throop said that if the Commission would look at legislative history they would find that the discretion was left entirely to the Commission.

Commissioner Denecke said he would be more comfortable waiting for the formal public hearing and considering the question at that time. He also said he would very much like an opinion by the Attorney General at the time the rules were proposed for adoption, because it was his feeling it was strictly a legal issue.

Chairman Petersen said that neither the Department nor the Commission had ever said that use was not a consideration. However, some have suggested that the interpretation of use ought to be broader than so far the Commission was willing to go along with. Even though it might appear the Commission was ducking the issue, he continued, the Commission was perfectly willing to accept its responsibility, which in the case of 401 was to comply with federal statute. Chairman Petersen said that while the Commission may not agree with every argument that is put before it, it did not mean it was abdicating its responsibility.

Commissioner Buist asked how this matter would move along expeditiously. Director Hansen said that the original application on Salt Caves came to the Department of January 25, 1985 and the Department had one year in which to be able to take action.

Consequently, action on the 401 certification rules would have to take place prior to the completion of the full process involving all state agencies. He also said the Commission and the Department had just received a petition for rulemaking by the applicants which asks the Commission to declare that its present standards do not apply to reservoirs and adopt new standards. That petition must be responded to within 30 days of receipt. The Department had not yet decided what to recommend to the Commission as a way to handle that petition, but one option would be to ask the Commission to reject the petition and direct the Department to proceed with the determination on the 401 process given existing standards. Then, Director Hansen continued, resolution would come at the Commission's November meeting where the hearing record would be reviewed and the Commission might direct the Department to proceed for all future projects.

Chairman Petersen expressed concern about what he considered a very project-directed request, namely the Salt Caves hydro project. He said he was uncomfortable taking any action at this meeting without allowing anyone else involved in that project an opportunity to

address the Commission. Chairman Petersen said he certainly respected Dr. Smith's and Mr. Churchill's many years of combined experience in water quality management, and asked them to be patient with the Commission which has had much less exposure to the problems. Chairman Petersen thanked Dr. Smith and Mr. Churchill for their testimony.

Representative Tom Throop welcomed the Commission to Bend.

Bob Bledsoe appeared and asked why citizens volunteer for the Environmental Quality Commission? He said that government needs volunteers to be an effective government by the people. One of the pitfalls, Mr. Bledsoe said, of some volunteer commissions was to put a blind trust in the staff. He said the Commission should investigate all issues, and that sometimes environmental issues were used as a front for other things. Mr. Bledsoe also urged the Commission to take recommendations of concerned citizens.

As some people waiting to testify on agenda items had travelled a long way and were needing to leave the meeting early, Chairman Petersen took some agenda items out of order.

AGENDA ITEM Q: Water Quality Standards for Nutrients

At the July 17, 1985 meeting, the Commission considered the proposed adoption of amendments to Water Quality Standards Regulations, OAR Chapter 340, Division 41. As a part of that package, the Department proposed that issue papers be prepared by Spring 1986 for additional potential rule amendments. Potential nutrient standards were included as one proposed issue paper.

Testimony was given by representatives of environmental organizations and the Lake Oswego Corporation requesting immediate adoption of nutrient standards. The testimony suggested that nutrient standards were necessary to protect water quality from excessive algae and plant growth and that sufficient information exists to support adoption of standards. The Department indicated that substantial information would have to be assembled but that priorities could be rearranged to accelerate the schedule for nutrient standard development.

The Department suggested one of two basic approaches to better address nutrient standards. The most significant difference between the approaches lies in implementation actions when the standards are exceeded. The first alternative suggests the adoption of chlorophyll a (0.010 mg/l) as a standard for identifying nuisance growth of phytoplankton (floating algae). The second alternative suggests a standard based on "red book" rationale for total phosphorus to address nutrient conditions.

Director's Recommendation:

Based on information developed to date, the Department would propose to proceed immediately to public hearing to consider adoption of Alternative 1 as a nuisance aquatic growth standard.

In addition, the Department would propose to:

1. Develop an issue paper on nutrients that proposes further additions and refinements to this standard for consideration along with other proposed water quality standard revisions in the spring of 1986.
2. Include advisory language in permits that notifies sources of intended new instream standards and the potential for new requirements.
3. Complete the development of a detailed work plan for data collection and management plan revision for the Tualatin Subbasin and secure funding for the work effort. Data collection should begin by no later than January 1986. Preliminary target for management plan update hearings would be in the spring of 1987.

George Stubbert, Soil and Water Conservation Division, Department of Agriculture, testified that there are about 47 Soil and Water Conservation Districts throughout the state, each having about five to seven elected officials. The proposed nutrient standards would have quite an impact on their activities. He asked for an opportunity for all districts to be able to review the proposed rules before adoption. Mr. Stubbert said they supported the Director's Recommendation.

Margaret Kirkpatrick, representing the Lake Oswego Corporation, testified the Corporation would like the Commission to adopt the standards in Alternative 2 in the staff report, and to do it as quickly as possible.

She said that past testimony before the Commission had established that there were serious problems with nuisance aquatic growth, due in large part to high levels of nutrients, both nitrogen and phosphorous in the water bodies. The numbers in Alternative 2, she continued, were derived from the Environmental Protection Agency (EPA) Red Book, which is the product of EPA's years of research and study on this problem. It was the Corporation's feeling that more study would not come up with numbers that are better than those proposed in Alternative 2. She asked that Alternative 2 be adopted at this meeting without further delay.

Ms. Kirkpatrick also said that the idea behind Alternative 1 was good and deserved further consideration. She believed that in the long run it could produce information about the specific environmental circumstances and factors affecting aquatic growth in particular waterways.

Ms. Kirkpatrick thanked the Department staff for their quick work on developing these alternatives.

In response to a question by Commissioner Buist, Ms. Kirkpatrick said that the Lake Oswego Corporation was a private corporation that holds title to the bed and banks of Oswego Lake. The shareholders in the

corporation are the people who own property around Oswego Lake and have lake privileges; that is, the right to boat on the lake, etc. The Corporation is also charged with maintenance of the water quality of the lake. She said that testimony at the Commission's July meeting indicated the Lake Corporation spends about \$20,000 to \$25,000 a year combating the algal growth problem alone.

Commissioner Buist asked what the urgency was to adopt these standards at this meeting. She said she did not feel fully informed at this point. Jack Smith replied that since 1979 there had been considerable interest in the environmental community in getting nutrient standards established because of increasing problems in many, if not most, of the water bodies of the state. In addition, Dr. Smith complimented the staff on the considerable amount of time they had spent researching this area and on the two alternatives they came up with. He said that Alternative number 1 introduced a creative approach to the state's water quality management program by establishing something comparable to the air quality attainment and nonattainment areas. He suggested the idea could be fleshed out more and clearly ought to be subject to public hearings, more review and thinking. However, he continued, the numbers for phosphorous and nitrogen concentrations are really pretty solidly established and no amount of study or hearings at this time would come up with better numbers than those suggested in Alternative 2. For that reason he urged immediate adoption of Alternative 2.

Commissioner Bishop said she understood Alternative 1 to be a very solid approach, with maybe some additions from Alternative 2. However, she understood Dr. Smith to be saying the opposite and asked how the Unified Sewerage Agency could be asked to spend thousands of dollars to cut down on something that has not been proven to cause a problem in the Tualatin River. Dr. Smith replied that DEQ had an extensive report on the Tualatin River, that was now five to six years old, which documented the problem. He said the Unified Sewerage Agency was going to spend a lot of money in any event. It was in everyone's interest, Dr. Smith continued, to establish some standards so the money spent would be on solving the problem.

Chairman Petersen said that if the Commission adopted Alternative 2 it would be statewide and money would have to be spent to comply. It appeared to him that Alternative 2 was pretty site-specific to an area that had already incurred the cost. Governmental agencies have huge lead time problems, he said, and adopting this alternative at this time might put them at a disadvantage.

Jack Churchill appeared representing the Northwest Environmental Defense Council. In addition, Mr. Churchill said he lived in Lake Oswego and paid Lake Corporation fees, so he was well aware of the problem and the money that had been spent to combat it in Lake Oswego. He wanted to point out that the EPA Red Book standards had been developed by the best scientific minds in this area in the entire Country. He said that all states had had the opportunity to comment on those numbers and they were generally accepted throughout the Country as numbers necessary to achieve the uses. The Northwest Environmental Defense Council asked that the Commission go ahead and

adopt these standards now, however belatedly, putting the Tualatin Basin as a top priority.

Lorrie Skurdahl, appeared representing the Unified Sewerage Agency of Washington County (USA). She testified that algae and algae nutrients are not truly a human health issue; they are a potential fish and aquatic life issue and to a great extent a recreational and aesthetic issue. However, Ms. Skurdahl continued, nuisance algal growth was not really a priority pollution issue when talking about wastewater treatment. USA did not support either Alternative 1 or 2, but preferred Alternative 1 if any were to be adopted at this time. Ms. Skurdahl said they would strongly oppose Alternative 2 because it would be extremely costly to achieve and there was no assurance it could be achieved or that algae growth would be prevented.

Ms. Skurdahl said USA had recently completed a Master Plan update for the next 20 years which included approximately \$120 million in capital construction through the year 2005 just to meet the treatment standards in place now, which includes phosphorous removal. USA believes additional capital outlays would be necessary at the treatment plants to achieve either the removal of phosphate proposed in Alternative 2, or to reach the chlorophyll level in Alternative 1.

Ms. Skurdahl acknowledged that USA was a substantial contributor to the phosphate level in the Tualatin River, but said that even if USA's effluent were entirely removed from the River there would still be a level of phosphate that could trigger an algae bloom.

Ms. Skurdahl complimented the staff on taking a fair approach on both proposals by proposing the standards for all waters of the state. USA was concerned, she continued, that its operations in the Tualatin subbasin not be singled out. They were concerned that Washington County could be put at an economic disadvantage if a standard were more strict on the Tualatin River.

In response to a question from Commissioner Buist, Gary Krahmer of the Unified Sewerage Agency, said that they apply chemicals to their effluent which now removed about 75% of the phosphate. He said they could increase that chemical addition to remove more phosphorous and probably get down to 1 milligram per liter instead of the average 2 milligrams per liter removed now. He said they had some information from a New York treatment facility that had been struggling with this problem since 1979, and even with a massive amount of water treatment equipment the best they could achieve was .22 milligrams per liter. He said the report suggests that .1 milligrams per liter could possibly cause algae to bloom. Mr. Krahmer said that as always, USA was prepared to work with Department on a continuing basis to help resolve this matter.

Chairman Petersen asked for a response from staff.

Andy Schaedel of the Department's Laboratories Division, said that the Department was trying to give the Commission a range of options to deal with nuisance aquatic growth that may affect uses. In response to Commissioner Bishop, Mr. Schaedel said that if

Alternative 1 were adopted there may very well be standards set differently for different rivers. For instance, a .5 or .05 for a flowing river going into a lake may not be low enough to affect the nuisance growth and something more stringent may be required.

Commissioner Denecke said he assumed that when looking at a lake whose primary use was fishing more nutrients would be wanted to feed the fish. However, if the lake or stream were to be used for something else where clear water was wanted, a lower nutrient content would be desirable. Mr. Schaedel agreed that would be the case, but it could be taken too far.

Mr. Schaedel said there would be the flexibility to move the phosphorous and nitrogen criteria in Alternative 2 to Alternative 1. Chairman Petersen asked what problems would be created by doing that. Harold Sawyer of the Department's Water Quality Division, replied that it would potentially produce a larger list of areas that would be in nonattainment. Mr. Schaedel said he did a quick assessment of how many water bodies would not meet the suggested chlorophyll a criteria of .010 milligrams per liter and found there were approximately 16 to 19. That number would jump significantly if the annual phosphorous criteria were added. If the summer period total phosphorous only were taken into consideration, the number would be only about 31. Mr. Schaedel pointed out that one of the nearby rivers that would exceed the criteria would be the Metolius which had been tested at about .1 during the winter months.

Mr. Schaedel explained that the Red Book being discussed was a rationale for the development of a criteria; not a national standard. He said there were very few states that had adopted the Red Book criteria.

If Alternative 2 were adopted, Commissioner Buist asked how the Department would deal with USA. Mr. Sawyer replied that the permit for the Durham plant had been drafted and was out on public notice. There had been a request for a hearing, and the Department was in the process of determining whether to go to hearing with the permit. The permit for the Rock Creek plant comes up for renewal at the end of the year. Mr. Sawyer said the Department proposed to issue a permit which imposed some additional monitoring requirements and some additional controls to address the issue of nutrients. If Alternative 2 were adopted, he continued, additional language would be added to the proposed permits. If the USA plants did not meet those permit requirements, they would be treated just like any other noncomplying source and a compliance schedule would be negotiated.

Commissioners Buist and Bishop had questions about a timetable if a standard were adopted at this meeting. Director Hansen replied that if Alternative 1 were adopted there would be about 15-16 water bodies that would not be in compliance, and not all could be brought into compliance at once. He said they would expect that the Tualatin River would be one of the areas the Department would look at first, however the Department would expect to come back to the Commission with a proposal of how it expected to bring the rest of those water bodies into compliance. The Commission could then look at that

proposal and alter it if they wished. The schedule wouldn't necessarily be the topic of a public hearing, but it would be in a public document presented to the Commission and open to public comment in that way. Mr. Schaedel said that it would take about one year for a study on the Tualatin River, other water bodies may take a shorter or longer period of time depending on the complexity of regulation. Director Hansen said that if the Commission was looking for a standard to be able to be imposed upon point sources directly and immediately, Alternative 2 was the only one that would do that. Commissioner Buist was concerned that there was really no definite step being taken to solve the existing problem which is getting very severe in some water bodies, and the best approach would be to come up with a strategy to solve the problem. But practically speaking, she continued, it was going to take a very long time and in the meantime the problem might not be solved at all. Mr. Schaedel said that there was no guarantee if the phosphorous content from the sewage treatment plants were brought down that the problem would be solved, because it could come from nonpoint sources such as stormwater runoff.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed unanimously that both Alternative 1 and Alternative 2 be taken to public hearing.

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

This agenda item reviews the one-year variance which was granted to Brookings Energy Facility on September 14, 1984. The variance authorized the permittee to record temperatures manually in place of using automatic temperature recorders. The Commission requested this review in granting the variance. The proposed action recommends that the variance be allowed to expire and that the permittee be required to install and begin operating automatic temperature recorders.

Director's Recommendation

Based on the findings in the Summation in the staff report, it is recommended that the Commission allow the variance from OAR 340-21-027(2) for Brookings Energy Facility to expire and that no new variance be issued. The permittee should be instructed to immediately begin proper operation of the facility in accordance with the Commission's rules, including use of the temperature recorders. The permittee should be required to install and operate the temperature recorders within 45 days. During the 45 day installation period, the permittee shall maintain compliance with their Air Contaminant Discharge Permit No. 08-0039, Addendum No. 1, Condition 8. The Commission should instruct the Department to pursue additional enforcement actions if necessary to gain compliance with these requirements.

It is also recommended that the Commission not undertake any reconsideration of OAR 340-21-027 until the Department has reevaluated subsection (2) and prepared its recommendations.

Richard AnFranc, member of the Curry County Budget Committee, testified that the outcome of this matter would have a financial effect on the cost of solid waste disposal in Curry County. He said the County Commissioners would like to have input into the Commission's decision, unfortunately because of other commitments they were unable to attend this meeting. County Commissioner John Mayea asked that the Commission grant an extension of Brookings Energy Facility's variance until the next regular meeting to allow the County Commissioners to testify. Mr. AnFranc submitted a letter from the equipment manufacturer, Consumat, showing that the Brookings Energy Facility was operating in accordance with manufacturer specifications. He said that this letter demonstrated to the county that no emergency exists so extending the variance would be reasonable.

Chairman Petersen expressed concern that the Company was before the Commission a year ago and were granted a variance, contrary to Department recommendation, and it was his understanding the Company had not complied with the terms of that variance. He said he would not be so concerned if it was just a technical problem, but there were in fact violations occurring.

Commissioner Buist commented that it was not clear to her why the temperature was not recorded when it should have been. Bruce Hammon of the Department's Coos Bay Office, replied that the Commission granted the variance in September 1984, and after considerable discussion with the Company recording began in December of 1984. In January of 1985, the facility was inspected and found to be in noncompliance. The Company was informed both verbally and in writing of the violation. Other violations were found after that time. To this date, Mr. Hammon continued, the Department had not seen improvement and asked that the Company be encouraged to comply and install temperature recording devices.

In response to a question from Commissioner Buist, Mr. Hammon said after the Commission granted the variance, the Company was sent a letter explaining the terms. The Company felt it was unreasonable to be required to record for two hours after shutdown. From that point forward, Mr. Hammon continued, the Company was aware of the requirement and simply did not comply.

Tom Bispham of the Department's Air Quality Division, addressed the health concerns. Mr. Bispham said that because of the solid waste disposal problem on the Coast the Department looked into alternatives including incineration. The Department felt it could modify the particulate standard to accommodate incineration and still protect the public and the workers at the site from any exposure to toxic compounds that come from the products of incomplete combustion. He said the carcinogenic aspects of products of incomplete combustion were well documented, and was one of the primary concerns of the federal government at this time.

In 1984 the Commission made modifications to the coastal incinerator rules but took note that temperature needed to be maintained for those incinerators in order to protect against the emission of toxics and public exposure to those toxics. The Department feels strongly that

temperature recorders be required to insure that temperatures and residence times are maintained properly through the burn period for the protection of public health.

Chairman Petersen asked if there would be potential harm to public health if the variance were extended another month. Mr. Bispham replied that that would be difficult to determine, but the Department was concerned that over a long period of time if this situation continued, adverse health effects would occur. Commissioner Buist agreed that a one month extension probably was not going to make much difference in anyone's health.

The Commission agreed that it would be of no benefit to postpone action on this matter until another meeting and proceeded to take testimony.

Pete Smart, operator of the Brookings Energy Facility, testified that this was more than a matter of just installing monitoring devices. He said the Department was asking for a significant change in the way they operate. Mr. Smart said they could install the pyrometers, but it was his belief it would just be a way of putting them out of business.

Mr. Smart said he did not attend the public rulemaking hearings because first, he did not have the time, and second he thought they were going to relax the standards, which was done. In addition, however, the operating temperature was raised from 1600 degrees to 1800 degrees. He said they had tried to comply with 1800 degrees, and do most of the time. He was afraid they would not be able to maintain 1800 degrees during the winter months when there was a larger percentage of water in the garbage.

Mr. Smart maintained that ORS 468.345, the statute authorizing the granting of a variance if special conditions render strict compliance unreasonable, burdensome, or impractical due to special physical conditions or cause, should be applied to them. He said they had lost money on this project and any additional requirements would be financially burdensome on them.

Chairman Petersen asked if Mr. Smart was saying that the garbage they burned did not need to be burned at 1800 degrees. Mr. Smart replied that the manufacturer, Consumat, recommends burning at 1600 degrees. Under ideal conditions, he continued, they can run at 1800 degrees, but he did not want to be fined if they could not always maintain that temperature.

Mr. Smart cited conditions in his old permit, issued in 1978, which allowed what he called a normal warmup time, a normal shutdown time, and running at 1600 degrees. He said his permit now required different warmup and shutdown times, and running at 1800 degrees.

When he received the permit, Mr. Smart said he did not have time to read it carefully and did not think the permit requirements would be strictly enforced. Mr. Smart said he did not want to violate the rule, but if he put the pyrometers on he felt the Department would

not work with him and would issue him violations if he did not meet the temperature requirements. He said he had a job to do and the Department was interfering with it.

Chairman Petersen asked Mr. Smart if he had been informed in writing of the terms of the variance he had been granted in 1984. Mr. Smart replied he had received the terms in writing, but they had not been clear to him until Bruce Hammon explained.

Chairman Petersen asked if other coastal incinerators were having problems meeting 1800 degrees. Mr. Smart replied they were. Mr. Hammon explained that the incinerators at Coos County and Beaver Hill were experiencing difficulties with the startup requirements. But the difference between these facilities and the Brookings Energy Facility is that they operate continuously and have fewer shutdown and startup times than the Brookings Energy Facility. Mr. Smart said it was true that they operate more continuously in Coos County, but when the incinerators were bought in Curry County, it was realized that there was not enough garbage to run continuously. He said they had not had complaints from anyone except DEQ about the startup and shutdown times.

Chairman Petersen asked why the terms of the variance had not been complied with. Mr. Smart replied that he had not realized until some months had gone by that he would be required to stay for two hours after shutdown to record the temperature. When notified that he was not meeting this requirement, Mr. Smart said he was not going to keep someone at the facility for two hours after shutdown to watch the temperature. In answer to Commissioner Petersen, Mr. Hammon said the violations were the failure to monitor two hours post-burn, and the failure to meet the temperature requirements.

Mr. Smart said that after reading the Administrative Rules he found that an exemption was available for incinerators that burn 13 tons or less. He said his facility averages about 9 to 9 1/2 tons per day, so technically they could be exempted from the rule. Mr. Smart said he also found in the rules that they only apply to incinerators that were built in 1979 and after. He said his incinerators were purchased by the County in 1978. Chairman Petersen asked why the additional grounds for exemption were only being brought forward at this time. Mr. Smart replied that at the time of the variance hearing before the Commission in 1984 he had not gone through his permit or the Administrative rules thoroughly and did not realize the permit requirements were going to be strictly enforced. Mr. Smart said he had only recently begun researching.

Chairman Petersen said he was disappointed Mr. Smart had not taken the terms of the permit more seriously. He was not sympathetic to the argument that Mr. Smart had not bothered to read the permit carefully because he thought it would be the same as his previous permit. Chairman Petersen said that a permit was clearly a contract. Chairman Petersen suggested that if Mr. Smart felt he had additional grounds for an exemption, he should either present those arguments himself, or hire a consultant or lawyer to figure out if a legitimate case can be made for an exemption and the Commission would consider

that at its next meeting. The Commission will consider all points raised, Chairman Petersen continued, but once the decision was made, Mr. Smart was going to have to live with it.

Chairman Petersen asked the Department to cooperate fully with Mr. Smart in exploring the areas of possible exemption or areas of variance. However, unless the Company falls within the statutory criteria for a variance, or is exempt from the rule, the Commission has no choice but to enforce all the permit requirements.

Mr. Smart asked if it would be possible to have his old permit back, which required 1600 degrees, and then he would put in the recording devices. Chairman Petersen suggested Mr. Smart take his comments to his attorney, John Coutrakon, to prepare a presentation to the Commission at their next meeting.

Chairman Petersen asked Mr. Smart if he understood that the variance was extended until this matter is resolved, and that the terms of the variance must be met. Mr. Smart replied he had no questions about the terms of the variance. Chairman Petersen also said he would not expect an enforcement action would be taken until a decision was made on this matter.

It was MOVED by Commissioner Buist, seconded by Commissioner Denecke, and passed unanimously that the variance be extended, finding that special circumstances render strict compliance unreasonable, burdensome, or impractical due to special physical conditions or cause.

AGENDA ITEM N: Request for a variance from OAR 340-21-015 and OAR-21-020, boiler visible and particulate matter emissions, and OAR 340-25-315(1)(b), veneer dryer emission limits, for Lang and Gangnes Corporation, dba Medply

This is a variance request from Lang and Gangnes Corporation, dba Medply, a plywood manufacturing plant in White City. They are requesting that a variance be granted from the visible emission standards and particulate discharge limits from their boilers until December 15, 1985. They are also requesting a variance from the veneer dryer emission rules until March 31, 1986.

The Department is recommending that the variance for the boilers be granted and the variance for the veneer dryers be denied.

Director's Recommendation

Based on the findings in the Summation in the staff report, it is recommended that the Commission grant a variance for the Lang and Gangnes Corporation facility at White City, doing business under the name of Medply, from the boiler emission limitations for opacity (OAR 340-21-015) and particulate emission concentration (OAR 340-21-020).

It is further recommended that the Commission deny the request for a variance for the veneer dryers from OAR 340-25-315 and require that compliance be maintained by process control until scrubbers can be installed.

The variance for the boilers should be subject to the following conditions:

1. The two boilers must be permanently shutdown at the earliest possible date prior to December 15, 1985.
2. Interim control measures must be used to reduce boiler emissions to the greatest extent possible, including:
 - a. Proper operation and maintenance of the boilers to minimize emissions;
 - b. Continuing to operate and maintain the scrubber on the boiler stacks; and
 - c. Keeping veneer dryer 4 shutdown.

Douglas Cushing, Attorney for Lang and Ganges, testified that the company was now in bankruptcy. He said the problem would be resolved by December with the delivery of steam from Biomass. This would enable the company to shut down the boilers completely. Mr. Cushing said they now had a compliance schedule they believed they could meet, and will meet it. Mr. Cushing said the company was a good candidate for a successful Chapter 11 bankruptcy. They supported the Director's Recommendation, but would also like to see the variance apply to the dryers as well. He said a 45 day variance on the dryers would be helpful.

Director Hansen said the company had violated standards on an ongoing basis and he was troubled as they had continued to operate in violation while their competitors had to comply with the regulations thus giving Lang and Ganges an economic advantage. He said he was sympathetic to the problem but felt it could be controlled and requirements should be followed.

Commissioner Buist asked if the plant was in a populated area. Mr. Cushing replied that White City was an industrial area with a population of about 4,000 to 5,000 about eight miles from Medford.

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

AGENDA ITEM D: Request for authorization to conduct a public hearing on the proposed amendment of notice of violation rules, OAR 340-12-040

The Department is proposing to amend rules pertaining to issuance of Notices of Violation for violations of hazardous waste requirements. The amendment would eliminate the existing requirements of OAR 340-12-040 that at least five days notice be provided prior to the assessment of a civil penalty.

Recent revision to Oregon statutes by the 1985 Legislature deleted the prior notice requirement. Therefore, the proposed action merely codifies statutory changes to ORS 468.125.

Director's Recommendation

Based on the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed amendment of OAR 340-12-040.

It was MOVED by Commissioner Denecke, 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 proposed changes in rules relating to the "Opportunity to Recycle" (OAR 340-60-025(1)(c) and OAR 340-60-030(4), to create a West Linn Wasteshed

The Department is requesting authorization to hold a public hearing on a proposed rule change which would identify the City of West Linn as a separate wasteshed. West Linn is presently included in the Clackamas Wasteshed by rule. They have appealed this situation under ORS 459.175(2)(a) and have requested identification as a separate wasteshed.

Director's Recommendation

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

Commissioner Bishop commented that she had seen the program at West Linn and had been very impressed. She said West Linn had been in the forefront of curbside recycling and education.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously that the Director's Recommendation be approved. As a part of the motion the Commission asked that a letter be prepared commending the City of West Linn for their model recycling program.

AGENDA ITEM F: Request for authorization to conduct a public hearing on amendments to the State Implementation Plan regarding the Ozone Control Strategy for the Oregon portion of the Portland-Vancouver Interstate AQMA, OAR 340-20-047, Section 4.3, and Growth Increment Allocation, OAR 340-20-241.

This agenda item requests authorization to conduct a public hearing on revisions to the State Implementation Plan that would:

First, update the ozone control plan for the Portland area and provide larger growth cushion for use by new or expanding industries; and

Second, revise the formula for allocating the growth cushion for volatile organic compounds (or VOC) to new or expanding industries in the Portland and Medford areas.

The Department has worked with an advisory committee, the Portland Ozone Task Force, to develop these proposed changes.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission authorize a public hearing to consider public testimony on the proposed addendum updating the ozone control strategy for the Portland area as a revision to the State Implementation Plan (SIP). The proposed SIP revision includes: an addendum to Section 4.3 of the State of Oregon Clean Air Act Implementation Plan (OAR 340-20-047), and revisions to the new source review rules regarding allocation of growth increments (OAR 340-20-241).

If Portland was redesignated as an ozone attainment area in 1987, Commissioner Buist asked, why then can a larger growth cushion be available? Merlyn Hough, of the Department's Air Quality Division, replied that the primary purpose of updating the plan would be to take care of the time between now and 1987 before attainment redesignation is made. He said there was some increase in the growth cushion that could be used between now and 1987, but there was a possible substantial increase upon redesignation using the latest emission information and projections.

Mr. Hough said the primary reason there would be more room is because automobile emissions are decreasing. The recession also had an effect, he said, because there was a certain amount of employment lost during that time which affects traffic projections and automobile emissions.

Commissioner Buist asked what type of industries had asked for use of the growth cushion. Mr. Hough said the two pending requests were the Port of Portland umbrella permit to handle ship painting operations done in Port facilities by different contractors, and Tektronix. He said there had been a previous request by Intel, which produces semiconductors, but that has been withdrawn since they have postponed their expansion plans.

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

AGENDA ITEM G: Request for authorization to conduct a public hearing on amendments to the Volatile Organic Compound Rules, OAR 340-22-100 to 22-220, and Permit Rules, 340-20-155(1), Table 1; as a revision to the State Implementation Plan

Volatile organic compound (VOC) rules, which primarily affect painting and gasoline marketing operations, are a key element in the Department's ozone control strategies.

Over the last five years the Department has found problems with the VOC rules. This agenda item proposes to begin the rule revision process to deal with these problems which include providing relief to smaller companies engaged in surface coating, who have not found feasible technology to comply with the rules, clarifications of several rules to address concerns of EPA, and several housekeeping changes to improve the enforceability of the rules.

In some cases the rules are proposed to be made more stringent where technology is available. These cases include roadway traffic markings paint and low vapor pressure inks.

The rule changes would not significantly affect the Department's ozone control strategies.

Director's Recommendation

It is recommended that the Commission authorize a public hearing to receive testimony on the attached proposed amended permit rule 340-20-155(1) and on VOC rules 340-22-100 to 340-22-2020, as amendments to the State Implementation Plan.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and carried unanimously that the Director's Recommendation be approved. Commissioner Brill was absent at the time of the vote.

AGENDA ITEM O: Status of Marion County Solid Waste program and request for extension on closure of Brown's Island Landfill until Marion County/Ogden Martin waste-to-energy facility becomes operational.

At the April 8, 1983, Environmental Quality Commission meeting, Marion County was granted an extension to continue municipal solid waste disposal at the Brown's Island Landfill until May 29, 1986, or until a replacement facility became available, whichever came first.

Marion County is now in an implementation/construction phase to provide new solid waste disposal facilities that will meet both federal and state regulations. Based on current construction status, the replacement facilities may not be fully operational until sometime in early 1987. Marion County has requested approval to continue use of the Brown's Island Landfill until construction of their new facilities are completed. This informational item outlines the county's progress since 1983 and the Department's proposed course of action.

Marion County submitted their recycling report required by Senate Bill 405, "Opportunity to Recycle." Marion County, thus, is the first entity to file the recycling report statewide (due for all wastesheds by July 1, 1986).

Randall Franke, Chair of the Marion County Board of Commissioners, testified in support of the staff report. He said the Department staff did an outstanding report, and told the Commission the County was six weeks ahead of schedule. He invited the Commission to tour the facility when they were in the area.

The Commission accepted the staff report. Chairman Petersen congratulated the County on being the first to submit the Opportunity to Recycle report.

Mr. Franke thanked Chairman Petersen and complimented the Department on its excellent staff.

AGENDA ITEM H: Proposed adoption of modifications to a special groundwater quality protection rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580(1), for the LaPine shallow aquifer

At the July 19, 1985 meeting, the Commission authorized the Department to hold a hearing to collect testimony concerning a specific boundary for sewerage LaPine. The hearing was held on August 20, 1985. The staff prepared a hearing summary and proposed a rule modification that establishes the boundary. The boundary would designate the area in and around the unincorporated town of LaPine that will be served by a regional sewerage facility. The sewerage facility has been mandated by the EQC to resolve a nitrate problem in the LaPine area groundwater aquifer.

Since the time the staff report was sent to the Commission, staff have double-checked the legal description of the boundary and made some corrections. The boundary is still the same as proposed, only the description has been refined.

Orval D. Boyle, Director of Support Services for the Bend LaPine Public schools, submitted a written statement. He said the School District had recently invested over \$150,000 in their sewage treatment and disposal system. Mr. Boyle submitted results of recent lab tests that would seem to indicate the system was operating very satisfactorily. The School District was concerned that after just investing this large amount of money in a system approved by DEQ, they were being asked to abandon it to pay somewhere between \$800 and \$1600 a month for a core area sewerage system. Several school districts similar in size to the Bend LaPine District had been surveyed to determine the sewerage costs on a per person equivalent, he continued. These costs average \$.30 to \$.40 per person per month as compared to the cost of \$1.96 per person per month that was originally sought. For these reasons, Mr. Boyle said, the District considered the projected costs to be critically out of line with the state average costs and what is currently being required in the Bend area.

Commissioner Bishop asked if the Department knew there was a problem when the School District installed this system. Dick Nichols of the Department's Central Region Office, replied that in order to build the school it needed to be connected to an approved sewage treatment facility. All that was available at that time was a septic tank system. In 1978-79 the Department became aware of a nitrate problem in the LaPine area but did not know how extensive it was. A groundwater study completed in 1981-82 determined that the area needed to be sewerred. Mr. Nichols emphasized that septic tanks do not remove nitrate. He also said that the nitrate levels in the lab tests that Mr. Boyle submitted seemed low.

The Department has determined that there is a nitrate problem in the groundwater in LaPine, Mr. Nichols continued, but the problem has not been isolated to show that any particular structure is the contributor and that others are not. Frankly, he said, it would be impossible to make that determination. Mr. Nichols continued that if the Department would have to determine exactly which structures were contributing to the nitrate problem, it would be a very long time before the LaPine core area would be sewerred. In addition, Mr. Nichols said that the school was seen by the residents as a major contributor to the problem. The Department would have a credibility problem if the School were not included.

Chairman Petersen disqualified himself as his law firm represents the Bend LaPine School District.

Mr. Nichols then appeared representing Mr. and Mrs. O.H. Lunda. Mr. and Mrs. Lunda had had to leave the meeting earlier because of health problems. The Lundas live on a corner of the existing sanitary district. They apparently got into the sanitary district by error and were now trying to get out. They believe it would be impractical to run the sewer to them. The Lundas have recently installed a system that is working well and their well does not show any nitrates. For these reasons the Lundas believe they should be excluded from the sewer boundary. The Lundas were excluded from the proposed LaPine incorporation boundary which was defeated by the voters in March, 1985.

Mr. Nichols said that when the Department first did the hearing summary on this matter, he proposed that the Lundas be excluded from the system. Subsequently, staff felt it could cause some administrative problems if the Lundas were excluded from the Department's boundary, but were still included in the Sanitary District. Staff felt it would be more appropriate to consider the Lunda's request when the regional sewage plan was reviewed.

Commissioner Brill said it was his feeling to not include the school district at this time, but to include them if a nitrate problem develops. Mr. Nichols said that if the school were not included at this time, there would be no way to include them at a future time. Mr. Nichols said he felt that all sources in the core area should be sewerred.

Commissioner Buist asked Director Hansen what the Commission's alternatives were. Director Hansen replied that one alternative would be to accept the boundary as it is, including the school district. As the regional sewage plan is developed, areas could potentially be included or excluded, however, Director Hansen said he felt that was unlikely. The decision would be based on where the nitrate loading was coming from, and whatever boundary is established at this meeting would generally be what the boundary is, with slight individual residence modifications, but probably not the school. The other choice is to exclude the school. Director Hansen said if that happened it would be more difficult to sewer LaPine. Director Hansen said he was concerned that if the sewage system were built without including the school, the system would not be large enough to include the school at a later time.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed with Commissioner Brill voting no and Chairman Petersen abstaining, that the Director's Recommendation be approved which included the school in the system.

AGENDA ITEM I: Proposed adoption of amendments to establish boundaries and implement a Motor Vehicle Emission Inspection/Maintenance (I/M) program in the Medford/Ashland Air Quality Maintenance Area (AQMA) as a revision to the State Implementation Plan (SIP).

This a request for rules adoption which would implement the provisions of Chapter 22 Oregon Laws 1985 (HB2845). The specific amendments would:

1. Establish the Medford-Ashland AQMA as the inspection program zone. The result of this rule adoption would be to implement the provisions of ORS 481.190. The effect of this action would be that effective January 1, 1986, the Motor Vehicles Division would require that vehicles registered within that area obtain a Certificate of Compliance prior to vehicle resignation renewal.
2. Modify the inspection test procedure for 1974 and older vehicles by deleting the emission equipment portion of the inspection test throughout Oregon's I/M program.
3. Adopt an addendum to the SIP that documents the effectiveness of this aspect of the carbon monoxide control strategy to project compliance with the federal ambient health standards by the deadline date of December 31, 1987.

Director's Recommendation

Based upon the Summation in the staff report, it is recommended that OAR 340-24-301, the amendments to OAR 340-24-320 and 325, and the SIP addendum OAR 340-20-047 (section 4.9) be adopted. The effective date of OAR 340-24-301 would be January 1, 1986. The effective date of the remaining actions would be October 1, 1985.

Commissioner Buist asked how people would be informed if they were inside or outside the boundary, and how many more stations would be needed if the whole county were included. Director Hansen replied that the Department of Motor Vehicles would be sending notices to probably a larger area than the actual boundary, but there will be a phone number included for people to find out definitely. The same method is used in the Portland area, because notices are sorted by zip codes that do not necessarily follow boundary lines. Bill Jasper of the Department's Vehicle Inspection Section, said that if the whole county were included, then an additional 10,000 vehicles would be picked up which would require either an additional station or a mobile operation.

Commissioner Buist asked how many vehicles per year did one station inspect. Mr. Jasper replied that it was roughly 300 per day or 42,000 per year.

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

In response to an inquiry by Director Hansen, the Commission declined to discuss the repair cap.

AGENDA ITEM J: Proposed adoption of rules amending standards of performance for New Stationary Sources, OAR 340-25-510 to 25-805, to include new and amended Federal rules and to request delegation from the U.S. Environmental Protection Agency

In the last year, the Environmental Protection Agency has promulgated seven more new source performance standards and amended five others. The Department has committed to bring State rules up-to-date with EPA rules on a once a year basis. Minimal comments were received at a hearing on the proposed rules.

The source classes affected are:

Amended Rules

1. Rod casting at secondary bronze or brass plants
2. Electric arc furnaces at steel mills
3. Kraft pulp mills
4. Gas turbines
5. Leaks at chemical plants

New Rules

6. Argon decarburization at steel mills
7. Lime manufacturing plants
8. Vinyl and urethane coating and painting
9. Leaks at refineries
10. Synthetic fiber plants
11. Petroleum dry cleaners
12. Fiberglass insulation plants

If any of the following existing sources in Oregon make major modifications, they will be subject to the proposed rules.

1. Steel mills in Portland and McMinnville
2. Ashgrove Cement lime plant in Portland
3. Resin Plants:
 - a. Reichhold, White City
 - b. Borden, Springfield and La Grande
 - c. Georgia Pacific, Albany
4. Large dry cleaning plants using Stoddard solvent

Director's Recommendation

It is recommended that the Commission adopt the proposed attached amendments to OAR 340-25-520 to 340-25-805, rules on Standards of Performance for New Stationary Sources, and direct the Department to request EPA for authority to administer the equivalent Federal Rules in Oregon

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

AGENDA ITEM K: Proposed adoption of revisions to New Source Review Rule related to assessment of visibility impacts of major new or modified sources in Class I areas, OAR 340-20-276, as a revision to the State Implementation Plan

This agenda item concerns adoption of changes to the visibility impact assessment requirements of the New Source Review Rule. These changes are required to insure that the Department's rule is consistent with EPA regulations. The rule proposed for adoption has been modified in response to public comment to clarify the intent of the impact assessment exemption while insuring that visibility impacts from relatively small sources located close to Class I areas will be evaluated.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission adopt the revised proposed rule (OAR 340-20-220 through -276) as amended.

John Charles and Ann Wheeler-Bartol representing the Oregon Environmental Council, Oregon Chapter of the Sierra Club and the Northwest Environmental Defense Center, submitted a written statement opposing the proposed amendment to OAR 340-20-276 and to the existing exemption language in the rule. By allowing this exemption, they said, the Department was violating the visibility provisions of the Clean Air Act.

John Core of the Department's Air Quality Division, said that many of these issues were brought up in the public hearing. The issue as the Department saw it was one of whether or not the source should be responsible through the rule for analysis of their visibility

impacts or whether the Department should. The decision the Department reached after discussion was that it was appropriate for major sources of 100 tons or 250 tons to be responsible for doing the visibility impact analysis through the rule. Mr. Core said that after reviewing their comments it was determined that smaller sources, those between the significant emission rates of 25 tons per year and up to as much as 250 tons, could have a visibility impact on wilderness areas.

Therefore, the Department opted to include in the staff report a commitment from staff that the Department would do that analysis. Mr. Core said the Department would have no objection to putting this commitment in rule form.

Mr. Core emphasized that the exemption was only for analysis, not from control. Chairman Petersen said that was an important distinction. As long as the analysis was made, whether it was a self-analysis in the case of a large source, or a Department analysis, which they say they intend to do, the regulation is still there, he said.

Commissioner Bishop asked if the analysis could be included as part of the rule. Tom Bispham of the Department's Air Quality Division, said that the Department faced the problem of an EPA requirement to complete adoption of this State Implementation Plan Amendment. Mike Gearheard, U.S. Environmental Protection Agency, Oregon Operations Office, explained that EPA was under a court ordered deadline to promulgate the visibility State Implementation Plan. If the state did not act on this on schedule, then EPA was bound legally to begin its promulgation.

Director Hansen said if the Director's Recommendation were adopted with further instructions to the Department to come back at the next Commission meeting with an amendment to accomplish in rule that which was in the staff report, that will satisfy EPA and the Department would work with the concerned parties on that rule language.

It was MOVED by Commissioner Bishop, seconded by Commissioner Buist and passed unanimously that the Director's Recommendation be approved with the addition in the rule the Department's requirement for assessment as part of the normal permitting process, the exact language of that amendment to be presented at the next meeting.

AGENDA ITEM L: Appeal of subsurface variance denial by Mr. and Mrs. Neil Sponaugle

Mr. and Mrs. Sponaugle are appealing the decision of Mr. Sherman Olson, a department Variance Officer, denying their request for variance from the On-Site Sewage Disposal Rules.

Mr. and Mrs. Sponaugle desire to remodel an existing building on their property into a residence. This may be accomplished only if a method of sewage disposal acceptable to the Department is available to serve the house.

Mrs. Sponaugle informed the Department by letter that she feels denial creates a severe and unreasonable hardship. Her husband has a severe emotional handicap and is unable to work in public. He needs to be in the setting this property affords. Mrs. Sponaugle has had the property since 1971, and knows that it will drain, although there may be three (3) months each year when the drainage may not be everything desirable. She suggests using the septic tank as a holding tank when drainage is a problem, having it pumped as necessary.

Director's Recommendation

Based upon the findings in the summation in the staff report, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to deny the variance.

Mrs. Sponaugle testified asking that they be allowed a gate valve between the septic tank and drainfield which would allow the tank to be used as a holding tank during periods of high water. Sherman Olson, of the Department's On Site Sewage Disposal Section, said that a valve would only work if it is used and it would be difficult to determine when to switch the valve. Also, the Department had experienced problems with the proper maintenance of this type of system. Mr. Olson said this system is generally used in business situations where they can afford to have it maintained.

Mrs. Sponaugle said their only other alternative would be a lagoon, which would also be expensive to maintain. Most of the time on her property, she said, there was too little water. Mrs. Sponaugle felt that the holding tank was the most convenient and most desirable system to maintain.

Commissioner Buist asked what other homes in the area were doing, and if their systems worked. Mrs. Sponaugle replied that the other homes have existing on-site systems, and as far as she knew they worked well. Mr. Olson said this was not a high density area, and there were no regional sewage facilities in the area.

Commissioner Buist said it seemed reasonable to look at the septic tank/holding tank alternative because a lagoon did not seem economically feasible. Mr. Olson said that both systems would be costly. A septic tank/holding tank would have to be designed so it would not pop out of the ground when it was pumped, he said.

It was MOVED by Commissioner, seconded by Commissioner Bishop and passed unanimously that the Director's Recommendation be approved which would deny the variance. Commissioner Buist said she was voting for the motion reluctantly.

AGENDA ITEM P: Informational Report: Proposed enforcement guidelines and procedures for the Hazardous Waste Program

The Department has drafted proposed Enforcement Guidelines and Procedures for its hazardous waste program. The guidelines are intended to ensure that enforcement actions are appropriate, timely

and consistent statewide.

DEQ will be soliciting comment on the proposed guidelines prior to finalizing the guidelines. Input from the Commission is also desired.

The guidelines are necessary for the Department to receive Final Authorization from EPA for the state's hazardous waste program.

Director's Recommendation

It is recommended that the Commission: (1) concur with the Department's proposed schedule for development of final guidelines; (2) provide policy direction and comments on the proposed enforcement guidelines to Department staff; and (3) receive testimony from interested persons at this meeting.

At this point in the meeting Chairman Petersen and Commissioner Buist had to leave because of other commitments.

Tom Donaca, Associated Oregon Industries, began to testify, when Vice-Chairman Denecke expressed the concern that he would like the whole Commission to be able to hear this item.

By unanimous consent of the remaining Commission members, this item was deferred to the Commission's next meeting.

This ended the formal meeting.

LUNCH MEETING

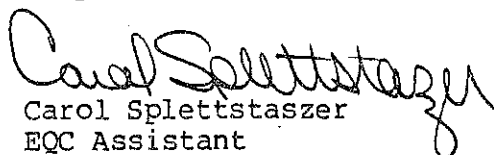
All Commission members were present for the lunch meeting.

Lydia Taylor of the Department's Management Services Division, informed the Commission that under the proposed plan for sewerage East Multnomah County, the Department was being asked to finance \$110 million over a 17 year period. This would be secured by special assessment revenue bonds instead of the usual general obligation bonds the Department uses for security.

John Core of the Department's Air Quality Division, presented a slide show on visibility in wilderness areas.

Several local officials and interested persons attended the Commission's lunch at their invitation.

Respectfully submitted,


Carol Spletstaszer
EQC Assistant

EQC Public Forum - September 27, 1985

Jack
Smith

Thank you Mr. Chairman. My name is Jack Smith speaking for, at this point in the meeting, Northwest Environmental Defense Center. I say that because I'll be speaking for somebody else a bit later. I sent the Commission a letter earlier in the week voicing some of our concerns about our inability to find a forum to make a decision on the matter of administrative rules for the 401 certification process. If you recall, at the January 25 meeting of this Commission, there the Department presented proposed rules. NEDC presented a number of amendments to those rules which I have capsulized and distributed here along with the rules that were, on January 25th, proposed by the Department. In general, what we attempted to do was simply make clear that designated uses or impact of federally licensed projects on designated uses ought to be considered in the process and findings and so forth ought to be made on those kind of impacts. At any rate, there was some difficulty at that meeting with reconciling our views with the Departments. Although at that time the difficulty did not have to do with uses that we were proposing. The difficulty had to do with the proposal that while the review of 401 certification application was pending, that the Department send a letter stating that until the certification was issued it shall be considered to be denied. The point of that was to avoid the

Smith
(con't)

certification being waived because of inaction by the Department. That, parenthetically, has been made a provision of HB 2990, that the Department shall either issue or deny but shall not waive certification. Subsequently this idea of uses got very complicated. I think Professor Churchill explained some of the complications. I think it is not complicated. I think that the federal law, or the words in the federal law, mean what they say. And the words in the federal regulations, a copy of which I appended to my letter to you, mean what they say and they say that water quality standards shall consist of designated uses and the criteria necessary to protect them. At any rate, at that January 25th meeting the staff was directed by this Commission to return at the next meeting, at the February meeting, with new proposed rules taking these things into account. The staff has never returned to this Commission with those rules. We subsequently in the case of the Benham Falls project, and the review by this Commission of the Benham Falls project, tried to reinsert those arguments that the Department and the Commission should be considering impact on uses. We were advised that this Commission was not the appropriate forum. That the appropriate forum was in the Court of Appeals. We have intervened in the Court of Appeals when the Benham Falls developer appealed your denial. Again, for the purpose of

Smith
(con't)

finding a decision on the matter of what water quality standards in the federal definition--or what this state believes the federal definition of water quality standards are--the Department has now moved to dismiss the Behnam Falls appeal on the grounds that (1) there is no controversy between NEDC and this Commission and, (2) that in any event we don't have any standing because we weren't a party because we didn't participate in the Commission proceedings.

Commissioner Can I interrupt just to get a point cleared?
Denecke

Chairman
Petersen

Sure.

Denecke Did the Department, through the AG, move to dismiss the entire appeal, or just your intervention--or just the Northwest Environmental Council?

Smith They moved to dismiss the entire appeal.

Denecke ...the entire appeal. Thank you.

Petersen

Wasn't that based on the passage of legislative statute that came after the initial appeal was filed and wasn't the point of the motion for dismissal was that the issue is moot as a result of the legislation?

Smith

That was a part of the Department's brief, yes. It however leaves the question that we raise unresolved. That question is not moot. We have produced testimony, if you have seen our brief in response to the Department's motion. Within that brief as I recall is a transcript of testimony on precisely that issue before the Hydroelectric Subcommittee of the Joint Water Policy Committee of the Legislature. Representative Throop was specifically quoted in that testimony as saying this is a very complex issue and if the Legislature is unable--that Committee was unable to resolve the issue and they specifically changed the language in 1990--changed the word water quality standards to rules adopted by the Environmental Quality Commission for the specific purpose of reserving the resolution of that question to this Commission or to the courts. So 1990 specifically did not resolve that issue. I guess my problem as I said is we're still looking for a decision that it seems to us at this point it is fairly obvious. I've requested an opinion from EPA about what they consider this state's water quality standards to be and you have a copy of that letter. The other issue concerning rules is the fact that you are going to be making a decision on a project on the Klamath River that is a project of some controversy in this state and it appears as a result

Smith
(con't)

of delaying actions that have been and are being taken by the Energy Facility Siting Council and the Water Policy Review Board, that the decision on that project is going to be made--for the State of Oregon is going to be made solely by this Department and this Commission on the basis of a 401 Certification. It seems precarious indeed that decision is going to be made in the absence of any rules for that process. There are rules going to be subject to public hearing on October the 8th, I guess.

Petersen

Right.

Smith

The difficulty is that those rules will not apply to this project because the rules that are being proposed on October the 8th have to do with incorporating the provisions of HB 2990 into the deliberations and this project is specifically exempted from the provisions of that bill.

Petersen

Your point is you would like to have the argument with regard to use--you would like to have that be a part of the Salt Caves....

Smith

I certainly would.

Petersen

Ok. That's the main thrust of why you are here.

Smith That is the precise thrust of why I am here. You have
 capsulized it perfectly.

Petersen. Ok. Anything else? I didn't mean to cut you off. I
 just wanted to get a picture...

Smith I can imagine two ways of doing that. One as interim
 rules. I have a sense this Commission doesn't like
 interim rules, but the rules that were proposed in
 January with the amendments proposed by NEDC would be
 perfectly adequate interim rules and would be applicable
 to this project.

Petersen But didn't this Commission in January indicate it was
 not necessarily in favor of the NEDC amendments? We
 didn't, if I remember correctly, we sent the thing out
 to hearing and we did not make any changes in the proposed
 rules. We didn't adopt the suggested amendments that
 NEDC requested. Am I accurate in that statement?

Smith You're accurate in that statement.

Petersen Ok.

Smith You're accurate in that you didn't adopt anything at that
 meeting, you simply directed the staff to come back in
 February with rules incorporating, as I recall and I don't
 know whether the minutes will reflect but I'm quite certain

Smith
(con't)

that a transcript of that meeting would reflect that the only concern at that meeting was this question about whether the Department should deny a certification rather than allow it to be waived.

Fred
Hansen

Mr. Chairman, maybe it is best to clarify. The issue that came before you in January was a set of proposed rules from the Department that were basically procedural rules on the 401 process. At that time a number of people testified, Dr. Smith included, that basically said it should include other things than just procedural issues. The Commission said we would like to have that go back take another look at that issue and see what comes out. In July we came back to you with a series of issues that are really very gut issues here. Raised them as issues, put forward the modified procedural issues as well, and that is what you authorized for public hearing. We felt that although there had been a discussion previous to that time that that was not sufficient public hearing to be able to adopt final rules. So the public hearing now is scheduled for October 8th. It involves really seeking information on questions rather than a hard set of proposed rules that say this is where it ought to go, either yea or nea, do you agree or not agree.

Petersen Is that it, Dr. Smith? Thank you. Is there anyone else on Public Forum on that particular issue? Ok. Questions or comments? I am sure Mr. Churchill and Dr. Smith will make themselves available.

Denecke I wanted to ask Representative Throop a question on this issue. I realize this isn't what you're testifying on. Aside from the one down at Klamath County, the bill that you primarily drafted and got passed, that would adopt the view that Churchill and Dr. Smith are advocating would it not? I shouldn't put it that way because I'm asking, because I really don't know.

Rep. Throop I wish Jack Smith would come up and repeat what he said because he articulated it much better than I could. That is precisely what transpired. We did not resolve the issue. And we made it clear that in that bill we did not feel we had the information, the resources, and the time to resolve the issue at the time, but we didn't want to send any signal to anybody that that issue was resolved. But we essentially left that issue open and essentially said the Commission is probably in a better position to look at that issue and make that determination and nothing in this bill precludes that from transpiring, but it may well be an issue that we'll need to look at in '87. What we were trying to do was to move the center of gravity forward if you will, and some of those details we were not able to accomplish in the bill. And I think

Throop (con't) the sentiment is--there is a lot of sentiment that supports the Churchill and the Smith approach but we didn't feel we had the time or resources to work through that.

Denecke Dr. Smith, I'm sorry, it sounded like I contradicted you. I was so intent on that I forgot that I think your closing statement was that the bill did not solve the problem.

Throop He articulated exactly what our position was perfectly.

Petersen I unfortunately don't have 2990 in front of me, but wasn't that a 401-related--in other words isn't that geared toward expanding the grounds for granting or denying certification under 401. Wasn't that the main thrust of it?

Smith There were two sections in that bill, Sections 8 and 9 as I recall, that have to do with 401 certification.

Petersen Uh huh.

Smith There are some standards to be adopted by the Energy Facility Siting Council and Water Policy Review Board having to do with protection of fish and some other resources and those were incorporated by 2990 into the requirements for consideration and 401 Certification.

Smith
(con't)

Our argument was not about those provisions. Our argument was that the initial language said that amongst the considerations was the language "water quality standards" adopted by EQC. And our argument has been that what EQC calls standards are only the criteria half of the federally-approved water quality standards which include also those beneficial uses that you designate.

Petersen

I see.

Smith

And so--if I could read from this transcript a minute. This is of that legislative hearing and this is Chairman Hosticka's--this argument was at that table where Mary Dietz and the Attorney General's Office, Harold Sawyer from the Department, and me. Chairman Hosticka says:

"Hosticka Ok, what if we said standards and rules adopted by the EQC. Or just say rules adopted by the EQC. Because it seems that your problem is that the rules set standards and also give criteria and you are afraid we'd wipe out the criteria."

"Smith You wipe out the uses."

"Hosticka Right. And if we don't wipe it out, if we use different language and just incorporate that whole blue book, then does that get at what you want?"

Smith That whole blue book was my copy of DEQ's administrative rules.

"Smith Yes."

"Hosticka And we can do that Mary and Hal?"

"Dietz I think that's fine."

"Sawyer Sure."

"Throop Mr. Chairman."

"Hosticka Representative Throop."

"Throop The effect of that would essentially leave that debate open, say that they have to take the bait and go to Portland when EQC meets then?"

"Smith It certainly would not foreclose that which is what this current version does and maybe you want to say water quality management rule or something like that so they would not be all possible EQC rules..."

Etc., Etc., Etc. But the intent of that Committee was to reserve that issue for either this Commission or the courts to decide.

Hansen Mr. Chairman. Just to reiterate one little brief aspect of 2990. It basically directs both Energy, EFSC--or pardon me Fish & Wildlife and Water Resources to be able to develop rules. It basically then gives us statutory

Hansen
(con't)

authority to be able to consider those in the 401--
that's the expansion. Other than that it basically
leaves the question open. A part of what I think is
important here tho is a part of what's being requested
I think is the--in terms of the immediacy of it is the
Salt Caves issue.

Petersen

Right.

Hansen

Let me stress that from what has happened to date is
the Department has registered their--our comment
in that hearing process, although it has been postponed
now and we have certainly not reached the final conclusions.
What we have said is a precursor to what we the Department
would do on the 401 certification of Salt Caves. What
we have said in that is that it does not meet water quality
standards as we have defined those standards. Not to
deal with the use issue but just in strict water quality
standards. And that those violations would be there
and would not be from our standpoint probably mitigatable.
Assuming that there is not new information coming forward
we would expect on those basis to be able to march forward
and in fact probably move toward denial in the 401 process.
Although there is still more information that has to yet
be resolved. So the issue that is being raised and the
immediacy of it, I have to admit I don't see because of the
fact that the problems we have--that's not where at least
we the Department are finding that we would say yes to it

Hansen
(con't)

if we did only what we were originally doing, but say no if we did what Dr. Smith said. We're saying no on the basis of what we see as strict water quality standards. And so I'm not sure that at least as I see it, and Dr. Smith may want to comment on the immediacy now to be able to adopt intermediate standards regardless of the long-run desirability of doing something different than what we the Department have been doing up to date. That's another issue and I think will be resolved later.

Petersen.

Why--excuse me, go ahead if you want to comment on that.

Smith

My comment, I'm not sure that I want to make this publically.

Petersen

Ok. You don't have to. Let me ask Representative Throop--why was Salt Caves excluded from 2990? Specifically in the statute?

Throop

Well the major reason that Salt Caves was excluded was because there had been a joint review process that had been underway constructed by the state agencies. The Energy Facility Siting Council and Water Policy Review Board were constructing a joint review process. They had been doing that for a year. This was the only project that was in excess of 25 megawatts--the only project that would be triggered for EFSC review. We thought that that project was too far down the line with that joint review

Throop process being constructed to have HB 2990 affect it.
(con't)

Petersen Would the adoption of interim rules based on 2990 be an
end run around that legislative intent do you think?

Throop Well, along--I'm not certain I have a direct answer to
that. One of the discussions we had consistently through
this too is that we did not want to tie the hands of
state agencies in terms of their review on specific
projects with 2990. If in their deliberating process
they thought 2990 should be applied--go ahead and apply
it. For example, the State Land Board at this time is
promulgating some rules--some hydro siting rules, and
that same question has come up there. We did specifically
exclude Salt Caves, but I don't think we were trying to
exclude the state agencies from looking at existing law
or looking at 2990 and figuring out what their best
approach is to that particular issue. I don't think I've
stated that very clearly, but we did not want to take
that authority or discretion away from the state agencies
and their governing boards and commissions, but we didn't
want to interrupt that process either. So we wanted to
leave that determination to you in regards to that specific
project. And I'll be arguing that point more articulately
Tuesday before the State Land Board because there is some
question about whether Salt Caves ought to be excluded from
the rules that they are currently conducting. I think

Throop
(con't)

that really has to be a determination that the State Land Board itself makes independent of what we did in 1990.

Smith

I simply want to comment, Mr. Chairman, the reason that I suggested these rules--or the rules that I just distributed--is that those rules were subjected to hearings, they were presented to you in January, well before there was any such thing as 1990. So those rules do not incorporate the new provisions of 1990 and therefore would be straightforwardly applicable to this project on the Klamath River and any other project exempted.

Petersen

My only point--my comment was that if the Legislature said that that project is far enough down the road under existing rules of the various agencies to interfere with it are we--would this Commission, if we adopted interim rules, sort of attempt to end run the legislative intent. I don't know. Mr. Silver do you have a comment?

Arnold
Silver

Well, I intend to agree with the Chairman. Without getting in to the legislative history of the bill I think that someone might level a finger at the Commission and say that is exactly what you are doing and conceivably interfering with the Legislative intent rather than...

Throop

Mr. Chairman, I'd suggest you look at the legislative history because if Mr. Silver hasn't looked at the legislative history I think that he'll find in that legislative history that that discretion was left purely to--we didn't feel that we wanted to change that joint review process, but we also did not want to interfere with the agencies and their governing boards and what they thought was an appropriate determination so we tried to draw that fine line between not tying your hands but also not changing substantially those major goal posts in the middle of the stream. So I think if you would go back and look at that legislative history you would find that we tried to leave that discretion to you. That is your call. I don't think you ought to consider us at all in making that call. I think that is your call.

Denecke

Mr. Chairman, a question on timing. We were thinking about adopting interim rules and my recollection is we were doing that because the Salt Springs project was going to hit here fairly soon. Am I correct in that belief?

Hansen

We did have that in the back of our minds that that would be one of the projects that would have been subject to the interim standards, but our feeling is that the procedures that we do have in place and that we would be following in this case are suitable and we could be marching toward, without standards we would still be marching toward a decision under the 401 process. We just didn't feel that without having written rules adopted by the Commission that we weren't as comfortable with that not having the written rules, but that we do not feel there is any question about the defensability of the procedures we have taken, or the procedures we will continue to take short interim standards and leading toward a decision by the Department on Salt Caves in the 401 process. We do expect to be able to march through to that assuming no other new twists in it.

Denecke

If I understand the timing correctly here, it would seem to me--if I don't review this very thoroughly before a Commission meeting I forget what I was thinking about the last time, and I was better prepared--I looked up some law the last time and I didn't do it this time. I read your memos and everything. I'm suggesting--now we've got a public hearing the first part of October. Then whatever the Department, as a result of that public hearing, whatever rules the Department suggests are going to be up before us for adoption or rejection or amendment. My personal feeling--I'd feel happier if we didn't do anything now.

Denecke
(con't)

And waited 'til these rules come in. At the time we consider adoption of the rules I would very much appreciate an opinion by the Attorney General on this because I think it is strictly a legal issue, isn't it? For example, and I know we've got a lot on the agenda so I don't want to prolong this anymore, but Dr. Smith, one thing that bothered me in the answers that the EPA gave--the first question answer is yes. Then it seemed to me, and this part I'm not at all sure of, it seems to me that was inconsistent with their answer to 5.

Smith

They clearly waffled on--and it bothered me too frankly.

Denecke

Oh good. I'm glad I wasn't stupid because I couldn't understand how they could answer one yes and then say on five "there is unfortunately no simple answer to this question." Ok. You make me feel better.

Petersen

Well, your point about the fact that it is a confusing issue to begin with, but it is particularly confusing now because of the various procedural things that are going on. We had the Benham Falls issue before us, this Commission voted to deny on the basis of the fact that they didn't go and get the county's approval. That has been appealed to the Court of Appeals right now. And the Court of Appeals is going to discuss, if they go ahead and hear

Petersen
(con't)

the case, they are going to decide whether preemption-- for starters that's an issue that hasn't even been talked about--but whether the Federal Power Act preempts our ability to throw the ball into the Deschutes County Commissioners lap. I mean that's a legal issue that I guarantee you will be debated, and should be, at the Court, not here, not before this Commission. So we have that appeal that's pending. In the interim we have 2990 that's passed, excluding Salt Caves, and we've got the rules that are coming up, and there is just a lot of stuff going on right now that not necessarily consistent, and it is really difficult to hang all the pieces together. I don't think that I or any members of this Commission have ever said that use is not something that this Department and its rule pay attention to. It is a question of how you define use, whether narrowly or broadly. A question of whether the water quality standard is sufficient to protect--definitely they are tied together--obviously otherwise you're just deciding the issue in a total vacuum. We've never said that use is not a consideration. But some people have suggested that the interpretation of use ought to be broader than so far this Commission is willing to go along with. That is really as I see it is the problem. There's room for disagreement. Reasonable men can disagree.

Smith I don't want to take more of your time on this issue, Mr. Chairman, but what I was debating about saying publically, I have been in the business of water quality management for I guess about 25 years now. That's how I make my living, how I've been making my living for quite a long time. I think I know how to satisfy water quality criteria. I think if the Klamath Falls people would find a better engineer they would be able to find that out too. But I can't build a reservoir on top of * * * * * END OF TAPE * * * * *

* * * * * beginning of new tape * * * * *
...and one of the state's major white water rafting areas, I can't and I don't think anybody else is going to be able to figure out how to put a reservoir of flat water on top of that location and satisfy the use part of the standards. I just think by limiting yourself to simply this one half of the standard, you're missing the whole point of why you even have standards. It's to protect those uses.

Petersen You're saying flow and quantity are essential to the whole process.

Smith Sure.

Petersen I understand you.

Throop And unfortunately the issue has not matured to the point to be able to be resolved in the Legislature this time. As I mentioned before, we were moving centers of gravity and we were not down to the nitty gritty detail, and frankly just did not have the ability to make the decision on this issue. One of the reasons the pressure is on you so much, obviously, is this is the only state requirement in the Federal Power Act. This is the only item in the hydroelectric review process that a state specifically has authority for and essentially in the federal power act that's a determination we have to make that presumably is not subject to federal preemption. So obviously you're the only hook in that process where the state really has that authority and the pressure is going to be there. If you can resolve it, great. If it is something that we need to carry into the '87 Assembly because it is not completely resolvable by rule, by administrative function at this point, I just that is an issue that will come before us in '87.

Petersen. Yes. Well I certainly hope it's resolved before then. I guess I would commit to--we're very eager to--we don't want to abdicate any responsibility whatsoever, and while it may appear to some that we're trying to duck the issue, that is not the way I operate anyway, and that is not

Petersen the way I have seen this Commission operate. We are perfectly willing to accept our responsibility, but our responsibility is to, in the case of 401, is to comply with the federal statute. That is the statute were looking at--and then of course to try to mesh that with the requirements of state law. Right now, as I see the two, there is a little bit of a collision course between state law and 401. That is my legal opinion. That hopefully can get resolved by the courts, not by this Commission. But we're going to be aggressive about it, we want to keep it moving along as quickly as we can, we don't want to abdicate. We may not agree with every argument that is put before us, but that doesn't mean, at least from my point of view that we are abdicating that responsibility. And we don't want to toss it back in the lap of the Legislature if in fact--unless we need clarification of the legal-- because that is really what we're bound by is that.

Sonia
Buist

It is not clear to me how we're going to move it along. I too am concerned that it's not going to move along expeditiously. Can Mr. Hansen tell us that the process and what the options are to us at this point?

Petersen Sure.

Hansen

Mr. Chairman, Commissioner Buist. Basically, I have to kind of do it in two stages here. At the stage that the Energy Facility Siting Council and the Water Resource Commission decided to be able to in fact put off the hearing on Salt Caves, we then, and that is not until January and February, we have taken the fact that the original application on 401 came to us on January 25. We have one year in which to be able to take action on that from the time we receive a completed application. We have chosen January 25 of 1985 as that date. Consequently we would have to make a decision on 401 prior to the completion of the full process involving all state agencies. If we were left to our own devices it is my intention that we would march through, make that decision and, as I've indicated given what comments we've already in the process, what we have really said it we don't think it meets water quality standards. As an aside, Dr. Smith just raised the issue about, well, if you had the right engineer he thinks he could solve it. Our view is if you have better engineering you would probably find worse problems rather than better. Serious difficulties we think from water quality standards. Now, that's left to our own devices. What is now--we have just received as a Department and the Commission has been a request by the applicants a petition for rulemaking that the Commission will need to respond to within 30 days. That petition for rulemaking basically said that we'd like to have you throw out your

Hansen
(con't)

standards on reservoirs and as a result to adopt new standards. And that is really where the problem is, the problem that Jack speaks to in terms of water quality standards. We'd like to have you throw out the existing standards, adopt new standards, and thereby have at least a basis for approval. At some stage you're going to have to, again within the next about 27 days that is going to have to be dealt with. The Department has not yet concluded how it will recommend to handle that. But one option that we are certainly looking at is for you to be able to look at that petition, to be able to reject, at our recommendation, that petition and direct the Department to be able to proceed with the determination on the 401 process given our existing standards. That is an option--certainly one that we are seriously looking at. Then the resolution would come at the November meeting where you would review the hearing record on the October 8th public hearing, direct us to be able to proceed on existing procedures, and if you choose, to adopt those for all future projects. That could be the possible scenario. As I say, since we haven't fully reviewed, I don't want to commit to that, but that is certainly something we as a Department are looking at as a possible recommendation to you.

Petersen Does that answer your question?

Buist Yes, thank you.

Petersen I'm also a little bit concerned because this is a very project-directed request that we're getting, namely Dr. Smith and Dr. Churchill acknowledge that the purpose of them coming here was primarily a Salt Caves thing. I'm a little uncomfortable taking any action today without allowing anyone else involved in that project to address the Commission. In a sense of fairness I don't think that that would be fair play. And I think that you'd agree if the shoe were on the other foot. One final comment, and that is that I certainly respect Dr. Churchill's and Dr. Smith's, it must be 100 years of combined experience in water quality management, and I just ask you to be patient with us who have maybe one or two years of even exposure to this kind of thing and we're not a real quick study as far as all these far-ranging issues that you gentlemen have taught and studied over the years but we'll catch up with you and do the best job we can to make sure that the right action is taken.

Denecke That means Jack Churchill has been at it for 75 years.

Petersen That's right. I'll let them divide that 100 years anyway they choose to.

Transcript
Bend EQC Meeting
Brookings Energy Facility

Hansen: Item M is a request for variance for the Brookings Energy Facility in Curry County. I would like to call the representatives from Brookings Energy Facility, Curry County, and their spokesperson to come forward on Agenda Item M.

AnFranc: Thank you. I am Richard AnFranc from Port Orford. I am a member of the Curry County Budget Committee. The ultimate outcome of this matter will have a financial effect on the cost of solid waste disposal in Curry County. This matter is of concern to the Curry County officials. They believe it is their right to have the County to have some sort of input in this decision. Unfortunately, because of short notice and prior commitments, none of the three commissioners could attend this meeting today to testify. Chairman of the Board of Commissioners, John Mayea, asked that you grant an extension of BEF's variance until your next regular Commission meeting. At that time, he or one of the other Commissioner's will be prepared to provide input into your decision process. Unfortunately, I didn't know how many copies I would need, but I made a copy of a letter from the manufacturer of our equipment for you to use. In this letter from Consumat, it shows that BEF is operating the equipment in accordance with their specifications. This demonstrates that as far as we are concerned that no emergency exists so the extending of the variance until your next meeting would be a reasonable act on your part. So, on behalf of Commissioner Mayea, he thanks you for your consideration of this request. If there are any questions...

Petersen: Mr. Cushing, are you representing these people?
I am sorry. I thought you were on this item. Is there somebody from staff who wants to comment on this? I guess I am right off the bat a little bit concerned that these folks were here a year ago and we went contrary to staff recommendation and granted a variance. It is my understanding that they have not complied with the terms of the variance. They have violated that. I guess, to be perfectly honest with you that it makes me less than sympathetic to a request for an extension because somebody can't make it today. By the same token, we want to be reasonable. If it were just a technical thing, I guess I would not be that concerned about it, but I understand that there are, in fact, violations occurring. Maybe somebody, Lloyd Kostow or somebody from the Air Quality Staff can...

Hansen: Tom Bispham and Lloyd Kostow.

Petersen: ...can address the issue and give us a recommendation. I am inclined to follow staff's recommendation this time around.

Buist: I have an extension of that question. It is not clear to me why the temperature was not recorded as it should have been. Was this a behavioral problem with the people operating-- it's not technology--what was the problem?

Bispham: Bruce, would you like to address that. Bruce Hammon is from our Coos Bay Office and has worked directly with the source and could probably best answer that.

Hammon: Commissioner Buist, the variance was granted September 14 of last year. On or about December 17, after a certain amount of dialogue between the agency and the permittee, they began monitoring. The facility was inspected on January 11 and found to be in noncompliance. They were informed of the violation verbally, and I believe in writing, that they were not documenting the temperature recordings properly. Then, on April 3 of 1985 they were contacted again and informed of the violations for not first of all recording properly, which was a repetition of the violation which they had incurred as of January 11, and also the temperature violations. They were informed of those also at that time, and again, on June 19, the facility was inspected and found to be in noncompliance--specifically, with the temperature requirements and the failure to record two hours after the final charge. To this date, we have not seen improvement of that and encourage that they do comply and install the temperature recording devices such that we can determine compliance.

Buist: It is clear that they are not in compliance. My question is what was their response to that and why were they in noncompliance? What were they doing?

Hammon: Initially there was a letter sent after the variance was granted, and as I recall, the permittee felt that it was unreasonable, that he be able to not record for two hours afterwards and they they simply shut it off and go home. From that point forward the permittee was aware of the requirement and simply has not complied with it. Motivation and reason why, it would be conjecture on my part to really answer that.

Hansen: Mr. Chairman, one thing that is important to be able to at least have Bruce discuss briefly at least is that last time during the consideration, I believe, that the Commission, I don't mean to read into your decision, but was

basically concerned that the difference between manual and automated temperature recording was really a bureaucratic requirement and if it could still be accomplished by manual recording, should it not be. What was underlying it, and I don't think that we did a very good job of explaining to you, was the reason, the necessity for that is a health concern. Certainly something I am sure Dr. Buist is well familiar with. Maybe Bruce and/or Tom could outline a little bit that health issue, because that really is what motivates any of these regulations. It is not just because it's a nice requirement.

Bispham:

I think to refresh your memory somewhat, I know you are aware of the solid waste disposal problems on the coast. In 1984 and probably in the later part of 1983 and since then have been looking for alternatives to disposal on the coast due to the wet ground conditions and such. We looked at some alternatives of incineration for the coast, felt that we could modify the incinerator regulation to accomodate some of the conditions. We could reduce or relax the particulate standard, but yet protect the public and the workers at the site, and the people that come into the landfill from any exposure to toxic compounds that come from the products of incomplete combustion. The carcinogenic aspects of products of incomplete combustion are well documented and is one of primary concern of the federal government today, looking at the compounds that come from garbage burners, woodstoves, that type of thing. In January of 1984, the Commission reviewed a Department proposal to modify those coastal incinerator rules and in doing that, relaxed the particulate standard but took note that we had to maintain some temperature and residence times for those incinerators in order to protect against the emission of these toxics and public exposure to these toxics and in doing so, adopted those standards. We still feel strongly that we need to keep that issue before us. That is why we have maintained our stance on requiring these recorders to insure that those temperatures and those residence times are maintained properly through the burn period to protect the people who can be exposed and are being exposed to these emissions. Those people who work in the plant, those people--the commercial haulers who spend time in there--and the public that drives into the site. Bruce could probably relate better than I can, but I believe there are residences around those areas. Certainly, varying prevailing winds can carry those emissions into the community.

Petersen: Is it the staff's opinion that if this variance was extended for another month that there would be potential harm to the public?

Bispham: We can't tell you that somebody is going to check into the hospital or report to a doctor that they have suffered exposure to toxics, but we are concerned that over a long period of time, that if this is continued, that we could face that type of situation. I say that and Fred can probably verify this from his inspection of the Coos County incinerator, I think it was an employe there, has filed a health claim due to exposure to the emissions from that unit. I can't say, and I don't think anybody here can say that it is verified that that's the cause, but it is that individual's claim that exposure...

Petersen: We understand that the staff's position is to deny the variance, that's not the issue. The issue is should we extend the variance until the next Commission meeting. We can make the decision at that time to allow this gentleman to address that issue then. That is really what we are talking about. We are not talking about...that's the question I'm asking.

Hansen: Maybe I best respond to it. An additional period until the, and I assume we are probably talking about the Eugene meeting, the November meeting, it's probably the time of year that it is less critical, it's a relatively short period of time, and yet the difficulty is when you are talking about an exposure, and again maybe I should refer to Dr. Buist here, you are talking about an exposure that over a period of time, two months more, does that make a great amount of difference? We are not able to judge that other than to say that this problem has to be resolved. We cannot look at it and say that it is a critical issue for the next two months, but certainly it is one of concern. I like to have local government officials involved in the decision and certainly like to, if there is a legitimate request, be able to comply with that. I think this is a close call. I don't think we would be troubled if you extended, but we also think that this issue must be resolved.

Bispham: Can I add one thing, Mr. Chairman. If you choose to extend this variance, staff would urge that you, as best you can, order or ask that the source maintain compliance with the conditions you imposed on the last variance.

Petersen: We don't have to do that. That's already part of the rule.

Bispham: The variance expires this month and in granting the extension...

Petersen: It would be on the same conditions.

Bispham: Right.

Hansen: Conditions that were not complied with previously.

Petersen: We understand that.

Buist: Now we will be able to see if they do comply with it over the next six weeks or so.

Petersen: Well, that's true. What is the wish of the Commission, do we extend it until it meets November 22 or not.

~~Brill or~~
Denecke: Sonia, what is your belief.

Buist: Well, healthwise I agree entirely with Fred. I don't think six weeks, two months, is going to make all that much difference here or there. I think it's a much more basic issue as to why they are doing this and whether they are ever going to change their habits than whether one or two months is going to make any difference to anyone's health.

Petersen: Well, if the Commission is of the mind to deny the variance, regardless what additional testimony is presented by the permittee, than let's not prolong the agony, if that's what you have a mind to do. The only reason for extending it would be to allow this gentleman to come to present additional testimony and it would persuade us one way or the other.

Bishop: That's what we don't know, whether he's going to come or not. I'm certainly of the mind to go along with the Department's recommendation. I came today with that feeling that unless somebody came with something dramatic...I have the feeling that there is not going to be anything dramatic or we would get it at least in letter form, so I guess I could comfortably go along with denying the variance.

Buist: I second that.

~~Brill or~~
Denecke: Would the testimony the County Commissions would put on, would that be strictly financial?

AnFranc: No, I could address the issue. There are some other points and I don't know if I could be...what was that word--dynamic...but I could at least let you know the operator's side of the situation. I think it's not as cut and dried as has been laid out here.

Petersen: ~~???~~ Well, then that would mean that we would go ahead and take it on now and make a decision.

Petersen: Alright, if you would like to do that. It is an awful long way from Curry County, I realize that, so we are certainly willing to address the issue and do something about it today.

Smart: I'm Peter Smart and I'm from Brookings, Oregon. I'm the operator of the Brookings Energy Facility which operates a Consumats. I don't know exactly where to start other than I think the Department of Environmental Quality has tried to make this a one issue item. There are a lot of problems concerning more than just this one issue of monitoring... putting in these recording devices. As this gentlemen just mentioned, he said that in 1983 or 1984 that the Department looked at coastal incineration as a way to dispose of garbage and some of the good things or the bad things. Well they looked at it earlier than that in the mid-70's and they decided to do it. The permit that was issued at that time was...we had a normal warm-up time and then after a normal warm-up time, we were to operate at 1600 degrees. After we were through operating, basically we shut the machine down and came back the next shift. We did this for approximately for five years or maybe a little bit more than that and were not in any violation. I guess the health matter that was just mentioned by Mr. Hansen here has always been there. I'm not saying that we should treat it lightly but this is...what they are asking us to do as of the first hearing I came to is a change of our operation. That is a significant change. I think that as far as putting in pyrometers, we can solve that problem and do that but all the Department is doing at this time by getting that changed is getting recording devices that would further, in my way of thinking, is going to really put us out of business. They want that type of thing on our machine to prove their case with. I think the violation that Mr. Hammon is referring to is the fact that for two hours after we go home, we don't have someone stand there and watch the machine and write down that temperature. When your Commission gave us that variance, I didn't see anything...I read that testimony there...and I didn't see anything in there that required us to stay there for two hours after we were supposed to go home and write that down. We did what the Commission said. They added some more to the rules, the way it looks like to me. I think that maybe...I didn't get one of the...I have since got a staff recommendation here...I would kind of like to go through that staff recommendation and maybe point out some things along the way and maybe comment at the end of it. You people all have a copy of that I presume?

Petersen: Right. We've read it.

Smart: On the very first page, it says that "there was a rule adopted to provide control of toxic organic compound emissions while eliminating the need for variance for the particulate emission standards and for expensive pollution control equipment. Applicant received notification of the proposed rulemaking and public hearing but did not submit oral or written testimony." Now, if I understand right, there were some meetings that took place in Seaside and Portland that were all on changing the rules and regulations that are involved with incineration of garbage on the coastal commission. The notice that I got of that, I mentioned last time I was here I said that notice came across my desk, I saw that they were relaxing the standards, I was working, I still do work, I don't have time to go to all these meetings, I didn't think it was of concern to me to go to it because I thought that they were going to relax the standards, which in fact they did...say 0.01 grain can be changed to 0.02 of emission can be coming of the stack, but at that time, they raised the temperatures from operating at 1600 degrees to operating at 1800 degrees, which we tried to comply with and have almost all of the time run at 1800 degrees when we are up and running at the request of the Department. My fear in this matter is that when the winter seasons get here and we have 50 and 60 percent water in the garbage, we are not going to be able to maintain these 1800 degrees, then we will be brought back before your Commission and said now you are violating this rule of running at 1800 degrees when we will just not be able to hit that all the time.

Another comment I have is...it said that BEF didn't present written or oral testimony. If we had, would it have been changed, would it have made any difference, and if it would, why is it too late? Our operation didn't change when the rules changed. We still do basically what we've done from day one when the incinerators started up. We burn the putrescible garbage in Curry County, haul it to the landfill --the ash that's left--and dispose of it. I just...I can't help but think...I have talked of this with a lot of the DEQ people about this, I've heard them say verbally to me we are going to work with you, we are going to work this thing out, but I keep...but I don't get it worked out. Again, the reason for the rule of putting on the pyrometers recording device is just going to cause more problems. It is not going to solve the problem. I think until we can address getting the rule changed or variance from it in some way, it would be foolish for us to...I mean it is just not a solving problem for us.

That's one thing. On the very next page at the top, it says that "the Commission acted on the basis of ORS 468.345, the statute authorization the granting of a variance if special conditions render strict compliance unreasonable, burdensome, or impractical due to special physical conditions or cause." That's our case. That happens. That's where we are. We need that rule applied to us. There are times when we are not going to meet that temperature that is required in our permit, because our permit has been changed from the last five to five and a half year's of our operation. I don't know how my financial statement got in this document, but it's in there. If you look on the back page you will see that we have lost money on this operation. Anything that we do that costs more money is a hardship on us. I think that somebody that I've been listening to this morning said that we have some overkill, or we have a technical point, that we have many other major problems. I think that if you look at the overall picture in Curry County, I think that it hasn't been that many years ago, and it's pointed out probably in this document that you have before you, that we had four, or five, or six open burning pit dumps in the 1970's. All those dumps have been closed down. All but the one in Port Orford have been made into transfer stations. All the garbage is brought into an incineration point. It is run through an incinerator. It may not always be at 1800 degrees exactly but it is a lot better. It has cost us a lot of money and it's just a lot better program. I think that if you look at the overall thing and say well you know you are not standing there two hours after the shift goes home and monitor this machine, if you look at what has been accomplished I think it's nitpicking to say that we have to stand there two hours and monitor a machine that run our costs us some more.

Petersen: Are your saying that the garbage you burn does not need to be burned at 1800 degrees?

Smart: I have a letter that was just given to you by the factory that set our Consumat up and trained our people, trained us to operate it, and it says that it recommends it to be run at 1600 degrees. I'm saying that we cannot run at 1800 degrees all of the time. I'm saying that we have a willingness to do what we can. We have by our records that we've turned in most of the time when we're up and running and don't have some kind of a malfunction or breakdown, we are running at 1800 degrees. Under ideal conditions we can run at 1800 degrees. We don't have any qualms about doing that, but my plea is that when we can't run at 1800 degrees that we're not fined or brought some kind of Notice of Violation by the Department and fined, and

therefore, to us...to me as an operator, it's really serious and it looks to me that I'm going to be put out of business that way.

Petersen: Isn't one of the problems that the Department is claiming is that they just don't because of the lack of the following of the recording procedures. They really don't know what temperature you are burning at.

Smart: Up front that is what they are saying, but I don't believe that is the full intent behind the Department of Environmental Quality. I believe that once those recorders are in, they are going...well they've already done it. I'll dig out my permit here. Okay, I have my first permit--was issued in 1978 was when my first permit was issued on this matter. It says that...well, the part that I am concerned about, it says:

"Special Conditions

The permittee shall maintain the incinerator secondary chamber at a temperature of 1600°F throughout the burn cycle except for initial warm-up period."

There's some other things we can go into, but we won't go into all of it. That basically says a lot right there. The way we started out operating is the factory set our machine, they recommended to us what to run, we had a normal warm-up time, a normal shutdown time, and we ran at 1600 degrees. If we had a hangup or we had a breakdown, which we've had, there is nothing to do but a common sense approach to go fix it. Now, my problem is this. In my new permit that I just got...

Petersen
Hansen

The one that you have a variance from.

Smart: In May of 1984, it says "prior to the initial charge of waste, and for the first thirty (30) minutes of incineration of the initial charge, 1600°F for one (1) second. (b) for the period beginning thirty (30) minutes after the initial charge of waste to the time of the final charge 1800°F for one (1) second or 1700°F for two (2) seconds of temperature in the corresponding residence time linearly interpolated between the aforementioned two points for a two hour period after the final charge of waste 1600°F for one (1) second."

My problem with that is a mistake on my part. When I got this permit I guess I just breezed through it and where the garbage comes every day, we have no choice but to dispose of it at this point the way that we are doing it and I didn't place the importance on it that somebody was going to

come down with a finetooth comb and monitor the machine every minute, and when we were not doing what this new permit said, we were going to be fined or given a Notice of Violation which means you are going to be fined. So that's where a lot of my problem is. It's not just a matter of whether I want to violate this rule or not. I don't want to violate any rule. That's why I'm here. If I just agree to put this pyrometer...I have pyrometers on the machine already and we watch those pyrometers. If I just put this recording device on, all that is doing is getting this second rule into effect. The Department to me has shown me that they are not working with me. To me they are an agency that is suppose to be helpful and it is not happening in my case. It has just been the other way around. It's been a game with them that I cannot win and financially have the money or the time. I've got a job to do and they are interfering with it.

Petersen: Let me ask you this. When you guys came to us about a year ago and asked for a variance, and we granted a one year variance, were the terms of that variance communicated to you in writing?

Smart: The terms that I understood that I got in writing said that I was suppose to...they weren't clear at first, but they cleared them up in a letter to me and said that I'm suppose to write down 5 minutes intervals with...by pen and 15 minutes after that. It was not clear to me until Bruce mentioned it to me and gave me a Notice of Violation and he said "are you recording 2 hours after you go home" and I said no. Under this variance, I did not see where I was suppose to and I still haven't seen under the variance where I was suppose to monitor these machines 2 hours after I go home. That's really not...if that's all there was to it I would monitor 2 hours after I go home, I guess. It would be easier than whatever is going to happen to me.

Bishop: You have the equipment, the automatic temperature recorder?

Smart: I have...you are referring to...we are on another project of trying to put energy recovery on this equipment and in that equipment that has been purchased, I understand through the engineer or the company that we've worked with that these pyrometers, the ones with the automatic readout, but I'm in no position to put them on today. I don't have them today but if I did, I don't think I could put them on because until some of these other problems in this are done, if I put them on and the Commission says...gives me some kind of...I don't know how to change the rule, I could figure it out or get somebody to work with me, I would be glad to put them one. But, if I put them on and if they are used to

take me to another hearing or to court again or to fine, that would be foolish on my part, I might as well...I don't quite know what the answer is really.

Bishop: That gives you some data to work with so we not talking...

Smart: Well, who does it give the data...to me I feel like the data is going to be used against me.

Bishop: That's too bad. That shouldn't be the...

Smart: Well, the Department has laid that out for me that way...the Department of Environmental Quality. That's the way that it has been explained to me.

Denecke: Is the basic thing that you can't operate at 1800 degrees all the time? Is that right?

Smart: The very main issue is...there is two to three things I can't do. One thing is I cannot start up the machines the way they want me to start up the machines. They want me to reach...there are burners in the machines, like pilot lights sort of things or air pollution controls that will come on automatically at certain times. The Department's position is that I should get the machines at 1600 degrees before I ever put any garbage in and if I violate that then I have violated my permit. When these machines were installed, there is a process you go through to dry them out, which means that you have to start off at 100 degrees, and then go to 200 and 300, and you do that until you get to 1600 degrees is what the factory did, the factory man was there, and at that point, when you get to 1600 degrees, you hold that for a 24 hour period. When we started to do that, the machines malfunctioned, both of them did. We couldn't get the doors open to get the garbage in. So, we set there for like 10 days or longer and run nothing but fuel in the machines and we never got over 600 degrees. So, if I went technically by this permit that the DEQ has given me, I would never open a hopper door to put the garbage in, I would always sit there and run fuel since this permit came out. That's how ridiculous it is. But, the Department told me that until I can prove this in some kind of substantial proof, then I am expected to do it and will be issued a Notice of Violation. To me, maybe I'm on a different course, but I don't quite see where the burden of proof is on me, as they've put it on me. I did contact the factory. The factory told me over the phone that I was right, you can't do that. I didn't need to contact them on that point. I asked them for a letter. They didn't address the startup time in the letter. That's the first point. The second point is the 1800 degrees. When ideal conditions are...and

I call idea conditions is when we don't have a lot of moisture in the...rainfall...there is enough moisture in garbage by itself to have some problems...but when there is rainfall...anytime there is rainfall, I don't know for sure that I can always maintain 1800 degrees. We can strive to do that. My problem is that I don't want to be issued a Notice of Violation when I don't reach 1800 degrees.

Buist: Mr. Smart, how long does it take you to get up to 1600 degrees?

Smart: Approximately, when the machines are cold, approximately four hours. It can be faster or a little longer. According to the material going in, how wet it has been, according to what's been going in there. If there has been a lot of fishing going on and we have a lot of fish waste or just, you know, it can take longer. If, you know, a truck that is coming in that's been through and picked up a lot of, say there's a lot of cardboard mixed in with it, it will get the temperature faster, but it usually takes approximately four hours to get up to temperature. The way we've operated for six years, or however long we've operated now, we burn 8 to 12 hours per day, except in the heart of the summertime, then we come back the next day--which I'm talking about Tuesday--then we start over again. Then the next day our machines are already hot, they already have...heat has stayed in them, plus they do have fire left in them. So, usually it takes somewhere around an hour to 2 hours the next day to get up to temperature. So, Monday...we're down over the weekend, so Monday it usually takes approximately 4 hours and the rest of the week it takes somewhere between an hour and 3 hours according to how wet it is and what the situation is. This last month is one of the largest months that we have had and we've run about 80 hours a week. Usually within 45 minutes after we've come back on Tuesday, Wednesday and Thursday, we've been up fairly close to temperature, to the next temperature that they've asked us to do. So, what we need is some kind of a working session either with the Commission or with somebody with the Department to get something that we can live by or operate by or I guess, I think it's a good system considering all the situations that we have. We were told not to landfill because there was too much water over there. Well, you... it's s problem to burn it all.

Petersen: Are there other facilities having the same kinds of problems?

Smart: Yes.

Petersen: They are out of compliance with the 1800 degrees?

Hansen: ...Bruce, you've got the Southern Oregon Coast...

Hammon: I also work with Coos county and Beaver Hill incinerators. They are experiencing difficulties with the startup. The difference between them and Brookings Energy Facility is they both have continuous systems, the CS2000s at Beaver Hill, and the 1200s at BEF, but Beaver Hill operates on 5-day operational scenario, so the initial startup is mitigated in that it is one day a week and the shutdown is one day a week so you have the two ends, whereas BEF shutdown and starts up each day, a system that is generally intended to be a continuous operating system so the problem is really exasperated because you have startup and shutdown...

Smart: The system is not exasperated because there is a whole bunch of factors that come in to just what he said. It's true that in Coos County they operate 5 days a week 24 hours a day. But it is also true that when Curry County purchased these machines, we realized we did not have enough garbage to run 24 hours a day, 5 days a week, or 7 days a week, that they were going to use the incinerators for some sort of a backup system in case something happened, because the Department of Environmental Quality did not want raw garbage or putrescible garbage going to the landfill site. The fact that we don't have enough garbage is why we don't run 5 days a week, 24 hours a day. It's been suggested by the Department of Environmental Quality that we shutdown one machine and that we run one machine 24 hours a day. The only problem really that we have is the Department of Environmental Quality. Nobody in the area is complaining about the fact that we start up and shutdown except them. The economics of the factor is that it would cost approximately some \$60,000 to do another shift, because one man can operate two machines just as fast as he can operate one machine. So we got 16,000 people that we're serving, and this is not the only thing the Department has recommended that we do. There are some things at the landfill and there are some other things. If we did everything that they have asked us to do or talked to us about doing, it would be probably over \$100,000 a year, which would have a big impact on the garbage bill or the solid waste fund or whatever it takes to pay for this operation.

Buist: Mr. Smart, I don't think you can really fairly argue that the local people don't object to what you're doing because they haven't the faintest idea what is coming out of the smoke stacks.

Smart: Ma'am, they do because the Department of Environmental Quality has seen to it. They have published in the paper what they thought could be coming out of the stack. Despite that there is good community support for our project.

Petersen: Once again, when you asked for the variance for the year, we basically gave you what you wanted a year ago.

Smart: At that time...

Petersen: Excuse me. Let me finish. You didn't comply with the terms of the variance. Why didn't you comply with the terms of the variance?

Smart: Because I would say for nine months or however long it was I did not realize that I was suppose to stay there for two hours after the burners were shut down. I have, I guess... to me it was just to build the DEQ's case to come to the hearing that they notified me that you are not doing this and they said are you going to do this, and I said, well not really. I'm not going to go ahead and do that. I've done a number of other things and I'm not going to have a man stand here for two hours, although we did do it a few times to watch the temperature and most of the time it stayed up fairly close to 1600 degrees over that period of time.

Petersen: Was the only area of noncompliance the two hours after shutdown? Was that the only area of noncompliance from the variance?

Buist: It was the frequency of temperature recording.

Hammon: The recording and hand recording portion, that is correct, and failure to monitor two hours post-burn. The other issue of course is the failure to meet temperature requirements...

Smart: There is one other thing that could be mentioned. In reading the OAR, the rulemaking that has gone on, I found in there that there is an exemption that has been presented for any incinerators that burn 13 tons or less, I am not exactly sure how that's worded, but it basically says that if they are operating 13 tons or less, they are exempt from these rules. Now, I realize that it's kind of a technical point, but our incinerators have the capability of operating continuously and will burn 24 tons a day. But, in 1984, the records that we have kept indicate that we have burned averaging each day about 9 to 9 1/2 tons each day. So, technically the Commission could just exempt us from this rule and not do it. There is another thing that I have read in these rules and it says that these rules that we are going by only are involved with incinerators that were built

in 1979 or newer. Our machines, according to the County deal I have right here with me were purchased in 1978. So, again there's ways if the Commission would do it to just set these rules aside in our case.

Petersen: How come these points of additional grounds for exemption are just brought up now? Why wasn't that brought up a year ago when you asked for the initial variance?

Smart: You made that statement awhile ago and I didn't respond to it. When we came to the hearing last year, these matters had just been brought to our attention about this pyrometer with the readout charts. I had not gone through this permit from one end to the other. I did not realize what the Department's position was going to be in order to have me stick right to the letter of the law. It has been explained to me this was...I did not realize this. Quite frankly, it still has not been researched to the very bottom of all these rules of what can and cannot be done, if they were followed properly by having meetings in Seaside, why they were held. There is one thing in this report that these meetings because evidently the Coos or Curry people that had incinerators, meaning Coos County, wanted to get...that Coos County was operating under some kind of variance because they had .02 emissions when their stacks were tested. So, instead of...they just wanted that change. What came out of that change is unclear to me if Coos County wanted that. I know I didn't have anything to put about it or whether Seaside or Astoria were considering incinerators. But it seems to me that if our machines were operating in 1979, in the end of 1979, any rule change should be effective for anybody that builds an incinerator in the future, not for something that has been operating for five years.

Petersen: Any further questions or comments?

Smart: Richard just pointed out to me about what was said earlier about the emissions. We are right on the coast and the wind prevails most of the time from the north and all the emissions, whether you can see them or not as it has been pointed out to me, they are fairly plain, you can't really see them, but they say there could be something in there, are blown right out over the ocean. When the winds come from the south and there is a storm coming in or something, they are blown mostly into the hills where there is just virtually real dense population, there's just a few houses that would be effected. Most of the time when storms come we don't operate. We try to shut down until some of the major blows over because our power goes quite frequently and its hard on the machines.

Petersen: Let me lead off the discussion. I am not persuaded that a delay of six weeks, two months, whatever, is going to cause a health hazard so I guess I am inclined to not feel that we have to make this decision today. He raised some points that...frankly, I am disappointed Mr. Smart that you haven't taken the terms of the permit and the Department's action a little bit more seriously. I have the impression that--it's maybe it applies it doesn't, I read it, I skimmed through it, I didn't understand it all--to me that...I don't think that's appropriate conduct for a permittee. I don't think that's an excuse for the failure to follow the permit. If we let everybody come in and say "well, I didn't really understand it, or gosh sakes, I thought it was the same as the past one, we would have nobody following our permits. The fact that a permit is a contract is clearly the case. I can't imagine anybody making a defense that you read the permit but that you didn't really think that it would be enforced with respect to you people. So, I am not really sympathetic. If you have some additional grounds for exemption then I suggest that you either present them yourself to the Department or you hire someone, a consultant or a lawyer, or somebody in the area that's trained in presenting these things, to sit down and figure out if you have a legitimate case for either exemption from the rules or a variance. If you do, we will consider that and we will consider it at our next meeting. Either you are exempt from the rules, and if you are, then I'm happy for you because it will solve all your problems. If you aren't, then we are going to have to talk about whether the variance should be extended. We will consider all these factors that you've raised, but that's it. Once that's done, in my opinion, it's done. We are going to make that decision and you are going to have to live with it one way or the other.

Smart: I'm not arguing at all. That's really clear. Let's say that the machines aren't in compliance with these new rules. What could you...

Petersen: You are going to have to follow one of the justifications in the statute for a variance. They are laid out in the statute. Read the statute. We have been through this process before.

Smart: I did. I read some of it right there.

Petersen: If you can present a case for a variance...last year you presented a case that allowed us to grant a variance for one year. For a lot of reasons that you have that I'm not particularly impressed by, you didn't comply with the variance. So, we are going to give you a chance to go out, read the statute, read the rules, sit down, we are directing

the Department to cooperate fully with you, in my impression when they say they will, they will. They are going to cooperate fully with you in exploring the areas of possible exemption or areas of variance. They are going to make their recommendation to us and we're going to make an independent decision based on those facts. I don't know what else we can do because that is what the law says we have to do. Unless you fall within statutory criteria for a variance, or unless you are exempt under the rules, we have no other choice. We can't look the other way; we can't not enforce all of the permit with you and enforce all of it with somebody else. That is the problem we have. From what you said you've got some grounds...it may work out that you are exempt. In which case, you don't have to worry about this anymore. Unless you want to have us make a decision today on the issue before us and not go through with all that, if you are requesting the Commission to do that, we can have the Commission do that.

Smart: Well, I don't really know what to ask the Commission to do. There are some things in here that I can't do and whatever the Commission decides, if they decide that I have to do these things, then it's impossible for...it's not just me, I don't think anybody can do these, whether it's a different operator, county operator, or whatever. I guess my first thought is what's the next best system. What does...does the Commission take that into consideration? What does the people of Curry County then do with their garbage.

Petersen: Unfortunately, we either have to fit within the rules or their have to be grounds for variance from that rule. That's the only alternative that we have. We have some very broad grounds for variance. There is some fairly broad latitude that we have and we usually bend over backwards to be as fair as possible in that area and we have. I think the record will substantiate that if there is any possible grounds for a variance, we will do it. We don't want to over regulate; we don't want to make life any more miserable and unpleasant for people than is necessary.

Smart: Could I ask for basically my old permit, for a variance for that old permit, to have a normal warm-up time, to run at 1600 degrees and to have a normal shutdown time and I would put in these pyrometers with the recording devices.

Petersen: When I got to my office this morning there was a phone call from an attorney in Brookings, named John Coutrakon, and he apparently represents his client...is the Brookings Energy...he's your lawyer. I would suggest very strongly that you contact Mr. Coutrakon and you pass on our comments. If you like you can have him call me and I'll

tell him what I think needs to be done in terms of a presentation. If I were you...if you were my client, I would kind of steal away and come back and present my appeal for an exemption.

Smart: Thank you.

Petersen: I don't want to give you legal advice. Is that okay with everybody?

Smart: I did have...I brought you some views from Curry County. We are trying to do some good out of this project.

Petersen: I intended to mean that the variance is extended until this is resolved. The terms of the variance, any question about what those terms are?

Smart: No.

Petersen: They need to be complied with between now and then. I would not expect an enforcement action would be taken between now and when we determine this again.

Hansen: Mr. Chairman, I believe we need to be able to have: 1) a finding that strict compliance is unreasonable, burdensome or impractical due to special physical conditions or cause. I think you need to be able to make that finding and I think we need to make a motion on that.

Buist: So moved.

Denecke: Second.

Motion passed 5-0.

AS1875

TRANSCRIPT - AGENDA ITEM Q - September 27, 1985, EQC Meeting

Petersen Agenda Item Q, which is an informational report regarding water quality standards for nutrients. Mr. Hansen.

Hansen At the July 17, 1985 meeting the Commission considered Agenda Item J, Proposed Adoption of Amendments to Water Quality Standards Regulations, OAR Chapter 340, Division 41. As a part of that package, the Department proposed that issue papers be prepared by Spring of 1986 for additional potential rule amendments. Potential nutrient standards were included as one proposed issue paper. Testimony was given by representatives of the environmental organizations and the Lake Oswego Corporation requesting immediate adoption of nutrient standards. Testimony suggested that nutrient standards were necessary to protect water quality from excessive algae and plant growth in the and the sufficient information exists to support adoption of standards. The Department indicated that substantial information would have to be developed before we could have such standards prepared. The Commission directed the Department to come back to the September meeting with suggested standards or at least a discussion of what kind of a timeframe we could have to be able to adopt standards more quickly than the issue papers that were being discussed for the spring of 1986. What is contained here is a discussion of the issue and two options, one of which we certainly recommend for the proposal for standards that would be

Hansen taken out to public hearing.
(con't)

Petersen We have people who have signed up on this item. Let
me call Margaret Kirkpatrick/Jack Smith.

Kirkpatrick Jack Smith has stepped out of the room for a moment,
so someone else can speak. We can wait until he gets
back.

Petersen Alright. Sure. Dr. Churchill. He stepped out too.
Mr. Stubbert, George Stubbert, Soil and Water Conservation
Deivision, Department of Agriculture.

Stubbert Thank you members of the Commission, Mr. Chairman. I'm
here this morning for the purpose of the water quality
standards for nutrients that the Soil and Water Conservation
activities of Oregon made up of several Oregon Soil and
Water Conservation districts involvement that have quite
an impact on their activities, consist of about 47
districts throughout the state, each one having about
five to seven elected officials. I serve as the
Administrator for the Soil and Water Conservation Commission
and for the Soil and Water Conservation Division in Salem,
responsible for those 47 districts. We have not had
an opportunity to bring this before those 47 districts.

Stubbert
(con't)

We do have a convention in November and we do have some concerns about the one that we have before us today on water quality standards. At the point right now alternative #1 has been considered by one of our county districts, Washington County, and I believe you probably already have had a response, and I believe they have someone here to respond to that. And they will probably give their opinion of that themselves. My concern for the districts, 47 districts, is that we have assurance that we can have some public hearings on this issue before the Commission actually takes any action regarding this standard.

Petersen

Isn't this what is recommended by the Director? So you would support the Director's Recommendation.

Stubbert

Right.

Petersen

Ok.

Stubbert

And that's where we stand is that we're supporting it if you are going to hold to that--that you will hold public hearings on this issue.

Petersen

Ok. Questions for Mr. Stubbert? Thank you. Ok. I've got, I guess--Dr. Churchill did you want to address us on this issue?

Churchill (inaudible)

Petersen You might add a few words after him? Alright. Dr. Smith.
And Margaret Kirkpatrick.

Kirkpatrick My name is Margaret Kirkpatrick. For the record, my address is 900 SW Fifth Avenue in Portland, Oregon. I'm here today on behalf of the Lake Oswego Corporation together with Dr. Smith. The message today from the Corporation is short and sweet. Lake Oswego Corporation would like the Commission to adopt the standards set forth in Alternative 2 and to do it as quickly as possible. Past testimony before the Commission has established beyond doubt, I think, that there are serious problems with nuisance aquatic growth. Certainly in the Tualatin River and in Oswego Lake. Also, as I understand it, in other parts of the state. It's also undisputed that this growth is due in large part to high levels of nutrients, both nitrogen and phosphorous in the water bodies. It is clear to all the participants in the process that nutrient standards are necessary and, in fact probably overdue. The only question facing the Commission at this time is what numbers should be used. I would submit that the numbers in Alternative 2 are the best standards that it is possible to come up with at this time. Those standards are derived from the EPA Red Book, which is the product of EPA's years and years of research and study in this

Kirkpatrick
(con't)

problem. There isn't any reason to believe that a few more months of study here in Oregon is going to miraculously produce numbers that are any better than the ones you have before you today in Alternative 2. The Lake Corporation recommended at the July Commission meeting that the Red Book standards be adopted. Since that time your staff has gone back and reviewed the available literature on the problems of nutrient emissions and nuisance aquatic growths. These are the numbers that they have put before you. It's also the Lake Corporation's view that the standards in Alternative 2 should be adopted today. As I said before, they are the product of cumulative years of study at EPA. The Department's lack of standards is creating some problems for a number of entities in the State. I believe you probably aware that the Unified Sewerage Agency has applied for renewal of it's NPDES permit and the Department's action on that has been hung up precisely because of the nutrient emission question. Last year in the Department's review of state water quality standards, the nutrient standard question was debated at length and the Red Book standards were discussed. The time is right. Oregon with it's good reputation nationwide for environmental action is in this instance lagging behind the rest of the Country. Large number of states have numerical standards for phosphorous. Well over half of the states have numerical standards for nitrogen and most of these numerical standards are based on the Red Book criteria. The time is right. The

Kirkpatrick
(con't)

alternative 2 standards are the way to go. I'd also like to say a word or two about Alternative 1 and the Department's recommendation. The idea behind Alternative 1 looks like a very good one and deserving of further consideration. I believe that it could in the long run produce information about the specific environmental circumstances, factors, affecting aquatic in particular waterways. But in the short term Alternative 1 simply authorizes more studies on a problem that has already been studied over and over again. Lake Corporation thinks that the Department should hold hearings on Alternative 1 and should probably adopt some variation of Alternative 1 in the near future, but right now Alternative 2 is the way to go. I believe that Dr. Smith has a word or two to say about Alternative 1, but before I close I would just like to thank the Department staff for the work that they have done on this. We had some reason to believe that it might be considerably longer before there were standards before you. I am happy to see that those fears were, at least in part, unfounded. Thank you.

Petersen Thank you.

Sonia I just have a quick question.
Buist

Kirkpatrick Yes.

Buist Could you tell me what Lake Corporation is.

Kirkpatrick The Lake Oswego Corporation is a private corporation that holds title to the bed and banks of Oswego Lake. The ~~no of that group is Buist~~ shareholders in the corporation are the people who own property around Oswego Lake and have what we call lake privileges. The right to boat on the lake and etc. The Lake Corporation is also charged through the documents by which it took title with maintenance of the water quality of the lake. To the extent that it is within the Lake Corporation's ability to control water quality they do so. Testimony at the July hearing indicated that the Lake Corporation spends about \$20,000-\$25,000 a year combating the algal growth problem alone.

Buist How long have you been working towards the setting of these nutrient standards and why the sudden emergency. Clearly it needs to be done, but does it really need to be done today. Because I don't feel I'm fully informed at this point.

Kirkpatrick Well, I think part of the reason the Lake Corporation is involved now is that it has a very energetic board. They've been putting money into this for years--for gosh, I don't know--since the 1960's they've been pouring money into it. We were just--I'm with a law firm and we were just involved in this several months ago so I can't really tell you why their sudden interest in it but I know it has been something that's been on their minds for quite some time. Jack may have more information.

Jack
Smith

A couple of things Commissioner Buist. I don't think this is a sudden interest. I think since 1979 there has been a lot of interest certainly in the environmental community in getting some nutrient standards established because increasingly the problems in very great many if not most of the bodies of the waters of the State of Oregon are becoming nutrient and excessive algal growth problems rather than the old time historic dissolved oxygen problems. We've pretty much solved that excessive organic loading and low dissolved oxygen problems. But as a result of the treatment processes that solved that problem there are increasing amounts of nutrients going into the state's waters and that is for probably 10 years now it has been apparent that that is the problem that we ought to be addressing primarily in water quality management. The other thing I wanted to say before I started, I really want to take advantage of one of my few, rare opportunities to be complimentary to the water administration staff of DEQ.

Petersen Are the microphones on? Tape recording running? Here we go.

Smith As Margaret said, we did have a meeting several weeks ago with staff and were told at that time that, gee, it would take two or more likely three years of study to produce some sort of nutrient standards for one body of water. Since we got a little testy at that meeting-- some of us more testy than others. But at any rate the staff has spend obviously a considerable amount of time researching this area and this subject and has put forth two alternatives that I don't think really ought to be called alternatives. They are kind of complimentary approaches to a problem. One of them being really quite a lot more interesting than the other. The nutrient standards that are proposed come, as Mary indicated, out of this EPA Red--so called Red Book. It's the EPA water quality criteria published in 1976 or something like that. This stuff has been around for a long time. And these numbers came from 20 or 30 years of study by EPA and other states and so forth and the numbers in here are conventionally used by states or adopted by states for water quality standards and the ones for nutrients, are as Mary indicated, pretty consistent with the numbers in this Red Book and you could probably spend an awful lot of money and an awful lot of time studying the problem further and you will not arrive at better numbers than are included in Alternative 2. And that is primarily

Smith
(con't)

why we say, lets just adopt them and press on. Alternative number 1, however, is really what's called Alternative number 1, introduces really kind of a creative approach into the state's water quality management program. It establishes something like the analog to the air quality attainment or nonattainment areas and introduces some criteria for making that judgment. This was proposed here is kind of restricted to simply the nutrient situation, but it says--what you regulate--what causes the algae problem is excess nitrogen and phosphorous. And so of course what you regulate, what you need to key back to discharge permits and nonpoint source control programs are the phosphorous and nitrogen levels that are contained in what is called Alternative 2. But those things aren't really water quality problems themselves. They create problems that, in the case of excessive algae growth, would be measured by chlorophyl A, which is a standard analytical thing for determining algal mass. You can use any one of the number of measures of algal mass, but that's kind of a standard one that's used. So you would imagine a regulatory system of controlling the level of nutrients, but then the reason you do that is to control algae which is measured here by chlorophyl A, and so that measurement tells you really whether your whole regulatory system is working or not. And if it isn't, if you start exceeding this standard, then this proposal is that that would key--trigger a kind of reexamination of the whole program. I think that's really interesting

Smith
(con't)

idea. I think it could be fleshed out a lot more. I think you--we're suggesting that this clearly ought to be subject to some hearings and some more review and input and thinking. That you could imagine, why not add dissolved oxygen to that. Say you don't regulate dissolved oxygen per se, you regulate organic loadings, but you do that in order to maintain certain dissolved oxygen levels. So you'd say, well, gee, we're falling down below the dissolved oxygen criteria--note that I say criteria not standard--then that would trigger a reexamination of the program designed to regulate that. It looks pretty useful to me. I would suggest--I could imagine at the hearing suggesting a whole punch of things. Chlorophyll is kind of a pain in the neck analytically to do, but there are some things that are real simple like a sucky disk measurement. A sucky disk is a nine inch round plate that is painted half black and half white and you lower it on a rope over the side of the boat and you record the distance at which it disappears. It tells you a bunch of things about water clarity and whether you can see drowning people black or white at a certain depth in the water. But it kind of also integrates a bunch of things. It would integrate--it would take into account chlorophyll A and turbidity, and natural--it's basically a really interesting contribution to the idea of water quality management, and as I say, there is the precedent and the experience in that approach on the air quality side.

Smith
(con't)

At any rate, it just seems like that would be a useful thing to spend some time looking at, whereas the actual numbers for phosphorous and nitrogen concentrations are really pretty solidly established. You can hold hearings, you can do studies forever--I shouldn't say forever, but for quite a long time and you'll come up with the same kinds of numbers that were suggested a year and a half ago at the hearings on water quality standards and in virtually every meeting that we've had since.

Mary
Bishop

My understanding when I was reading this was that it was a very solid approach to adopt alternative 1, with maybe some additions, and I was hoping we would run through the discussion of what we could add to alternative number 1 from alternative number 2. You're saying the opposite. You do the standards. I guess I'd like to see why. Why have phosphorous if you don't have proof of it. How are you going to go to Durham and say you've got to cut down, you've got to spend thousands of dollars here for something that you can't prove is actually causing the growth in the lake.

Smith

I don't think that's a question.

Bishop

You don't think that's a question.

Smith Oh, heavens no. EPA has got--DEQ has an extensive two-volume report on the Tualatin River that is now five-six years old or something like that, documenting that. That's not a mystery. Durham and Rock Creek and those plants are going to spend an awful lot of money in any event. I'm not speaking--I should say I live in Washington County and I probably paid for some of those plants. But I'm clearly not speaking for USA. It's in anybody's interest to establish some standards so that the money that they spend is going to be spent on solving the problem. It's not going to be just spent on building something that's going to have to be abandoned five years later because they built it according to the wrong plan.

Bishop I would think alternative 1 would do that.

Smith Pardon me?

Bishop I don't see alternative 1 forcing anybody into--

Smith No. Alternative 1 would not. Alternative 1 simply tells you--the idea of 1--it's a measurement of telling you that you have a problem.

Bishop Right.

Smith You clearly don't need that. I don't believe there is any debate about there being a problem in the Tualatin River. In other places, the situation is not quite so bad as the Tualatin, but this thing called alternative 1 is a formal mechanism for triggering the kind of studies necessary to define the problem and not to develop necessarily new standards but to develop a more rigorous regulatory program.

Bishop I guess I need to wait 'til maybe the Department has maybe run through how alternative 1 can be combined with alternative 2 before I--

Smith Our contention is that it is precisely backwards.

Bishop Yes.

Smith The thing called Alternative 2 is the thing that contains-- that's the thing that is clearly documented and as a result of extensive studies by great numbers of people, whereas the thing called alternative 1 really is a new idea.

Petersen How would you respond to the staff report listing of disadvantages to alternative 2, on page 9 of the staff report?

Kirkpatrick Let me start and then Jack can jump in with some more detail. The main disadvantage to alternative 2 seems to be that it is rigid. It concentrates on standards for nitrogen, phosphorous, one or two other things, but it doesn't take into account water current temperature, light, and some other things--

Smith Site-specific type--

Kirkpatrick Site-specific factors that may contribute to algal growth.

Petersen Ok.

Kirkpatrick I think that that's probably a legitimate criticism and that's where alternative 1 comes in as a nice compliment to alternative 2. I think it is clear from the studies that have been done that nutrients are probably the most significant factor in nuisance aquatic growth so it makes some sense to go with some standards for those right away. But the other site-specific environmental factors are important and it is probably necessary to do if the nutrient emission standards don't do the trick for a non-attainment water body. It probably makes a lot of sense to do an alternative 1-style study so that you can look at those things and then figure how to deal with those factors in combination with the standards. So I think there are disadvantages to alternative 2, but I think they can be for the most part alleviated by eventual adoption of

Kirkpatrick alternative 1.
(con't)

Petersen But if we adopt alternative 2, wouldn't that necessarily-- that would be kind of a general statewide thing. People would have to comply. They would have to spend money. And it may be, as pointed out, one of the other disadvantages overly restrictive in a particularly site-specific area. They have already incurred the cost. These governmental agencies have huge lead-time problems and that type of thing. Isn't that really a possible problem?

Kirkpatrick But you do achieve something by doing what you need to do by complying with the alternative 2 standards. It is not like that money is thrown away. It does help to cut down the level of nutrients in the water bodies. It is just that you may need to do one or two other things and that is what you discover in an alternative 1 study.

Petersen You don't think it would be overly restrictive in certain instances? You don't think it would be overkill in certain instances? Compliance with alternative 2 criteria would mandate an overkill to a particular problem in a particular area.

Smith

Let me give you an example where that may, in fact, be true. Lets say the Willamette River satisfies the criteria for phosphorous and nitrogen in alternative 2 down to Salem, for example. And that at the time of travel from Salem to the confluence with the Columbia where it would be diluted out of site, say it is a day, that if these numbers are satisfied down to a certain point in the river, then even if they are exceeded there won't be enough time for an algal bloom to develop. So you would imagine as you are sort of fine-tuning this system to what I think is going to emerge from hearings on alternative number 1, you would imagine well you don't need phosphorous or nutrient standards perhaps for that stretch of the river. You wouldn't force the City of Portland or whoever is discharging into that area to remove nutrients because there is not enough time. I certainly can imagine a number of such examples. I don't think there are going to be too many of them. I don't know where there are that kind of combination of population centers and short residence times. I think that is not a reason to wait until all the other rivers in this state are clogged with algae before you do something. Granted there is no universal relationship. But there are relationships that are really very well-defined and these numbers in alternative 1 are the results of those.

Petersen

Yes. Commissioner Buist.

Buist The last disadvantage: "Standard may not be achievable under any circumstances due to natural conditions."
Do you agree with that, and can you give me an example of a stream or a body of water where that would hold.

Smith I always have difficulty with this idea of natural conditions, since most of the people in the country who remember clear flowing waters have all died. What we talk about as natural conditions are simply the conditions within the last 30 years of our memory. But I could hypothesize that there are--and maybe convinced that there are rivers where, quote natural conditions would preclude the meeting of standards. And in such cases there is a very straightforward process laid out in federal regulations for if you can't--you first set uses. Then you set the criteria necessary to practice those uses. Within the federal law there are extreme social, economic dislocations and so forth, there are a number of criteria in the federal law, that incidentally don't appear in Oregon law. Whereby it is simply too much trouble to meet that criteria and so what you do is you start removing some of the uses. You back off and say well, there is no way that is socio-economically acceptable to produce swimming-quality water because of natural conditions or whatever. Therefore, we will remove swimming as a designated use and we won't protect for that reason. There is a process for doing that and that

Smith
(con't)

all would be taken care of in this alternative number 1. That is one of the things that you would look at. What would you have to do in a regulatory sense to achieve the necessary criteria to protect those uses. And if you can't do that, or it is too much trouble to do that, then you start removing uses and relax the criteria.

Buist

I have another question. Is it possible to have Mr. Sawyer, if he is the appropriate person, respond to the comments that we have just heard, that alternative 2 should be adopted.

Hansen

Andy Schaedel probably should be--

Petersen

What I'd like to do, if it is ok, unless there are other questions of these people, there are other people who have signed up to testify. And then I'd like to have the staff respond, and be available to respond to all of the testimony. Are there other questions of these people. Thank you.

Kirkpatrick

Thank you.

Hansen

As the other people are coming up--

Petersen

I want to call Gary Krahmer---

* * * * * *BEGINNING OF NEW TAPE* * * * *

Hansen ...asserts ownership over the banks and bed, but the state still has ownership in the old Sucker Lake, which is the lake that is really the basis of the lake because that was a navigable waterway at the time of statehood. It is not totally clear that it is a fully-owned private lake. That is an issue of debate. If that makes any difference in your considerations.

Buist It doesn't.

Hansen Ok.

Petersen Mr. Krahmer and Lorrie Skurdahl are not here? Ok. go ahead.

Churchill Mr. Chairman. I'd like to put on the hat and represent the Northwest Environmental Defense Council which I'm a Board member, instead of my professorial role for a moment, or perhaps use both. I also, in terms of helping to answer some of your questions, do live on Lake Oswego, do pay Lake Corporation fees, and do watch the boat go by every week dumping copper sulfate out to the tune of \$25,000 to \$50,000, which has been done with out money for the past many years. To control the nutrients being

Churchill dumped into the Tualatin up above us by point and nonpoint sources which do affect the quality of our lake. The quality of that lake does impact billions of dollars-- of a couple of billions of dollars of residential property in Lake Oswego. So we're talking high economic stakes. As well as the swimming in Lake Oswego. Mr. Chairman, I would like to address the question of the Red Book just a moment, since I did supervise that water quality criteria development as a part of the standards, and it's predecessors. I just want to point out to you that the Red Book and its numbers in there have been developed by the best scientific minds in this area in the entire Country. They have gone to national public hearings. They have gone before the scientific advisory board of EPA. All the state agencies have had an opportunity to comment on these numbers and they are generally accepted throughout this Country as the numbers that are necessary to obtain the uses. You can vary with the magnitudes a little bit. You can study them to death, and you're going to come right back to these numbers which have been adopted by EPA and several of the states. That is why the Northwest Environmental Council wishes you to go ahead, very belatedly by the way, we asked you to do this in the beginning in hearings of the water quality standards review and update. And so in our judgement, you know, this is a belated effort and it should have been done last month in conjunction with the standard. It is nothing new before this Commission. And the condition

Churchill on the Tualatin is nothing new before this Commission. I go back to your report of 1978 in which you identify the Tualatin as one of the very rivers that needed attention by DEQ to resolve the nutrient problem. Ladies and gentlemen, that's 1978. This is 1985. When are we going to start working out a program with the people in the Tualatin Basin to control nutrients? My study, my seminar study of the Tualatin Basin which looked at all the planning attempts of all the various agencies shows that DEQ has abdicated during the past year, really to the USA and to the Tualatin Valley Irrigation District, any type of management in this river. And then even your study today is conditioned on some money being gotten somewhere else. What we want is this river put to the top priority, the numbers adopted today, the program begun to identify the specific sources, helping USA to, on their Durham Plant--let them know what the conditions are. These numbers should have been set before those Durham plants were built. Mr. Chairman, we have spent--the people of Washington County have spent over--the federal treasury has spent \$100 million at least in the construction of those plants. Should they have ever been built and dumped into the Tualatin River because of the nutrient conditions? The answer is obviously, no. If the Department had done proper planning originally.

Churchill Everybody agreed. They say that the Tualatin River and the plant requirements were designed on the back of an envelope, and that has to stop. We're talking about the most rapidly expanding urban area in the State of Oregon. The Tualatin River is rapidly degradation because of urban environment. The urban environment, the intensive agricultural use, nonpoint sources, the increased storm drainage, is changing the character of this urban stream. I would like to share with you if any of you are interested my water seminar on this issue, and looking at how the degradation is going on and particularly DEQ's lack of attention and lack of prioritization to this river. When was the last time they really looked at it? Six years ago. Look at the very poor quality of the USA upgrading of their own study because of lack of attention. And finally, I want to answer the question, how do they get more data. For nonpoint sources in the tributary areas you have to go out and get the participation of the people's judgment, it is not hard and fast data you sample. Because all of your nonpoint source effluent data is storm-related. There is no body of data that you are ever going to get to put cause and effects together. You have to go to a nonpoint source program which is being reauthorized more broadly in the new federal act. And it is time. I'm sure that the Washington County Conservation

Churchill
(con't)

District and the farmers up there and everybody along the river is willing to work if just DEQ would step out and take the leadership. And that is really all we're asking. Our answer from the Northwest Environmental Defense Council is simply this, if you don't want to do it, our remedy again is to go to EPA and ask them to come in and set standards under 505. They are just finishing up setting standards in the State of Idaho. And they say their staff is ready and they have money available. We are going to go in the direction of trying to resolve this issue just as quickly as possible. But it has not even been on the back burner. It hasn't even been on the stove. And we're on record before this Commission to address this very expensive and degradating problem that is rapidly going on. You cannot believe the amount of drainage area that is being cemented over. The number of drainage basins that Washington County is giving up and is planning every month or so. So delay from our standpoint and upstream land usage which is going to further contribute to the nutrient and other ??? and sediment-related problems just aren't being addressed. Thank you very much.

Petersen

Questions for Dr. Churchill? Thank you Dr. Churchill. I note that Mr. Krahmer and Lorrie Skurdahl have come in, so why don't you come forward now.

Krahmer If we're late we're sorry.

Petersen No, we changed the order of the agenda.

Krahmer I truly do appreciate this Mr. Chairman, members of the Commission, having got up at five this morning and drove over here. Give us an opportunity to get home at a decent hour. Ms. Skurdahl is going to make our presentation. We'll try to be brief. We will be brief. First, I would like to state that if you haven't received the letters from Chairman Mylenbeck and the Soil & Water Conservation District, I'd like to leave--

Petersen We did receive them.

Krahmer You have those. Alright.

Skurdahl Mr. Chairman and members of the Commission. Unfortunately Mr. Krahmer and I didn't hear all of Dr. Churchill's comments. I wish we could have. What I'd like your Commission to do at this point is to take the algae issue in some kind of perspective. Your Commission is charged with that overall policy-making in the whole pollution field and we'd like you to, as you're making a decision today, address algae growth in the perspective of whether it is a problem and if so, how it ranks with all the other environmental issues and waste disposal issues in the Tualatin River. The Lake Oswego Corporation and

Skurdahl
(con't)

the Oregon Environmental Council have said that it is a problem in the Tualatin River and in Lake Oswego. But, as you well know, algae and algae nutrients are not truly a human health issue. They are a potential fish and aquatic life issue, and to a great extent a recreational and aesthetic issue, but they are not the really the top priority pollution issue when you're talking about wastewater treatment. I'd like you to keep this issue in perspective because increased nutrient removal is going to be extremely expensive. The Unified Sewerage Agency, and I should preface by saying that I'm an Assistant County Counsel for Washington County and I do represent USA today, the USA does not support either alternative 1 or alternative 2 presented by staff today because there are more pressing environmental issues directly related to human health and the health of that river. Dissolved oxygen, for example is a much stronger indicator of the health of that stream than algae nutrients. If it is the Commission's wish to do something today, or to do something about algae and algae nutrients, the agency would prefer alternative 1 over alternative 2. We would strongly--excuse me--oppose alternative 2 because it would be extremely costly to achieve and there is no assurance that it could be achieved, and even if it were, that algae growth would be prevented. I think your staff report points that out.

Skurdahl
(con't)

USA has recently completed a master plan update for the next 20 years for the, basically the urbanized portion of the Tualatin Basin. That master plan update projects approximately \$120 million in capital construction through the year 2005. Unified Sewerage Agency does not have that money. We're going to go out and look for it, but we don't have it now. We don't know where we're going to get that money--just to meet the treatment standards that we now have--which by the way do include phosphorous removal. We believe major additional capital outlays would be necessary at the treatment plant to achieve either the removal of phosphate proposed in alternative 2 or to reach the chlorophyl level in alternative 1. To discuss alternative 1 for a moment, the agency would prefer that because chlorophyl A level more accurately reflects the actual algae problem than does phosphate. As your staff pointed out, phosphate is a key factor, but it is related to a lot of other factors in the river which are outside of the agency's control. Very importantly it focuses on the adoption of a control strategy. I did hear Dr. Churchill mention the nonpoint sources that, so far as I know, have not been regulated. We believe, of course--or we know that USA is a substantial contributor to the phosphate level in that river, but if USA were totally taken out of the entire--or if USA's effluent were taken out of the river stream, there would still be a higher level of phosphate, and your staff has indicated, could

Skurdahl
(con't)

trigger an algae bloom in the River and in Lake Oswego. I would like to compliment your staff on taking a very fair approach in both proposals by placing those in terms of standards for all waters of the state. The USA is really quite concerned that its operations in the Tualatin subbasin not be singled out as the problem. Algae nutrients all over the state, and whether your Commission would choose alternative 1 or alternative 2. We're really concerned that Washington County could be placed at an economic disadvantage if a standard were more strict on the Tualatin River. Just to briefly conclude. The algae nutrient control is really the frosting on the cake of water quality. It is important, but we have a lot of basic human health and water quality standards that are more important to take care of. By adopting either alternative 1 or alternative 2, you are telling the Unified Sewerage Agency to get their phosphate level down very very far, at least in the summer months. This would require the agency to spend tens, possibly scores of millions of dollars in plant additions or possibly a pipeline to remove that effluent from the Tualatin River, which is a very serious proposition. We would ask that you would carefully consider the costs and the benefits of whatever option that you choose and if you do proceed with rulemaking under either option 1 or 2, the agency will participate and will be stressing that any rule should be determined to be technically feasible and economically achievable. Thank you.

Petersen Thank you. Questions? Yes.

Buist I have a couple of questions. First of all Miss Skurdahl, could you tell us briefly how one gets the phosphate level down and also in many other states have Red Book Criteria, and they presumably have old and new sewerage facilities, why is it that the USA, which is a recent facility, is not able, without an incredible amount of money being spent, able to meet those criteria.

Skurdahl I will tell you what I know, but I'll mostly defer to Gary who has a lot more practical experience in this. All I know is that at this point they apply chemical to their effluent and it takes some of the phosphate out. It takes about 75%--

Krahmer 75% is removed through the chemical addition process that we do now.

Buist You do now.

Krahmer Yes. We could increase that chemical addition and remove more phosphorous. We could probably get down to 1 milligram per liter instead of the average 2 milligrams per liter that we're at now. But we submit that that probably will not help the situation. We have some literature from the

Krahmer (con't) Blue Plains New York treatment facility, 309 million gallons per day treatment plant that takes care of the District of Columbia--they have been struggling with this issue since 1979, discharging into the Potomac River, and their standard is .22 milligrams per liter and they have a massive amount of water treatment equipment hanging on the end of the sewage treatment plant and still experience difficulty meeting that level. Well, the report suggests that .1 milligrams per liter is an amount that will cause algae possibly to bloom.

Buist Thank you.

Petersen Other questions? Thank you. I'd like you to be prepared to answer further questions, if you wouldn't mind.

Krahmer Let me just comment on leaving, that as always we are prepared to work with the DEQ staff on a continuing basis on this issue for data gathering, whatever.

Petersen Thank you.

Krahmer Thank you.

Petersen Probably time to have the staff--Fred, who is it that you want to speak to us?

Hansen Harold is here, but certainly Andy Schaedel who has been most instrumental in the drafting.

Petersen Ok.

Schaedel Before responding to questions, I'd like to thank the compliments we got from J.D. Smith and members of USA. Its nice to ^{hear}~~here~~ that.

Petersen You bet.

Schaedel Would you like me to give you more background to it, or is it best just to respond to questions.

Petersen Well, whatever you want to do. I think staff's position is pretty well laid out in your report, so maybe just respond to questions. There were some I know that-- Commissioner Bishop I think--did you have a question?

Bishop Well I'd be interested in having you run through some of the alternatives of combining the two so that you'd have the nutrient standards for say, phosphorous, and going ahead with alternative 1.

Schaedel Originally we were trying to give you a range of options, I believe, and one approach we took was, what are we trying to address, are we going after nuisance aquatic growth, which seems when you deal with standards that's what you really are talking about is a nuisance growth that may affect uses. Or are we really talking about nutrients. Do we want to just control to a nutrient level. And so we put those out as two ranges, although we did suggest in our discussion that one could pull over the nutrients as part of the standard as a screening criteria to signal where you need further study. We suggested the chlorophyll A level gets more directly at the nuisance aquatic growth. However, given the Red Book, criteria, I should talk about that for a minute after I get through this. It is really a rationale, not a criteria, what was suggested there. I'll explain those terms. You could base some sort of standard off the Red Book, and we did that in Alternative 2. Perhaps a more significant difference in approaches though, was really the course of action we felt there was a need for a course of action rather than just reasons why I can say, don't violate this, what are we going to do. Given the fact that chlorophyll A doesn't directly relate back to a discharge, it's not discharged from point source, that we felt there was a need for further study, but we base that ??? after air quality for a nonattainment area. If you're not hitting that, next we have to do a study that would determine the factors that

Schaedel
(con't) are significant in controlling that growth and set out an implementation program which could range from a nutrient standard itself for the river, effluent limitation based on the study, so forth. Alternative number 2 lends itself more to a--

Bishop Excuse me. Could I just ask one question. Are you saying that if you did alternative number 1 you would set different standards for different rivers.

Schaedel You may well be ending up doing that. You're trying to address that nuisance aquatic growth issue where you flag that. And, for example, there may be a necessity for a lower in-stream standard based on the study. A .5 or .05 for a flowing river going into that lake may not be low enough to affect that nuisance growth that we might have to require something tighter. If you look at economics, so forth, there is a range of things you can do in that alternative number 1.

Denecke As long as you've interrupted--I've been having one question ever since I've been listening to this and I don't know whether my assumption is right or not. When I was looking at the comparison between Blue and Suttle Lakes in there, it occurred to me. If a lake, particularly a lake rather than a stream, its primary use is fishing, you would want more nutrients, because as I understand it, nutrients

Denecke
(con't) are a feed for fish. If you're using the lake or stream for something else where you want clear water, you'd want to lower the nutrients. Is my assumption correct?

Schaedel I think that could be fair. You do get into that dilemma especially as you're battling aesthetics versus fish production. Eutrophic lakes, lakes that have high productivity, high algae growth, support a good fishery-- can support a good fishery.

Bishop But you can go too far, can't you and then have only carp.

Schaedel You definitely can go too far. Right.

Buist Then you may have lakes in which you can fish but you can't swim. So it seems to be that you're balancing off alternatives all the time.

Schaedel If I may. I don't know if I got to the issue. You could move over, we suggest you could move over the phosphorous, called criteria here, but the phosphorous numbers as a standard or as a screening tool to indicate further study.

Petersen Add it to alternative 1.

Schaedel Add it to alternative 1. There is a lot of flexibility there. And the nitrogen numbers. The nitrogen numbers I should point out were in there because they are not currently up to the standards but they are more getting at other uses beyond the nuisance aquatic growth--the drinking for the nitrate, and the aquatic toxicity for the ionized ammonia.

Bishop Would these be interim standards or would you be proposing these as permanent standards--the phosphorous and the nitrogen in alternative 2.

Harold Sawyer As we were discussing alternative 2 and looking at that, the issue that ranged in the back of our mind is are those appropriate numbers statewide under all circumstances. I think the conclusion was that if you had to pick a number statewide those were the numbers you'd have to pick, but the concern about the localized conditions, the natural water quality, the physical surroundings, when you began to look at costs of implementing the standard or implementing the controls versus benefits received, you may well wish to, based on further study as you would be able to do that, refine those down to a more basin-specific or water body-specific standard. It was proposed as a statewide approach with the option for refining it down to stream, basin, water body-specific standards over time.

Bishop So it would be a minimum standard.

Sawyer As you would revise those you may, on a specific water body you may actually impose numbers that would be higher than that, but based on study you would be reasonably comfortable you would not be creating any problems with those higher levels. And that is not requiring control down to a lower level. Or it could be a more stringent standard, either one.

Petersen What problems do we create if we in fact include the nitrogen and phosphorous Red Book Standards in alternative 1 and adopt that today? Problems for USA, people like that.

Sawyer In adding to the screening criteria or the criteria in alternate 1, as Fred mentioned, more trigger points, what it potentially produces is simply a larger list of problem areas that would fall under that process, or basically being in nonattainment with whatever triggers you have there and it doesn't necessarily accelerate the problem that we have in how do you get the control strategy evaluated and developed for the full range of them, or how you would prioritize them.

Hansen Mr. Chairman. Maybe I can ask Andy. When you went through this you specifically gave us numbers against--how many you picked up on the chlorophyl A, how many more you picked up on and so on. Maybe you can run through those to give you the sense of that.

Schaedel Sure. What I did is I took a quick assessment and, given more time I refined a little bit more, but screening the chlorophyl A criteria, it looked like there are approximately 16-19 water bodies that would be flagged with that number--the chlorophyl A. If you went to the seasonal total phosphorous--I mean annual total phosphorous not looking at seasonal, the number jumps quite significantly. You get to a number such as 52 and what you're catching quite often with that are the high runoff periods where you're carrying a lot more particulate during storm periods that is rich in phosphorous. And those seem to be picking up much more. What I did do is seasonalize a bit just for comparison sake. If you looked at a summer period total phosphorous value rather than year-round, you bring that number down to about 31, so you add extensively using a total phosphorous. But I think there could be adjustments that would probably parallel fairly with the chlorophyl. For example, what we discussed briefly but didn't make a recommendation is maybe going towards a seasonal criteria on that, where you're looking more at the summer months. Perhaps a May through September during the growth period--

Schaedel (con't) high water use period. I should point out that one of the rivers that we do pick up, its a nearby one, is the Metolius. Actually we've seen values at the .1 level at the headwaters of the Metolius in bacterias where perhaps natural values are at or near that.

Petersen Is that right? The headwaters of the Metolius would exceed the--

Schaedel This is based on a single value, so you don't have the statistical weighting on it. But I have been there and measured a .1 out of that.

Bishop Is there a difference there in time of year?

Schaedel We haven't really focused in on the headwaters per se. We have seen a little further down by Camp Sherman during the winter months it seems has violated the total phosphorous. One thing I should point out. I think it might be important just to get the wording is on the Red Book. I won't belabor it but make the distinctions. As worded in there, the attachments from the Red Book I believe are in your Attachment C. There is no national criteria proposed. What was worded is a rationale for development of a criteria. The meaning of criteria is those numbers based on scientific study where you feel you have a safe number to protect for the use you're trying to protect for. At that point they

Schaedel
(con't)

were suggesting--again I use the word rationale for criteria--its been much in debate and I think the way we can see that best is looking back at the standards. There are very few states that have adopted the Red Book criteria per se. There was quite a bit of criticism, which is in that Attachment D, on going for a single number. It wasn't a comfortable numbers there.

Buist

If we were to adopt alternative 2, then what would the Department do with USA? And how would they approach that problem which clearly is a very expensive problem to bring them into compliance.

Sawyer

Mr. Chairman. Commissioner Buist. If alternative 2 were adopted the implimentation portion of that would basically say, since the phosphorous levels in the Tualatin River are currently above whichever number you would pick, whether it would be the number for a stream, or whether you would treat the governing factor the fact that some of the water from the Tualatin is diverted into a lake and treated as stream flowing into a lake. You've got a choice there that isn't immediately clear. In either event the number a tenth or five hundredths of a milligram per liter would be exceeded so the implementation section would simply say that that tenth or .005 of a milligram per liter would become the effluent standard for those treatment facilities. In other words there is no dilution capacity in the stream. Nothing that could take a higher

Sawyer
(con't)

and provide some dilution and still remain within the standard. We would at that point under that alternative have to simply approach the Unified Sewerage Agency with the process of developing a time schedule for conducting whatever study or analysis they would need to develop a proposal for meeting the standard, evaluating the engineering alternatives for doing that, and then try and agree on a timetable for actual implementation.

Bishop

And right now are you working on their permit renewal?

Sawyer

The permit for the Durham plant has been put out for draft review--staff has drafted a renewal permit and it went out on public notice and there were requests for a hearing, and we're kind of in that process right now of determining whether to proceed with the hearing or just what direction to go with that permit. The permit for the Rock Creek Plant comes up for renewal I believe at the end of this year. The Department's proposal in general was to issue a permit which imposed some additional monitoring requirements and some additional controls and did not finally address the issue of nutrient. The assumption, although not stated in the draft permit language as it went out to public notice, the assumption was that at such time as decisions were made on the effluent limitation, or the control level that they might have to meet we would basically reopen the permit and impose compliance schedule at that time. After the

Sawyer
(con't) last meeting, certainly before the permit would have been issued, specific language to that effect would have been added to it. However, we're not at the point of proceeding to issue a permit yet.

Hansen They would be treated like any other noncomplying industrial source-type permit. We'd have to negotiate a compliance schedule. It would have to be met. If it didn't, of course a civil enforcement action could be taking place.

Buist But at some time aren't they going to have to bit the bullet. Isn't USA going to have to do something about its phosphorous effluent? Would we be setting a criterion just to take care of them if we listened to their plea for raising the standards.

Hansen Mr. Chairman, Commissioner Buist. What I would say is that under option 1, the proposal we would put forward, is that one would do a study basically to determine what the various sources of nutrients are and what control strategies would be in place. That would apply to point sources, nonpoint sources and would certainly evaluate natural conditions. And out of that we would expect that there would, in fact, be additional requirements on point sources including USA, but that it would be taken in the context of the whole of that drainage and to be able to come up with the most successful or appropriate strategies to deal with that in total rather than just really what

Hansen
(con't)

effectively becomes pretty much a point source standard that is outlined in option 2.

Bishop

I had one more question. What would the schedule be like. In alternative 1 you have in accordance with the schedule approved by the Commission, but we're not given an actual--

Hansen

Maybe I should address that since that's mine. What we were looking at--we were looking at wanting to be able to have a time certain, and really determine, hold it, that depending on the stream reach, given that as Andy outlined, if you adopt option 1 you're going to have a trigger pulled on about 15-16 stream reaches or water bodies, and there is going to have to be some priorities established because we just can't do all 15 or 16 at once. What we've put in then is that we would expect that probably the Tualatin would be one of the key areas that we would look at at first. But we would come back to you with a proposal of how we expect you to be able address each of those that were triggered by option 1, and basically say here's how we're going to proceed. You would then be able to look at that and say no, either we want to move the priorities around, or that we really want something to move faster, and we could tell you whether it was doable or not and that would be the give and take.

Bishop But you wouldn't put the schedule out to public hearing. That wouldn't be part of the--

Hansen We didn't intend to, but certainly it would be a public document presented to you open to public comment during Commission hearings. If you choose to put it out we could, we hadn't thought quite that fully--we could certainly put it out to public hearing, but we haven't thought in those terms.

Buist What would be your timetable on that. I guess I'm still not clear.

Hansen Ok--I'll make an assumption and then I will ask Andy maybe to address it. Lets make the assumption that the trigger is pulled, 15 or 16 are there, we establish that the Tualatin is the number 1--Andy, how long for the study?

Schaedel We're suggesting--about a year study that we're planning to go ahead with on that. I think it would vary on the complexity of the segment thats in question there. Whether it is a simple, source-related or very complex with point-nonpoint natural conditions, and so forth.

Buist One year for one? One year for the Tualatin River?

Schaedel On the Tualatin--there are a number of other issues--

Buist And the next year for the next river and the next year--

Schaedel Again, we haven't thought that far ahead, but looking at the segments I believe some of them would be very complex very specific how you've got to regulate. Others may relate to a similar activity. For example, in a number of the basins we see in violation of the chlorophyl standard fall in Eastern Oregon, such as the Powder, the Burnt, the Malheur, Owyhee, Klamath Basins.

Buist Let me just take Miss Skurdahl's point of view then. She says if we adopt alternative 2 then what we are doing is saying as of now we are putting pressure on point sources to reduce their effluent. Wouldn't that be a better approach because what you're proposing, I think, means that some of the rivers which are of lesser priority no need to worry about them for 2, 3, 5, ten years. Am I misunderstanding something here?

Hansen Commissioner Buist. No. The answer is that if what you're looking for is a standard to be able to be imposed upon point sources, option 2 is the only one that gets you there directly and immediately. What the concern we have,

Hansen
(con't)

however, by doing that is several things. One is that in certain stream reaches that standard may not be stringent enough and may not address the problem because of a whole lot of other reasons out there and if you really regulate it from the nuisance standpoint, you're not correcting the nuisance. In other stream reaches, in fact the standard may be looser than--pardon me, more stringent than necessary and that therefore what you're really asking for is an expenditure of dollars that may not be necessary from a nuisance, again from the regulatory from the standpoint of that nuisance. Let me also stress one other thing. The study we're talking about here is not the study of what's the problem and what kind of standards should be put into place, but a study that is going to be directed at action and a control strategy to be able to be developed that is going to be able to fix the problem. A management plan if you will, for how to be able to address the problem as effectively as we can. Somewhat similar to what we have done in Tillamook Bay of Yaquina Bay where you're really looking at a plan to solve a problem, not just kind of studying it to see how serious it is or whathaveyou.

Buist

I understand that, but I guess I'm concerned that in the process there is really no definite step being taken to solve the existing problem which I agree with Dr. Smith and Churchill is getting to be very severe in some of the water bodies. I think that in the--theoretically the best

Buist
(con't)

approach is to come up with a strategy which will solve the problem. But practically speaking that's going to take a long time, and in the meantime the problem will not be being solved at all. And is there any compromise position. I think we heard from Dr. Smith or Dr. Churchill that if one adopts a Red Book criteria then there is a mechanism for appeal or whatever. Presumably then if there are bodies which either are point sources which are creating problems then you will be moving towards solving the problem overall and meantime you can start to deal with the specific problems.

Petersen

Do you have any comments on this?

Denecke

Not quite on that, but maybe it is on point. I understood Mr. Krahmer to say that some big plant that was dumping into the Potomac, they lowered the phosphorous and did some other things and it didn't do any good. Is the state of the art on nutrients such that that could very well happen with USA. They brought the phosphorous content down to where it should be and the bloom was still in Lake Oswego?

Schaedel I believe so. You could get it from other nonpoint sources, stormwater runoff--

Petersen That's the problem.

Schaedel --a variety of sources going in. There is no guarantee if you hit that standard you're going to beat the problem.

Petersen There is an underlying assumption in some of the arguments that are being made that it is the USA that's causing the problem. There is an acknowledgment by USA that they are a contributor, no question about it, a large contributor to the problem, but they are not necessarily--we don't know for sure that if it was technically possible to come within this alternative 2, that we necessarily solve the problem. And I think that is the--its kind of like using a shotgun as opposed to a rifle approach. If you go alternative 2 then you might be an overkill thing. This is a classic environmental problem. We have the citizens of Lake Oswego who have been there for many, many years, they've expended billions--that sounds like a large sum but there are some pretty fancy houses out there I'll acknowledge--millions of dollars in their property development and then all of a sudden Washington County--boom--grows in population and its just a classic case of economics versus environment and the statutes tell us we've got to

Petersen
(con't)

balance the two. That we have a responsibility in protecting the environment of the state to also consider the economic impact. So I don't think that we can--I don't know that a shot gun approach, from my point of view, is the right way to go. I guess I'm persuaded that the--whether we add nitrogen and phosphorous to 1, I guess I'm not--I don't feel that strongly. I don't know what impact that is going to have. I'd like to provide as much flexibility as possible. In the meantime, these people are on notice. An element of alternative 1 is that the permittees are on notice that, hey, these standards may change, be modified, you may end up having to--we don't know how this is going to turn out, so be aware before you spend all these dollars. Is that not correct? End of speech.

Bishop

What would happen if you put the standards for alternative number 2, but you have them only for the summer months. You talk about any three consecutive months, but what about putting in "in the summer months." Does that indeed bring down from the 52 that you said would be affected to a more reasonable number? I'm also worried that we set standards and then we can't meet them. So here we are and the Department is saying you've got to meet these, and then the state can't meet them, and then we're back-tracking and having rules that are not enforceable. I don't want to get in that position and I wondered if--

Schaedel I think that would bring both of them closer together. By adding wording for summer months, or May through September. If you bring the nutrient standard over, you generally find, for example, again a quick assessment, the 16 sites exceeding the chlorophyl are part of the network of 30 that would exceed that summer month total phosphorous .

Petersen But aren't we back in the same boat again? We still have the control strategy. You can't lay on capital equipment--you can't lease it for three months a year and lease it to somebody else for the remainder of the year. You've got to spend the money and put it on to achieve the standard.

Hansen There are alternatives of putting the effluent into the river during summer months. There is land application, there is other sorts of things that can in fact minimize that to some extent. So there are noncapital type solutions that could address some of the summer month issues.

Buist I think your rifle, shotgun analogy is excellent. But I would point out that it takes a long time to kill off a whole army using one rifle, and I guess the only way--picky, picky, I know--alternative 1 is only appealing to me if a very strict timetable were placed on the Department

Buist
(con't)

so that at least I was reassured that this was going to be addressed in a timely fashion. I don't think that putting people on notice that maybe one of these days a standard will come in will do a thing. They will just put it off until they have to put it on. Why should they do anything.

Petersen

Well, that's fine. That was just in the interest of fairness so that as they plan they know the plant is going to be have to be modified, that's all. Any other questions for staff.

Denecke

Can I ask--I saw Mr. Krahmer nod his head but I wasn't quite sure what he was nodding it for--

Petersen

He fell asleep. (laughter)

Denecke

What I'd like to ask Mr. Krahmer is do you think it is feasible to lower the content of the phosphorous----

----- END OF TAPE -----

...well, I wondered if there was an alternative to doing that, I was thinking about adding more chemicals or--

Krahmer I have a master plan update here, not for publication yet because it hasn't been adopted by the Board of Directors, but this plan has an alternative in it to export the effluent from the basin because it is our opinion that will in the long term be the most cost effective. The price tag is \$63 million. So instead of \$120 million in the next 20 years, we've got \$183 million.

Petersen That help our balance of payments if we exported it?
(laughter)

Krahmer We'd love to export it that far.

Petersen Does that answer your question? Alright.

Hansen Mr. Chairman, our recommendation is clear. If however the Commission would like to be able to say, hold it, really want to hear more on this, the alternative you have before you is to take both out to public hearing rather than just the recommended alternative 1. We would urge you strongly not to adopt as an interim basis a standard which I think is going to have significant impact on a whole lot of sources out there that are not here to be able to at least give comments to you. But that is another alternative, not our recommendation, but an alternative that I want to be sure to point out to you.

Petersen Take them both out.

Hansen Or maybe with a modification in the summer.

Petersen Ok we need to wrap this up. Mr. Smith, did you have a concluding comment that you'd like to make?

Smith Excuse me. I just--my memory is refreshed. I did foreget that I was going to suggest one thing for alternative 2 and that was that those nutrient standards be applicable during the periods June 1, to October 31. That they will be applicable during the summer months not the winter months so that you would have that flexibility.

Petersen Thank you. What is the wish of the Commission?

Buist I move that we take both alternative 1 and alternative 2 out to public hearing.

Bishop With the amendment of just for the summer months, or would you be--

Buist I'm not sure I know how to deal with that.

Denecke That could be something considered at the public hearing
I would think.

Buist Right

Bishop I would second that motion.

Petersen Alright. Any further discussion? Call the roll.

Hansen Commissioners Buist

Buist Aye

Hansen Bishop

Bishop Aye

Hansen Denecke

Denecke Aye

Hansen Brill

Brill Yes

Hansen Chairman Petersen

Petersen Yes. Thank you folks.

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTY-SIXTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

July 17, 1985

On Friday, July 17, 1985, the one hundred sixty-sixth meeting of the Oregon Environmental Quality Commission convened in Room 1400 of the Yeon Building, 522 SW Fifth Avenue, Portland, Oregon. Present were Commission Chairman James Petersen, Vice Chairman Arno Denecke, and Commission members Mary Bishop and Wallace Brill. Commission member Sonia Buist was absent. Present on behalf of the Department were its Director Fred Hansen and several members of the Department staff.

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

BREAKFAST MEETING

All Commission members, except Sonia Buist, were present at the breakfast meeting.

Director Hansen reviewed for the Commission a recent staff planning retreat.

1. Schedule for East Multnomah County Threat to Drinking Water Hearings

Chairman Petersen asked that the notice specify that testimony would be limited to only new issues that had come up since the Commission's last hearing, and that it also clearly state that there would be a specific time set aside for public officials to address the Commission, and just what that time would be.

Director Hansen asked if the hearing should be conducted as a contested case. Michael Huston, Assistant Attorney General, replied that there were no requirements to treat this as a contested case, and it would be almost impossible to use contested case procedures for such a hearing. Chairman Petersen said he was inclined not to treat this as a contested case proceeding.

The Commission agreed the hearing should be conducted before them on Thursday, October 17 and run from early in the afternoon into the evening, as the last hearing had. The hearing will be conducted somewhere in the affected area.

2. Medford Public Opinion Poll on Vehicle Inspection/Maintenance Program

Carolyn Young, Public Information Officer, presented the results of a telephone survey of licensed drivers who reside in the Medford-Ashland Air Quality Maintenance Area. A total of 525 interviews were conducted June 12-14, 1985, by Moore Information. In summary, the survey showed that Rogue Valley residents are very aware of and concerned about air pollution in the Rogue Valley. Industrial smoke rather than auto emissions is perceived to be the major source of air pollution in the Valley. Rogue Valley residents are largely aware that a combination of geography and climate is the major reason that Medford is among the most air polluted cities in the country.

A copy of the complete survey was provided to the Commission.

3. Chem-Security Systems, Inc. Fined by the U.S. Environmental Protection Agency

Michael Downs, Administrator of the Department's Hazardous and Solid Waste Division, informed the Commission that the U.S. Environmental Protection Agency (EPA) had fined Chem-Security Systems, Inc. (CSSI) more than \$700,000 in civil penalties for improper management of hazardous materials at the company's Arlington toxic waste dump. The penalties came as a result of an EPA inspection of the site in November, 1984. Mr. Downs emphasized that it appeared a majority of the complaints EPA had against the company were administrative in nature. In all, \$378,000 was assessed for violations of the Resource Conservation and Recovery Act (RCRA), and \$332,625 for violations of the Toxic Substances Control Act (TSCA).

FORMAL MEETING

AGENDA ITEM A: Minutes of the June 7, 1985, EQC Meeting.

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

AGENDA ITEM B: Monthly Activity Report for May, 1985.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill, and passed unanimously that the Monthly Activity Report for May 1985 be approved.

AGENDA ITEM C: Tax Credit Applications.

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

AGENDA ITEM D: Request for authorization to hold a public hearing to amend the New Source Review Rule related to assessment of visibility impacts of major new or modified sources in Class I areas (OAR 340-20-275) as a revision to the State Air Quality Implementation Plan.

This item proposes to amend the State Implementation Plan New Source Review Rule to delete the visibility impact assessment exemption for major new or modified sources located more than 30 kilometers from Class I areas.

The proposed amendment is required to correct an apparent conflict between the visibility protection provision of the current New Source Review Rule adopted by the Department and Environmental Protection Agency (EPA) regulations. EPA has notified the Department that this rule revision must be completed before EPA can propose approval of the Oregon Visibility Protection Permitting Program adopted by the Department in September, 1984.

Director's Recommendation

Based on the Summation in the staff report, the Director recommends that the EQC authorize public hearings to consider public testimony on the proposed revision to the New Source Review Rule, OAR 340-20-276.

Chairman Petersen asked for an interpretation of equivalent or more stringent. Michael Huston, Assistant Attorney General, replied that that was an issue that the Attorney General's Office struggles with, however, there may be some precedent and he would research the matter and get back to the Chairman.

Chairman Petersen asked why an exemption was proposed in light of EPA's equivalency requirement. Tom Bispham of the Department's Air Quality Division, indicated the Department had, through various models, determined that the impact from plants of less than 250 tons outside of the 30 kilometer boundary drops off dramatically. He said the Department didn't believe the analysis was necessary based on the data it had gathered. In response to Chairman Petersen, Mr. Bispham said that the Department, based on its data, thought it was equivalent, in that it offered the same protection level.

Director Hansen said it appeared to depend on what program as to what EPA means by equivalency. For instance, with the hazardous waste rules it means identical language, in some other program areas it means the same level of protection, although it appears that is starting to change some. Chairman Petersen asked Director Hansen if he thought it was because there was a legal difference, or that

the EPA Hazardous Waste staff looks at equivalency differently than the EPA Air Quality staff. Director Hansen said it was his view it was the latter case.

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

AGENDA ITEM E: Request for authorization for public hearings to establish boundaries and implement a motor vehicle emission inspection/maintenance program in the Medford-Ashland AQMA as a revision to the State Implementation Plan.

The Department is requesting authorization for public hearings to receive testimony on the establishment of a vehicle inspection/maintenance (I/M) program for the Medford-Ashland Air Quality Maintenance Area (AQMA). HB 2845 requires that the Commission designate, by rule, boundaries if an area is identified in the State Implementation Plan (SIP) as requiring an I/M program to attain federal and state ambient air health standards.

The Notice of Public Hearing was published in the July 1, 1985 Secretary of State's Bulletin. The public hearings have been tentatively set for August 1, 2, 8, and 9, 1985.

Director's Recommendation

Based on the Summation in the staff report, the Director recommends that the Commission authorize a public hearing to consider the public testimony on:

1. Proposed boundaries of a motor vehicle inspection and maintenance program for the Medford-Ashland Air Quality Maintenance Area (OAR 340-24-301);
2. Proposed deletion of the tampering inspection portion of the test for 1970-1974 model year vehicles (OAR 340-24-320 and -325); and
3. Proposed addendum to the Medford Carbon Monoxide Attainment Plan (Section 4.9 of the State Implementation Plan, OAR 340-20-047).

No one wished to testify on this matter.

Commissioner Bishop asked why there had been a decrease in the traffic levels in the data base, and if the Department felt comfortable with the new figure. Director Hansen replied that as a result of the economic depression in the area, population has not increased at the same rate as in the past, and traffic has decreased accordingly. The Department believes that the 0.5% violation level figure as presented by the City of Medford, is optimistic from an air quality standpoint, however, pessimistic from an economic standpoint, but still within the range of what is possible. If, he continued, there

is an increase in traffic level population, the standard requires compliance must be attained with what actually happened, not what may have been projected.

Commissioner Denecke said he had heard Senator Lenn Hannon was starting some type of a movement to do something about the inspection/maintenance program. Director Hansen replied that he understood from news stories that the Senator was creating an initiative to put HB2145 on the ballot. However, 60,000 signatures would be needed, therefore there was some talk of including the Portland program also. Director Hansen said that nothing had been filed with the Secretary of State so far.

Chairman Petersen asked if it was a problem to not include all of Jackson County. Director Hansen said the Department had heard every argument, but the numbers indicate it should not be a significant problem. In the problem areas, he continued, within the AQMA, 88% of the vehicles are included that contribute to nonattainment. By going county-wide only an additional 4% are picked up. Director Hansen said the Department believed that attainment could be reached by using the smaller AQMA. Director Hansen did expect that there would be testimony on both sides during the public hearings.

Chairman Petersen asked how the Department of Motor Vehicles would determine who was in the AQMA so that a notice would not go out to the wrong people. Ron Householder of the Department's Vehicle Inspection Section, replied that, unfortunately, zip code sorting does not fit the boundaries well. As is done in the Portland program, there would be people with zip codes within the county, but outside of the boundary, who would receive a notice. The insert that would go with license renewals would have a map so people could determine if they were in or out of the boundary area, and would also include an exemption form to be sent in with their car license renewal.

In addition, Mr. Householder said, the Department receives many phone calls from people wondering if they are in or outside the boundary. The Department has large, very detailed maps, so they can tell individuals specifically if the program would apply to them. The advantage in the Medford area, Mr. Householder continued, is that the proposed boundary lines are cleaner than in Portland.

Chairman Petersen said he understood the statistical evidence included in the staff report that older vehicles should be exempt, but he was concerned about the public perception of such an exemption. Mr. Householder replied that the proposal for model years 1970-1974 would not exempt those cars from the test, the proposal was only to delete a portion of the test dealing with pollution equipment check for those model years. Only cars 20 model years and older are statutorily exempt from the test. Admittedly, Mr. Householder said, there are more older cars registered in the Medford area than in the Portland area.

Commissioner Brill said the Director's Recommendation was substantially what it should be and MOVED it's adoption. The motion was seconded by Commissioner Bishop and passed unanimously.

PUBLIC FORUM:

Dorothy Gage, Portland, appeared representing the Multnomah Community Center and asked the Commission for further consideration of the ban on backyard burning in the Portland area. She said the 1985 Legislature had held a hasty hearing on HB2194, which would have again allowed backyard burning, and the bill died in committee. Ms. Gage reminded the Commission that the 1983 Legislature allowed a ban only if alternatives were provided, and she did not feel those alternatives were available. Ms. Gage said the dumps were filling, chipper rental at \$116 per day and drop box rental at \$25-\$100 per day were prohibitive and also contributed to the dump problem. Ms. Gage said that Representative Tom Mason shared their concerns, and she asked that permits still be available for future burning seasons. Ms. Gage said some people who had received permit applications had expressed to her that they found the process cumbersome.

Ms. Gage asked the Commission to perhaps consider relaxing the time periods for burning seasons, as frequently in the fall it was too wet to burn. She also suggested more enforcement emphasis be placed on those persons who burn garbage instead of or along with their yard debris.

Ms. Gage suggested that restrictions on burning had political and economic overtones, and said it was her opinion that burning causes temporary pollution but does not cause life-threatening circumstances.

Chairman Petersen said he appreciated Ms. Gage's comments and added that it was the best summary he had heard against a ban. Chairman Petersen said that imposing the ban was a personally tough decision, but felt that alternatives would never be developed until a ban was in place. He suggested that Ms. Gage take her comments to the city and county who are the entities responsible for developing alternatives. Portland was the only major city on the West Coast which still allowed burning, and Chairman Petersen said it was difficult to believe that Portland was unique. He added that the Department was trying to make the permit process more flexible, and didn't want it to be awkward or burdensome.

Ms. Gage wanted the Commission to know that they do recycle metal and glass, and compost what yard debris they can. She said that personally smoke was not offensive to her and asked that permitted burning be allowed in October. Chairman Petersen assured Ms. Gage that it would.

No one else wished to appear at Public Forum.

AGENDA ITEM F: Request for authorization to conduct a public rulemaking hearing for modifying a special groundwater quality protection rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580(1), for the LaPine shallow aquifer.

This item proposes to amend the special groundwater quality protection section in the Deschutes Basin Water Quality Management Plan. The proposed amendment would establish a specific boundary for sewer service in the LaPine core area. The current rule is somewhat vague and open to disagreement as to what properties should be connected to sewer when it becomes available.

The hearing date on the public notice sheet should be changed to August 20, 1985 from August 19, 1985. This is necessary to assure that the 20-day public notice period is met.

Director's Recommendations

Based on the Summation in the staff report, it is recommended that the Commission authorize the Department to conduct a public rulemaking hearing. The hearing will consider if the Special Policies and Guidelines (OAR 340-41-580) in the Deschutes Basin Water Quality Management Plan should be amended to include a specific boundary for the LaPine core area.

Commissioner Denecke asked if there was any question that the pollution was caused by on-site sewage disposal. Richard Nichols of the Department's Central Region Office, replied that a 208 water quality study conducted in the late 1970's and early 1980's concluded that high density development in the core area caused the nitrate problem.

Director Hansen added that to comply with notice requirements, the proposed hearing date needed to be changed from August 19 to August 20, 1985.

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

AGENDA ITEM G: Appeal of subsurface variance denial by David and Daniel Wriggle.

Mr. David Wriggle and Mr. Daniel Wriggle are appealing the decision of Mr. Sherman Olson, a Department Variance Officer, denying their request for variance from the On-Site Sewage Disposal Rules.

Director's Recommendation

Based upon the findings in the Summation in the staff report, it is recommended that the Commission adopt the findings of the Variance Officer as the Commission's findings and uphold the decision to deny the variance.

Daniel Wriggle testified they were willing to use any reasonable solution. Other lots adjacent to their's were of equal size and already have their own septic systems. He said it was not an alternative to buy more property. They proposed a sand filter system hoping it would be acceptable. Mr. Wriggle went on to say he felt they had been bureaucratically ill-treated.

Chairman Petersen said he understood their frustration would be exacerbated by once having approval that was subsequently revoked as not being properly issued. He asked what investment the Wriggle's had in the property and if it would be an alternative to sell the lot to neighbors. Mr. Wriggle replied that they bought the lot in 1978 for approximately \$15,000 and it was currently assessed at \$23,000. Their preference was to have a vacation home on the property. But if no solution was available, they would consider selling. He asked what difference the size of a system would make if the aquifer was already polluted.

Sherman Olson of the Department's Water Quality Division, testified that sand filter systems reduce nitrogen by 50% and would allow a greater density of development. The original approval on the property was for a seepage pit, which was a nonstandard system not allowed by rule at the time of the approval. Mr. Wriggle countered that he understood the original approval was for a standard system.

Mr. Olson said the Wriggle's could meet the intent of the rules if additional property was obtained or a sewage collection/treatment system was used. He said this was an old subdivision, developed at urban density, and any on-site sewage system would cause degradation. However, no studies had been done in the area to see if the aquifer was polluted, but studies had been done on other areas on the Coast.

In response to Chairman Petersen, Mr. Olson said that an aquifer study in the Florence area took one to two years, and even longer for the study in the Clatsop Plains area.

Chairman Petersen asked if there was anything the Wriggle's could do, short of obtaining more property. Mr. Olson replied that without more property, the lot would be unbuildable unless the Commission granted a variance. Commissioner Denecke asked if any adjoining lots were big enough to possibly allow a variance. Mr. Wriggle replied that lots on two sides were the same size, a slightly larger lot was on another side, and a road was on the fourth side. Mr. Olson said the adjoining lot to the south was slightly larger, the two lots on the west were recently developed with approved on-site sewage systems, and the property across the road was a large tax lot. Mr. Wriggle said the lot across the road was owned by a number of heirs and he didn't know the status of it. In response to Commissioner Denecke, Mr. Wriggle said that unless neighboring property owners were willing to give up rights for their own systems, he didn't think an easement was possible. Mr. Olson said only the property across the road would be a possibility for an easement without giving up their own chances for a system. He continued that there was no prohibition against a system running under the road. A permit must be obtained from the County, but that should not be a problem.

Doug Marshall, Tillamook County Sanitarian, testified that he saw little problem with the system as proposed by the Wriggles. He said the purpose of the on-site sewage disposal rules were to preserve the quality of the water, and the proposal was the highest solution of treatment available. It would comply with Commission intent, and Mr. Marshall urged the Commission to grant the variance.

Commissioner Brill asked if systems on adjacent properties were next to the property line. Mr. Wriggle replied that they were close, but he was sure they used proper setbacks.

Commissioner Brill asked about the possibility of a community sewage treatment system. Mr. Marshall said it was a low priority as there were mainly vacation homes in the area with established systems, and the subdivision was too far from an established sewage treatment plant. Mr. Wriggle said the homeowners association had discussed a community treatment system but the majority have systems already installed and are not receptive to the costs associated with a community system.

Chairman Petersen expressed concern about the precedent of granting this variance and what the impact would be. Mr. Marshall replied that there were probably less than 10 property owners in the subdivision who were in the same situation. Mr. Olson said there were 158 lots in the subdivision, 47 of those lots were undeveloped. However, if a precedent were set, the Commission would probably be looking at variance requests from other sandspit areas on the Coast. Chairman Petersen asked if some of those lots were large enough for on-site sewage systems. Mr. Olson replied that the majority were too small. Some of the subdivisions were created in the 1920's and 1930's and even some in the 1800's.

Chairman Petersen said he was sensitive to the Wriggle's problem, but he was also concerned about the precedent. He asked that the Wriggle's explore the possibility of an easement, with assistance from DEQ. Chairman Petersen wanted to be sure the Wriggle's had pursued all avenues before the Commission considered granting a variance. He said the Wriggle's argument was persuasive, and asked the DEQ staff to cooperate with them to find an acceptable solution. Chairman Petersen told Mr. Wriggle he should feel free to come back to the Commission at a later date if there was still a problem. Chairman Petersen and the Commission agreed to continue this matter, and no formal action was necessary.

Director Hansen stressed the Department was very sympathetic to the Wriggle's and others who are in similar circumstances. Those who bought a piece of property they thought would be developable on the basis of a government statement.

AGENDA ITEM H: Approval of amendments to Lane Regional Air Pollution Authority Rules concerning air contaminant discharge permits, new source review, and definitions as a revision of the State Implementation Plan.

The Lane Regional Air Pollution Authority (LRAPA) has rewritten three sections of their rules in response to EPA's requirements and in an effort to improve readability.

In accordance with state statutes, regional authority rules must be no less stringent than state rules and must be approved by the Commission. Staff has reviewed the subject rules and concluded they are acceptable for Commission approval.

Director's Recommendation

It is recommended that the EQC approve LRAPA's rule revisions concerning Air Permits, New Source Reviews, and Definitions based on a finding that they are no less stringent than state rules, and further, that the EQC direct the Department to submit the revised rules to the U.S. Environmental Protection Agency as a State Implementation Plan (SIP) revision.

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

AGENDA ITEM I: Proposed amendment to OAR 340-25-315 (Veneer and Plywood Manufacturing Operations) to include emission standards for veneer dryers located in special problem areas.

The proposed amendment would extend specific emission standards for veneer dryers to include dryers located in special problem areas. An additional part of the amendment would delete an outdated reference to implementation of veneer dryer air emission compliance. It is also proposed to delete the section on Veneer Dryer Emission Limitations of the Medford-Ashland AQMA Rule.

Director's Recommendation

Based on the Summation in the staff report, it is recommended that the Environmental Quality Commission adopt the proposed modification to the veneer and plywood Manufacturing Operations Regulation and delete the Veneer Emission Limitations section from the Medford-Ashland Air Quality Maintenance Area (AQMA) Rule.

Chairman Petersen referred to the following statement from page 2 of the staff report:

"The Department believes that the provisions of the Veneer and Plywood Manufacturing Operations Rule are adequate to allow the application of more restrictive emission limits in the Medford in the future if necessary. The Department, therefore, agrees that the specific Medford rule (OAR 340-30-020) can be deleted..."

Chairman Petersen asked how the Department would accomplish necessary improvements if the deletion were approved.

Lloyd Kostow of the Department's Air Quality Division replied that if attainment is not reached as projected, the more stringent limits may need to be considered. This would be accomplished through discussions with the community, the air quality advisory committee in the area, and it would come back to the Commission as a rule revision.

Chairman Petersen asked if industry was satisfied with the revisions outlined in the following statement from page 3 of the staff report:

"For this reason, the opacity rule was designated to accommodate occasional visual emissions above 10 percent, but which are less than the 20 percent maximum opacity limit. In recognition of these factors, the guidelines for application of the 10 percent average operating opacity standard have been revised."

Mr. Kostow replied that he didn't know if everyone in industry had seen the revisions yet, but they were distributed to everyone who testified at the hearing and no comments were received, so he believed their concerns were satisfied.

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

AGENDA ITEM J: Proposed adoption of amendments to Water Quality Standards Regulations, OAR Chapter 340, Division 41.

On February 24, 1984, the EQC authorized the Department to hold public hearings on proposed changes to existing water quality standards. The hearings were held in May, 1984.

The Department deferred staff efforts to evaluate testimony as a result of unscheduled work associated with the proposal to find a threat to drinking water in mid-Multnomah County.

The Department has now completed a summary of the hearing record, evaluated the testimony and prepared recommendations.

The Department recommended adoption of some corrections and revisions to beneficial use tables contained in the water quality regulations. It also proposed that issue papers be prepared for additional potential rule amendments and that public review be scheduled on these in the spring of 1986.

Director's Recommendation

Based upon the Summation in the staff report, it is recommended that the Commission adopt the revisions to Beneficial Use Tables 1, 2, 3, 4, 5, 7, 8, 9, 10, 12, 15, 16, and 17, as contained in OAR Chapter 340, Division 41, and direct the Department to prepare issue papers dealing with the additional potential rule amendments noted above for public review and comment during the spring of 1986.

John Charles, Oregon Environmental Council, testified about the five areas the Department had identified for issue papers that they would circulate and discuss at a future date, on page C-39 of the staff report. He suggested the issue of nonpoint source control, namely forest harvest activities also needed study. Mr. Charles said that in particular basins, the problems of nonpoint source run off are equal to or worse than all of the point sources combined. He asked that nonpoint sources be listed as a high priority on the list for issue papers to be developed.

In response to Chairman Petersen, Mr. Charles said that nonpoint sources would be urban street runoff, agricultural runoff, erosion caused by forest activities, as opposed to point sources which is generally something that comes out of a particular outfall such as a sewage discharge from an industrial source.

Commissioner Denecke said it was his understanding that agencies such as the Forest Service, the Bureau of Land Management, and the State Department of Forestry were primarily dealing with nonpoint sources now. Mr. Charles replied that it depended on the category of nonpoint source, such as forest harvest activity, as who had jurisdiction.

Cynthia Mackie, Northwest Environmental Defense Center and Oregon Shores Conservation Coalition, testified they were also concerned that a study should be made of nonpoint sources. However, rather than supporting more issue papers, they believed standards for nutrients should be set now and that no further study was needed. She said an unconscionable amount of time for review of DEQ's water quality standards had already been spent on this issue, and enough information was already available to set the standards. Ms. Mackie provided the Commission with pictures of Schooner Creek showing the nutrient problem.

The reason they want standards adopted now, she continued, was that they believed the public had a right to know what standards are being applied and how they are being applied. She recommended the Commission adopt EPA standards, or the standards previously recommended by her group.

In addition, Ms. Mackie proposed specific changes to the beneficial use tables. The first was the footnote designating "adequate pretreatment." They felt this was meaningless and suggested the Commission specify the type of pretreatment needed for each appropriate water segment. Secondly, they were concerned about the inclusion of three different irrigation titles in Tables 15 and 16. She said that if a stream is used for irrigation and there were these different types of irrigation, it makes other uses seem subservient to irrigation. Lastly, Ms. Mackie emphasized that NEDC and Oregon Shores believed that the best management practice should be applied before water quality standards are reduced for the Malheur and Owyhee Rivers.

In response to the suggestion that the Department has taken too long to establish standards, Harold Sawyer of the Department's Water Quality Division replied that the Department had tried to use the approach of assembling the necessary background information and the rationale for a particular standard to have some idea of what the implications of that standard would be in terms of implementation. He was uncomfortable with proposing nutrient standards especially at this time because the staff had not done any work or assembled the necessary information.

Mr. Sawyer suggested that the definition of pretreatment could be made less ambiguous by adding filtration/disinfection as the interpretation. Ms. Mackie agreed that would be helpful.

In regard to the irrigation labels on Tables 15 and 16, Mr. Sawyer said it would not be a problem deleting them.

Commissioner Denecke asked how the tables were used. Mr. Sawyer replied they were for the Department's use in gaining a perspective on the total regulatory program and the way water quality standards are viewed.

Gail Achterman, Lake Oswego Corporation, urged adoption of nutrient standards. The Lake Oswego Corporation owns all of the bed and banks of Oswego Lake and holds all of the water rights for Oswego Lake which receives its water from the Tualatin River through the Tualatin Canal. They supported the recommendation that the Commission adopt standards for nitrogen and phosphorous, but also urged the Commission to ask the Department to move more rapidly in proposing nutrient standards. The problem her clients have is that the Unified Sewerage Agency's (USA) Durham and Rock Creek Sewage Treatment Plants discharge into the Tualatin River. The National Pollutant Discharge Elimination System (NPDES) permits for those two plants were coming up for renewal soon, and they wished to have nutrient standards in place so they could be reflected in the permits. Because of the algal blooms currently in the Tualatin River and Oswego Lake, previous recreational uses have become nonexistent. Ms. Achterman stated it cost her clients \$20,000 to \$22,000 per year for algicides which need to be applied to the Lake every five days throughout the summer--and the problem is still not controlled.

Ms. Achterman said they would accept the EPA's nutrient standards as published in the Department's 1984 Water Quality Program Assessment and Program Plan for FY 1985.

Commissioner Denecke asked if the Commission were to adopt the nutrient standards as proposed by Ms. Achterman, were there presently economically feasible ways that USA could meet the standards. Ms. Achterman replied that USA was presently using land disposal techniques at some of their other plants, and could possibly do that at Durham and Rock Creek also. Also, they currently reduce their nutrient discharge in the summer months, they could begin reducing earlier in the spring when the water in the Lower Tualatin and Oswego

Lake might not have as high a nutrient level. She did understand, however, that ultimately a capital expenditure would be needed, though they wouldn't argue that USA would have to meet standards overnight.

Commissioner Denecke then asked why the EPA standards were not now being applied. There was some discussion between Ms. Achterman, Mr. Jack Smith, also representing Lake Oswego, and Mr. Sawyer as to whether the EPA information referred to were actually standards or guidelines. The Department believes them to be guidelines. Ms. Achterman and Mr. Smith believe them to be standards which the Commission could adopt.

Gary Krahmer, Unified Sewerage Agency, testified that they would be willing to cooperate with the Lake Oswego Corporation in any way they could, but they hadn't yet been approached with the problem. He did state there were other sources of nutrients other than the sewage treatment plant effluent, and asked the Commission to recognize that any solution would be very costly. In order to provide for land application of the 30 million gallons of effluent produced every day from the Durham and Rock Creek plants, in excess of 2,000 acres would be needed. Mr. Krahmer asked for time. He said they were in the process of updating their master plan for the next 20 years and wanted to know what the standards would be.

Director Hansen said that the implication was that if standards were in place to regulate the discharge that somehow water quality standards and designated uses could be achieved. He said it was important to keep in mind that it was the Water Policy Review Board's failure to curb appropriation of water out of the stream so that there was not enough water to be able to provide for both the quality and the appropriation for substantial agricultural uses, that has caused water quality degradation. This is a substantial and complex issue that needs to be looked at in total, he continued.

Chairman Petersen asked if it would be possible to accelerate adoption of permanent standards and/or adoption of interim standards using EPA guidelines. Mr. Sawyer said it was a matter of where staff resources should be placed. His intent with an issue paper was really to develop a background document and proposed standards for adoption that would head into the public participation process in the spring of 1986. He was not comfortable at this time with labeling the EPA guidelines as standards. Chairman Petersen suggested that possibly the people testifying did not know the workload impact on staff from such things as the threat to drinking water in East Multnomah County, but he asked that the staff return to the Commission at its next meeting with a report on whether it would be possible to develop interim nutrient standards for the state. Mr. Sawyer agreed to return with the best proposal staff could assemble.

Director Hansen expressed concern if interim standards would turn out to be less stringent than final standards, then we would lose the ability to impose the more stringent standards for those permits issued in the interim. He suggested it would be possible to have a permit condition indicating that the Department was developing

standards on nutrients and that when those standards became effective any permit would need to meet them, possibly according to a pre-established compliance schedule.

Commissioner Brill made the following motion: Approve the Director's Recommendation adding the definition of pretreatment as filtration and disinfection; remove the headings on tables 15 and 16 relating to the types of irrigation; request an interim status report from the staff on nonpoint sources program and its development; direct the staff to come back at the Commission's September meeting with a specific idea on how to accelerate the adoption of interim and/or permanent nutrient standards; and instruct staff to include cautionary language in any permits issued. The motion was seconded by Commissioner Bishop and passed unanimously.

AGENDA ITEM K: Request for approval of Construction Grants Management System and Priority List for fiscal year 1986.

This item is the request for approval of the Fiscal Year 1986 Construction Grants used to allocate EPA funds to construct sewage treatment facilities.

Although federal funds have not yet been authorized or appropriated by Congress, we are expecting that the funding level of approximately \$27 million for Oregon will be continued for Fiscal Year 1986.

Director's Recommendation

Based on the Summation, the Director recommends that the Commission adopt the FY86 Construction Grants Priority List as presented in Attachment I.

At the request of Senator Houck, Commissioner Denecke asked about two Marion County projects; Keizer/North Keizer, and Brooks/Hopmere. He said Senator Houck was concerned about the priority of the project that included Clear Lake. B. J. Smith of the Department's Water Quality Division, responded that the Clear Lake project was associated with Keizer/North Keizer. That project, in and of itself, she continued, is listed at #73 on the priority list because according to their schedule they could be ready to go during fiscal year 1986, but there was insufficient funding available to see the project need reached until October of 1987.

Ms. Smith outlined how project priorities are determined. A letter evaluation ranging from A through D is applied. The letters mean:

A projects - one where there is a declaration of public health emergency through the State Health Division, and documented evidence is found that there are effects in either surface water or groundwater. This is the highest priority.

B projects - one where there is documented evidence of effects on surface or groundwater, but no declaration of public health emergency.

C projects - one where there are sufficient reasons to assess that the project would violate a permit, if issued, or is in technical violation of a permit. This is the level the Keizer/North Keizer project falls into.

Commissioner Denecke asked that Ms. Smith's testimony be transcribed and sent to Senator Houck.

Ms. Smith added that the Department had received a letter from the City of Gresham about a project noted on the priority list that has something to do with the resolution of the groundwater problems in East Multnomah County. That particular project has a footnote which indicates it would be given a high priority for construction of additional capacities at the Gresham sewage treatment plant if it was determined that capacity was needed in order to serve areas that are currently now on cesspool or whatever. The Department had indicated that it looked like capacity would be reached after service to about 3,000 individuals in East Multnomah County. The letter from the City of Gresham indicated they could fine-tune that number, which the Department feels is appropriate.

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

AGENDA ITEM L: Continuation of discussion of proposed rules for granting Water Quality Standards Compliance Certification pursuant to requirements of Section 401 of the federal Clean Water Act.

At the January 25, 1985 meeting, the Commission voted to defer action pending further discussion on proposed procedural rules regarding Water Quality Certification pursuant to Section 401 of the federal Clean Water Act.

Since then, the Commission has considered the appeal of the Department's denial of certification on the Lava Diversion Project, and the legislature has enacted some guidance for the 401 certification process as it relates to hydroelectric projects.

The Department has drafted some amendments to the rules considered in January. It is recommended that the Commission discuss the rules as proposed, make changes as appropriate, and authorize the Department to take the proposed rules, as modified, back out to public hearing.

Director's Recommendation

Based on the Summation it is recommended that the Commission discuss the rules as proposed, make changes as appropriate based on the discussion, and authorize the Department to take the draft contained in Attachment A, as modified, back out to public hearing.

John Charles, Oregon Environmental Council, presented the Commission with two documents written by the State of Maine Department of Environmental Protection. One was a letter to the Federal Energy Regulatory Commission (FERC), dated February 15, 1983, and the other was a staff presentation by the hydropower coordinator for the Maine Department of Environmental Protection dated February 9. He also provided the Commission with Section 303(c)(2) of the federal Clean Water Act.

They believe, he continued, that the following part of this section should be taken literally:

"...Such standards shall be such as to protect the public health or welfare, enhance the quality of water and serve the purposes of this Act. Such standards shall be established taking into consideration their use and value for public water supplies, propagation of fish and wildlife, recreational purposes, and agricultural, industrial and other purposes, and also taking into consideration their use and value for navigation."

Mr. Charles said they felt it was better for the state to simply interpret the Act literally and protect beneficial uses of the state's water as designated by the state's Water Policy Review Board, apart from the areas the Department frequently enforces such as bacteria, dissolved oxygen and turbidity.

The State of Maine has chosen to interpret the Act differently than the EQC, Mr. Charles said, and they believe Maine's interpretation is correct. He said a hydro project was proposed on a river in Maine which was one of only six rivers in the entire eastern United States with a significant self-sustaining Atlantic salmon run used intensively for sport fisheries. The project would have had significant adverse impacts on the fishery use, but probably would not have affected the water quality parameters like dissolved oxygen or turbidity. Maine denied the 401 certification on the grounds "... that an unreasonable impact on the designated uses of waters as outlined in the State's Water Classification Law constitutes a violation of water quality standards ..." The Maine commission also recommended letting FERC know that the 401 certification had been denied solely on the grounds that the project would have adverse impacts on the uses of the river. FERC subsequently terminated the project. Mr. Charles believed this was a much stronger stance for a state to take than the one the EQC had chosen in the Benham Falls case.

Commissioner Denecke said he had done some research on this subject, and found the Fifth Circuit Court of Appeals case (625 F2d 1269) not conclusive and made the following quote from it:

"A water quality standard has two components. The first is the use for the water in the area; the second is the water quality criteria necessary to meet the designated use."

As Commissioner Denecke understood it, Mr. Charles was carrying the argument a step further and asking if there was sufficient water to fulfill the designated use. Mr. Charles replied that the water had to be protected both in terms of quality and in terms of ensuring the use of the water itself is not destroyed.

Commissioner Denecke asked if the Department's position, which is contrary to Mr. Charles' position, was long-standing. Michael Huston, Assistant Attorney General, replied that the Department's basic approach was a long standing one and includes the concurrence of the Environmental Protection Agency. That posture was taken before Mr. Huston became counsel for the Commission, and the approach is now under appeal in the Benham Falls case, so the Court of Appeals could pass on the question. In response to Commissioner Denecke, Mr. Huston said his office had done some preliminary research in preparation for the Benham Falls case, and had concluded that the Department's approach was probably defensible. Although, it was probably within the Department's or Commission's authority to take the broader view Mr. Charles presented, Mr. Huston continued.

Chairman Petersen said that from his reading of Section 303 it talks about taking into consideration uses when standards were adopted, and it was his understanding that the Commission did that. Chairman Petersen continued that he felt the whole argument was about Section 401, and he didn't read anything in 401(a) that the Commission could certify other than specific water quality standards. As he read the Act, Section 401(d) would only apply if the Commission had decided to grant certification, and quoted the following from that Section:

"Any certification provided under this section shall set forth any effluent limitations and other limitations and monitoring requirements necessary to assure that any applicant for a federal license or permit will comply with any applicable effluent limitations and other limitations under sections 301 and 302 of this Act, standard of performance under 306 of this Act, or prohibition, effluent standard or pretreatment standard under 307 of the Act, and with any other appropriate requirement of state law set forth in such certification and shall become a condition on any federal license or permit subject to the provisions of this section."

He said he didn't read anything in that section that would be grounds for denial of certification, because subsection (d) would come into effect only if there had been a decision to approve.

Jack Smith of the Northwest Environmental Defense Council, agreed with Chairman Petersen, and said it was exactly why they were in the Court of Appeals, because they believed the grounds that were used for denial of the Benham Falls permit were not going to stand up.

Commissioner Denecke said it was a more difficult question than when the Commission denied the Benham Falls permit, but thought that it would be solved one way or another by the Court of Appeals.

Both Mr. Smith and Mr. Charles urged the Commission not to delay adoption of rules as they were especially needed to deal with current projects.

Chairman Petersen commented he was now a little better educated on the subject, but was not persuaded. It would be stretching Section 303 to require the Commission to also establish uses as part of the standard. However, he was inclined at this time to go along with the Director's recommendation and go back out to public hearing with the draft rules contained in the staff report.

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

AGENDA ITEM M: Proposed adoption of amendments to Hazardous Waste Management Rules, OAR Chapter 340, Divisions 100 to 108.

This agenda item proposes adoption of amendments to the State hazardous waste management rules. The proposed amendments establish management standards for certain hazardous wastes which are recycled, classify certain dioxin-containing wastes as hazardous, and make technical corrections and clarifying changes.

Adoption of the proposed rule amendments would allow the State hazardous waste program to maintain equivalency to the federal RCRA program.

Director's Recommendation

Based upon the Department's analysis of the testimony received following the June 10, 1985 notice of opportunity for public comment, it is recommended that the Commission adopt Attachment X: Proposed Rules and Rule Amendments to OAR Chapter 340, Divisions 100-108.

Al Goodman of the Department's Hazardous and Solid Waste Division, presented an additional amendment to the Director's Recommendation responding to concerns recently expressed by the Association of Oregon Industries.

Tom Donaca, Associated Oregon Industries, testified that the adoption of these particular rules were important, and they appreciated the extra time they had been allowed to submit comments. He said they agreed with the staff report amendment which responded to their concerns.

It was MOVED by Commissioner Denecke, seconded by Commissioner Bishop, and carried unanimously that the Director's Recommendation as amended be approved. Commissioner Brill was excused from the meeting before the vote on the motion.

AGENDA ITEM N: Variance request from EPA to operate helicopters in excess of noise emission standards of OAR 340-13-020 to obtain water samples from 32 wilderness area lakes.

EPA is conducting a national survey to evaluate and gain baseline data on the sensitivity of lakes to acid deposition (acid rain). In 1984, over 2,000 lakes were sampled in the eastern portion of the United States. The western survey, scheduled for this fall, would sample 888 lakes. In Oregon, 64 lakes would be sampled, 32 of which are in federally designated Wilderness Areas.

However, the U.S. Forest Service has denied EPA's request to access all Wilderness lakes by helicopter. Instead, they have agreed that three Oregon Wilderness lakes can be sampled by helicopter to conduct a study to compare the quality of data taken by ground versus air access methods. Other Wilderness lakes would be sampled by ground crews only.

The Department agrees with EPA that water quality baseline data from Oregon lakes, including those located in Wilderness Areas, is desirable. However, helicopter access to these lakes will exceed the noise standard by approximately 60 decibels or subjectively about 64 times louder than the standard. Although the level of noise is very high, the impacts are relatively short, as each survey will be completed in about 20 minutes and long term impacts are unlikely.

The Department supports granting this variance but is not anxious to see helicopter flights into more than the three lakes identified in the comparability study. If you have questions of staff, we have people here from the noise control and water quality programs and a representative from the laboratory that can address their respective areas.

Director's Recommendation

Based on the findings in the Summation, it is recommended that the Commission approve a variance for EPA's proposed National Surface Water Survey of Wilderness Area lakes in Oregon using helicopters in excess of the 50 dBA at 50 feet noise emission standard of OAR 340-13-020 during September and October 1985 under the following conditions:

1. The three lakes identified as part of the comparability study may be accessed by helicopter.
2. The Director of the Department may approve helicopter access to any lake in addition to the three identified in item 1 above, if the Forest Service has approved access to such lake.

3. EPA must receive prior Departmental approval for helicopter access and egress flight paths to each Wilderness Area lake that may be considered for helicopter access.
4. Each lake may be accessed no more than once with a helicopter.
5. The helicopter type shall be approved by the Department.
6. The helicopter shall operate at least 3,000 feet above ground level over Wilderness Areas except during landing and takeoff procedures, unless the pilot determines such procedures would cause unsafe flight conditions.
7. EPA shall coordinate with the Oregon Department of Fish and Wildlife to avoid, as much as possible, time and areas of hunting activities.

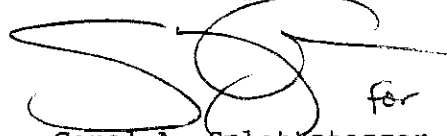
Chairman Petersen read testimony submitted by the Sierra Club which is made a part of the record on this matter.

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

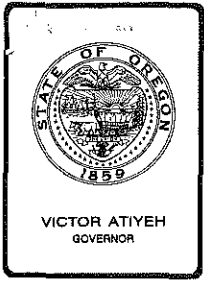
There being no further business, the formal meeting was adjourned.

During the Commission's lunch meeting Director Hansen briefed them on the status of legislation.

Respectfully submitted,


for
Carol A. Spletstaszer
EQC Assistant

CAS:d



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. B, September 27, 1985, EQC Meeting
June and July 1985 Program Activity Report

Discussion

Attached is the June and July 1985 Program Activity Report.

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

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

The purposes of this report are:

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

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

June and July, 1985

Table of Contents

	<u>June</u> <u>Page</u>	<u>July</u> <u>Page</u>
<u>Air Quality Division</u>		
Summary of Plan Actions	1	31
Listing of Plan Actions Completed	2	32
Summary of Permit Actions	3	33
Listing of Permit Actions Completed	4	34
<u>Water Quality Division</u>		
Summary of Plan Actions	1	31
Listing of Plan Actions Completed	6	35
Summary of Permit Actions	8	39
Listing of Permit Actions Completed	9	40
<u>Hazardous and Solid Waste Management Division</u>		
Summary of Plan Actions	1	31
Summary of Hazardous and Solid Waste Permit Actions	10	43
Listing of Solid Waste Permit Actions Completed	11	44
Listing of Hazardous Waste Disposal Requests	15	47
<u>Noise Control Section</u>		
Summary of Noise Control Actions	21	53
Listing of Noise Control Actions Completed	22	54
<u>Enforcement Section</u>		
Civil Penalties Assessed	23	55
<u>Hearings Section</u>		
Contested Case Log	25	57

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
 Water Quality Division
Hazardous and Solid Waste Division
 (Reporting Unit)

June 1985
 (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	8	83	7	88	0	0	21
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	8	83	7	88	0	0	21
<u>Water</u>							
Municipal	8	160	8	153	2	6	26
Industrial	6	65	5	62	0	0	14
Total	24	225	13	215	2	6	40
<u>Solid Waste</u>							
Gen. Refuse	2	41	1	28	-	-	24
Demolition	-	1	-	1	-	-	1
Industrial	3	31	2	23	-	-	12
Sludge	-	1	-	2	-	-	-
Total	5	74	3	54	-	-	37
<u>Hazardous Wastes</u>							
	-	9	-	9	-	-	-
<u>GRAND TOTAL</u>	37	391	23	366	2	6	98

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
GRANT	007	PRAIRIE WOOD PRODUCTS	7.5 MW CO-GENERATION BOILER	05/30/85	APPROVED
KLAMATH	016	JELD-WEN INC.	CONVEYANCE SYSTEM	12/26/84	APPROVED
JACKSON	060	SOUTHWEST FOREST INDUSTR.	VENEER DRYER CONVERSION	05/21/85	CANCELLED
MULTNOMAH	081	DILLINGHAM SHIP REPAIR	SANDBLAST FACILITY	06/10/85	APPROVED
DESCHUTES	084	FUQUA HOMES, INC.	BAGFILTER	05/30/85	APPROVED
UNION	087	HOFF-RONDE VALLEY LUMBER	BOILER SYSTEM MODIFICATION	06/06/85	APPROVED
LINN	088	TELEDYNE WAH CHANG		06/05/85	APPROVED
JACKSON	090	SPECIAL PRODUCTS OF OREG.	INSTALL BAGHOUSE	06/20/85	APPROVED
LANE	702	GREEN RIVER LUMBER	YARD PAVING	12/14/81	CANCELLED
JACKSON	911	OREGON CUTSTOCK & MOULONG INC.	AIR CAP. & CYC RELOCATION	05/20/85	CANCELLED

TOTAL NUMBER QUICK LOOK REPORT LINES 10

2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

June 1985
(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	39	4	33	17		
Existing	0	27	4	36	10		
Renewals	15	181	18	175	117		
Modifications	<u>4</u>	<u>32</u>	<u>9</u>	<u>71</u>	<u>8</u>		
Total	24	279	35	315	152	1115	1142
<u>Indirect Sources</u>							
New	4	11	3	8	4		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>2</u>	<u>0</u>	<u>1</u>	<u>1</u>		
Total	<u>4</u>	<u>13</u>	<u>3</u>	<u>9</u>	<u>5</u>	<u>232</u>	<u>236</u>
<u>GRAND TOTALS</u>	28	292	38	324	157	1347	1378

Number of
Pending Permits

Comments

32	To be reviewed by Northwest Region
20	To be reviewed by Willamette Valley Region
12	To be reviewed by Southwest Region
8	To be reviewed by Central Region
6	To be reviewed by Eastern Region
19	To be reviewed by Program Operations Section
42	Awaiting Public Notice
<u>13</u>	Awaiting end of 30-day Public Notice Period
152	

AP61/MAR.5
SB:p

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL. PSEL
JACKSON	CASCADE WOOD PRODUCTS, INC.	15	0005 12/24/84	PERMIT ISSUED	05/29/85	RNW Y
MORROW	U. S. ARMY	25	0024 08/27/84	PERMIT ISSUED	05/29/85	RNW
WASHINGTON	NICOLAI COMPANY	34	2560 11/01/84	PERMIT ISSUED	05/29/85	RNW N
WASHINGTON	EATON CORPORATION	34	2692 11/09/84	PERMIT ISSUED	05/29/85	EXT N
PORT.SOURCE	BROWN BROTHERS LOGGING	37	0326 08/30/84	PERMIT ISSUED	05/29/85	NEW Y
PORT.SOURCE	BURLINGTON NORTHERN RR CO	37	0331 12/18/84	PERMIT ISSUED	05/29/85	NEW Y
DOUGLAS	MURPHY PLYWOOD CO.	10	0022 03/18/85	PERMIT ISSUED	05/30/85	MOD
MARION	MENARY HIGH SCHOOL	24	4965 02/07/85	PERMIT ISSUED	05/30/85	RNW N
MARION	NORTH SALEM HIGH SCHOOL	24	5074 02/07/85	PERMIT ISSUED	05/30/85	RNW N
MARION	SOUTH SALEM HIGH SCHOOL	24	5500 02/07/85	PERMIT ISSUED	05/30/85	RNW N
CLACKAMAS	THE MURPHY CO	03	1874 10/05/84	PERMIT ISSUED	06/04/85	RNW Y
CLACKAMAS	BRAZIER FOREST PRODUCTS	03	2533 11/05/84	PERMIT ISSUED	06/04/85	MOD Y
COLUMBIA	BERGSOE METAL CORP	05	2574 05/07/84	PERMIT ISSUED	06/04/85	RNW Y
DOUGLAS	ROSEBURG LUMBER CO	10	0053 10/24/84	PERMIT ISSUED	06/04/85	RNW Y
DOUGLAS	JOHNSON ROCK PRODUCTS INC	10	0123 11/13/84	PERMIT ISSUED	06/04/85	RNW Y
JACKSON	GRANGE COOPERATIVE SUPPLY	15	0084 03/27/85	PERMIT ISSUED	06/04/85	RNW Y
JOSEPHINE	GARY L PETERSON	17	0053 03/07/85	PERMIT ISSUED	06/04/85	RNW N
KLAMATH	MODOC LUMBER CO	18	0009 12/12/84	PERMIT ISSUED	06/04/85	RNW Y
MULTNOMAH	BAEYMAN FUNERAL CHAPEL	26	3131 02/27/85	PERMIT ISSUED	06/04/85	NEW N
UMATILLA	PENDLETON CONCRETE PRDCTS	30	0020 08/27/84	PERMIT ISSUED	06/04/85	RNW N
WASHINGTON	MORGAN-STALEY LUMBER CO	34	2694 01/08/85	PERMIT ISSUED	06/04/85	EXT N
PORT.SOURCE	ACME CONCRETE CO.	37	0334 02/20/85	PERMIT ISSUED	06/04/85	NEW Y
BENTON	EVANS PRODUCTS CO	02	2173 10/27/83	PERMIT ISSUED	06/11/85	RNW
MULTNOMAH	COLUMBIA STEEL CASTING CO	26	1869 05/21/85	PERMIT ISSUED	06/13/85	MOD Y
MULTNOMAH	SUPREME PERLITE COMPANY	26	2390 11/05/84	PERMIT ISSUED	06/13/85	RNW Y
UNION	HOFF-RONDE VALLEY LUMBER	31	0013 06/04/85	PERMIT ISSUED	06/13/85	MOD Y
COOS	COOS HEAD TIMBER CO	06	0005 06/06/85	PERMIT ISSUED	06/17/85	MOD N
GRANT	PRAIRIE WOOD PRODUCTS	12	0003 12/19/83	PERMIT ISSUED	06/17/85	RNW
JACKSON	INCLINE CRUSHING, INC.	15	0162 03/29/85	PERMIT ISSUED	06/19/85	EXT Y
WASHINGTON	COBB ROCK INC.	34	1925 04/09/85	PERMIT ISSUED	06/19/85	MOD Y
PORT.SOURCE	BROWN BROS. LOGGING	37	0336 03/29/85	PERMIT ISSUED	06/19/85	EXT
CROOK	CLEAR PINE MOULDINGS INC	07	0001 10/22/84	PERMIT ISSUED	06/20/85	MOD Y
KLAMATH	KLAMATH TALLOW CO.	18	0020 04/29/85	PERMIT ISSUED	06/20/85	RNW Y
MULTNOMAH	UNION OIL OF CALIFORNIA	26	2026 04/05/84	PERMIT ISSUED	06/20/85	MOD Y
YAMHILL	PURINA MILLS, INC.	36	6214 06/14/85	PERMIT ISSUED	06/20/85	MOD N

TOTAL NUMBER QUICK LOOK REPORT LINES 35

SUMMARY-F

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN JUN 85

1 JUL 85

SOURCE CATEGORY & PERMIT SUBTYPE	NUMBER OF APPLICATIONS FILED						NUMBER OF PERMITS ISSUED						APPLICATIONS PENDING PERMIT ISSUANCE (1)			CURRENT TOTAL OF ACTIVE 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	3	0	3	14	3	0	0	1	2	7	5	3	10	0				
RW	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0				
RWO	0	0	0	25	17	0	1	0	0	39	19	0	23	9	0				
MW	1	0	0	3	1	0	0	0	0	1	0	0	3	1	0				
MWO	0	0	0	14	6	0	2	0	0	9	5	0	5	1	0				
TOTAL	1	3	0	46	38	3	3	0	1	51	31	5	35	21	0	239	145	70	
INDUSTRIAL																			
NEW	0	1	1	4	15	29	0	0	3	2	9	42	3	9	3				
RW	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0				
RWO	3	2	0	37	23	0	2	0	0	31	15	0	31	13	0				
MW	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0				
MWO	1	0	0	21	7	0	0	0	0	13	9	0	5	0	0				
TOTAL	4	3	1	63	45	29	2	0	3	47	33	42	40	22	3	170	146	281	
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	11	60	
GRAND TOTAL	5	6	1	109	83	32	5	0	4	98	64	47	75	43	3	411	302	411	

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.

IT DOES INCLUDE APPLICATIONS PENDING FROM PREVIOUS MONTHS AND THOSE FILED AFTER 30-JUN-85.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

June 1985
(Month and Year)

PLAN ACTIONS COMPLETED - 16

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

INDUSTRIAL WASTE SOURCES - 6

Lane	Tara Land & Cattle Co. Manure Control System Creswell	6-4-85	Withdrawn	
Tillamook	Robert Durrer Dairy Manure Control System Tillamook	6-5-85	Approved	
Tillamook	Dan Lenthold Dairy Manure Control System Tillamook	6-5-85	Approved	
Tillamook	Glenn & Filbert Johnston Animal Manure Control System Tillamook	6-6-85	Approved	
Multnomah	Wacker Siltronic Corp. TCE Tank Farm Portland	6-10-85	Approved	
Washington	Delta Engineering Metals Removal System Tualatin	6-28-85	Approved	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

June 1985
(Month and Year)

PLAN ACTIONS COMPLETED (16)

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

MUNICIPAL WASTE SOURCES 10

Clackamas	Barlow Trail M. H. Park On-Site Repair System 11,000 gallons per day	6-24-85	Comments to Region
Clackamas	CCSD No. 1 Digester Complex	7-01-85	Provisional Approval
Lane	Emporium Inc. Absorption Facility Expansion	6-28-85	Provisional Approval
Deschutes	Eagle Crest Master Plan and Pressure Sewer Collection System	6-19-85	Provisional Approval
Clatsop	Windjammer Resort Sewage Treatment and Disposal System	6-18-85	Provisional Approval
Wasco	Rajneesh (Antelope) Diogenes Grove Treatment Plant and Pressure Sand Filters	6-10-85	Provisional Approval
Tillamook	Pacific Camp Ground Treatment Plant and Pressure Sand Filters	6-13-85	Provisional Approval
Deschutes	Redmond Treatment Plant Expansion Project	6-13-85	Approved
Wasco	Rajneeshpuram Jesus Grove Lateral G Extension	6-14-85	Rejected
Wasco	Rajneeshpuram Buddha Grove Phase I Collection Lines	6-14-85	Rejected

CAT	PERMIT NUMBER	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
=====								
GENERAL: COOLING WATER								
=====								
IND	100	GEN01 NEW	16055	CHEVRON U.S.A. INC.	PORTLAND	MULTNOMAH/NWR	06-JUN-85	31-DEC-85
IND	100	GEN01 NEW	100076	CORNETT LUMBER COMPANY	CENTRAL POINT	JACKSON/SWR	10-JUN-85	31-DEC-85
=====								
GENERAL: FILTER BACKWASH								
=====								
DOM	200	GEN02 NEW	100075	COTTAGE GROVE, CITY OF	COTTAGE GROVE	LANE/WVR	03-JUN-85	31-DEC-85
=====								
GENERAL: GRAVEL MINING								
=====								
IND	1000	GEN10 NEW	84855	COFFEE LAKE ROCK, INC.	SHERWOOD	WASHINGTON/NWR	19-JUN-85	31-DEC-86
=====								
NPDES								
=====								
DOM	100018	NPDES MWO	66063	LARSON, ROGER L.	TILLAMOOK	TILLAMOOK/NWR	04-JUN-85	30-JUN-89
DOM	3650	NPDES MWO	13729	CANNON BEACH, CITY OF	CANNON BEACH	CLATSOP/NWR	18-JUN-85	31-DEC-87
IND	100088	NPDES RWO	84816	STAYTON CANNING COMPANY, COOPERATIVE	SILVERTON	MARION/WVR	19-JUN-85	30-APR-90
IND	100088	NPDES RWO	84816	STAYTON CANNING COMPANY, COOPERATIVE	SILVERTON	MARION/WVR	19-JUN-85	30-APR-90
DOM	100089	NPDES RWO	90926	U. S. DEPARTMENT OF AGRICULTURE	YACHATS	LINCOLN/WVR	19-JUN-85	31-OCT-89

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

June 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Benton	Coffin Butte Landfill Existing facility	6/3/85	Permit amended*	*
Benton	Monroe Transfer Sta. Existing facility	6/3/85	Permit amended*	*
Clackamas	Clackamas Transfer & Recycling Center Existing facility	6/3/85	Permit amended*	*
Clackamas	PGE, Oak Grove Existing landfill	6/3/85	Permit amended*	*
Columbia	His Salvage & Transfer Existing transfer station	6/3/85	Permit amended*	*
Coos	Bandon Landfill Existing facility	6/3/85	Permit amended*	*
Coos	Beaver Hill Incinerators Existing facility	6/3/85	Permit amended*	*
Lane	Florence Landfill Existing facility	6/3/85	Permit amended*	*
Lane	Franklin Landfill Existing facility	6/3/85	Permit amended*	*
Lane	Glenwood Transfer Sta. Existing facility	6/3/85	Permit amended*	*
Lane	London Transfer Sta. Existing facility	6/3/85	Permit amended*	*
Lane	Low Pass Transfer Sta. Existing facility	6/3/85	Permit amended*	*

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Opportunity to Recycle Act, ORS 459.250(2).

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*
Lane	Mapleton Transfer Sta. Existing facility	6/3/85	Permit amended*	
Lane	McKenzie Bridge Trans. Sta. Existing facility	6/3/85	Permit amended*	
Lane	Oakridge Landfill Existing facility	6/3/85	Permit amended*	
Lane	Rattlesnake Transfer Sta. Existing facility	6/3/85	Permit amended*	
Lane	Sharp's Crk. Trans. Sta. Existing facility	6/3/85	Permit amended*	
Lane	Swisshome Trans. Sta. Existing facility	6/3/85	Permit amended*	
Lane	Veneta Trans. Sta. Existing facility	6/3/85	Permit amended*	
Lane	Vida Trans. Sta. Existing facility	6/3/85	Permit amended*	
Lane	Walton Trans. Sta. Existing facility	6/3/85	Permit amended*	
Linn	Lebanon Trans. Sta. Existing facility	6/3/85	Permit amended*	
Linn	Sweet Home Trans. Sta. Existing facility	6/3/85	Permit amended*	
Marion	Brown's Is. Landfill Existing facility	6/3/85	Permit amended*	
Marion	MacLeay Trans. Sta. Existing facility	6/3/85	Permit amended*	
Marion	Stayton Trans. Sta. Existing facility	6/3/85	Permit amended*	
Marion	Woodburn Landfill Existing facility	6/3/85	Permit amended*	

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Opportunity to Recycle Act, ORS 459.250(2).

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Washington	Forest Grove Reload Sta. Existing facility	6/3/85	Permit amended*	*
Clackamas	Sandy Trans. Sta. Existing facility	6/4/85	Permit amended*	*
Marion	Gaffin Rd. Reload Sta. New facility	6/4/85	Permit issued	*
Marion	McCoy Cr. Landfill Existing facility	6/4/85	Permit renewed	*
Marion	Marion Forks Hatchery Existing facility	6/17/85	Letter authorization renewed	*
Crook	Crook County Landfill Existing facility	6/19/85	Permit renewed	*
Douglas	International Paper Co. Horse Barn Landfill Existing facility	6/19/85	Closure permit issued	*
Hood River	Hanel Lumber Landfill Existing facility	6/19/85	Permit amended	*
Curry	Port Orford Landfill Existing facility	6/21/85	Permit amended*	*
Jackson	Prospect Landfill Existing facility	6/21/85	Permit amended*	*
Josephine	Grants Pass Landfill Existing facility	6/21/85	Permit amended*	*
Josephine	Kerby Landfill Existing facility	6/21/85	Permit amended*	*
Lane	Short Mt. Landfill Existing facility	6/21/85	Permit amended*	*
Washington	Hillsboro Landfill Existing facility	6/21/85	Closure permit issued	*
Multnomah	Sunflower Composting Existing facility	6/21/85	Permit amended*	*

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Opportunity to Recycle Act, ORS 459.250(2).

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Coos	Knutson Tire Site Proposed facility	6/25/85	Application with- drawn	*
Hood River	Hood River Trans. Sta. Existing facility	6/25/85	Permit amended*	*
Jackson	So. Stage Landfill Existing facility	6/25/85	Permit amended*	*
Multnomah	Malarkey Roofing Lndfl. Existing facility	6/25/85	Permit renewed	*
Multnomah	St. Johns Landfill Existing facility	6/25/85	Permit amended*	*
Wasco	N. Wasco County Lndfl. Existing facility	6/25/85	Permit amended*	*
Wasco	Rajneeshpura Landfill Existing facility	6/25/85	Permit amended*	*
Wasco	Shaniko Landfill Existing facility	6/25/85	Permit amended*	*
Yamhill	Newberg Trans. Sta. Existing facility	6/25/85	Permit amended*	*
Yamhill	River Bend Landfill Existing facility	6/25/85	Permit amended*	*

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Opportunity to Recycle Act, ORS 459.250(2).

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

June 1985
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

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

TOTAL REQUEST GRANTED - 48

OREGON - 14

6/4	Waste water treatment sludge	Electronic co.	0	96 drums
6/4	Mercury spill cleanup	Electronic co.	1 drum	0
6/4	Off-spec. granular caustic cleaner	Chemical co.	120 drums	0
6/4	Dirt contaminated with diesel/gasoline	Waste mgmt. co.	0	50 cu.yd.
6/10	Potassium chloride sodium chloride, sodium nitrate, potassium nitrate, water, dirt & debris	Aerospace co.	0	4,000 gal.
6/11	Precipitated pickling solution	Heavy equipment manufacturing	24 cu.yd.	0
6/11	Trifluorothi-chloroethane, wax, floor dry	Foundry	0	25 drums
6/11	Waste acid solution	Electroplating	0	15,000 gal.
6/18	Waste water treatment sludge	Electronic co.	0	96 drums
6/18	PCB contaminated transformer	Aluminum co.	150 gal.	0

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity Future *	* *
	6/25	Potassium chloride, sodium chloride, sodium nitrate, potassium nitrate, water, dirt & debris	Aerospace co.	0	4,000 gal.	
	6/25	Contaminated protective equip.	Waste mgmt. co.	0	75 cu.yd.	
	6/25	Misc. office trash	Waste mgmt. co.	0	75 cu.yd.	
	6/25	Maintenance & building debris	Waste mgmt. co.	0	75 cu.yd.	
WASHINGTON - 33						
	6/3	Paint pigment, resin solids, dirt & diatomite, oils, water, urethanes & plastizers	Waste mgmt. co.	0	2,400 drums	
	6/3	Paint pigments & chips, epoxy resins & solids urethane solids, dirt & diatomite	Waste mgmt. co.	0	2,400 drums	
	6/4	Demolition asbestos	Chemical co.	0	48 drums	
	6/4	Asphalt pavement with spilled off spec mineral oil & dirt	Chemical co.	40 tons	0	
	6/4	Acrylamide	Chemical co.	57.2 cu.ft.	0	
	6/4	Plastic and/or sheet metal ventilation duct contaminated with NaOH or nitric acid	Defense dept.	50 cu.yd.	0	
	6/4	Phenol, pentachloro- phenol, dirt, mud, inerts	Chemical co.	5,000 tons	0	

* * *	* * *		* * *	* * *	* * *	<u>Quantity</u> * * *	* * *
* Date	* Type	* Source	* Present	* Future			
6/4	Empty drug vials, tubing & syringes (Lab Pack) for medical treatment	Hospital	0	144 drums			
6/4	Creosote, dirt, gravel, rocks & inerts	Railroad co.	1 drum	0			
6/10	Lead fluoride waste slag	Electronic co.	0	15 drums			
6/11	Soil, with polyaromatic hydro- carbons	State agency	0	18 drums			
6/11	Cadmium sludge from ammonium nitrate solution	Mfg. of archi- tectural prod.	0	7 drums			
6/11	Nickel sludge	Mfg. of archi- tectural prod.	0	7 drums			
6/11	Paint pigments & chips, epoxy resins & solids, urethane solids, dirt & diatomite	Waste mgmt. co.	0	2,400 drums			
6/11	Paint pigment, resin solids, dirt & diatomite, oils, water, urethanes, plastizers	Waste mgmt. co.	0	2,400 drums			
6/11	Sulfuric acid, sulphaphtolic acid, water	Aluminum co.	0	5,000 gal.			
6/11	Caustic etching solution	Aluminum co.	0	5,000 gal.			
6/12	Pentachlorophenol, bark dust & quick sorb, top soil, mineral spirits	Spill cleanup	35 drums	0			
6/14	Baking varnish	Spill	1 drum	0			
6/18	Lead fluoride waste slag	Electronic co.	0	15 drums			

* * *	* * *	* * *	* * *	* * *	* * * <u>Quantity</u> * * *		* * *
* * *	* * *	Type	Source	Present	Future		* * *
6/18	Light ballast containing PCBs	School	0	50 drums			
6/18	Cleanup debris contaminated with baghouse dust	Steel production	0	1 ton			
6/18	Empty plastic or glass containers (contained ethylene, glycol monethyl ether acetate)	Electronic co.	0	112 drums			
6/18	Asbestos insulation	Aluminum co.	100 drums	0			
6/18	Spent carbon tubes or filters	Electroplating	0	20 drums			
6/18	Acrylate, methacrylate, perchloroethylene, alcohol	Mfg. of corrugated paper boxes	0	3,000			
6/18	Soil & gravel, water, volatile organic compounds trichloroethylene, tetrachloroethylene, 1,2, trans dichloro- ethylene methylene chloride	Site investig.	0	4 drums			
6/25	Waste antimony trioxide solution	Electronic co.	0	88 drums			
6/25	Pentachlorophenol, bark dust & quick sorb, top soil, mineral spirits	Spill	20 drums	0			
6/25	PCB contaminated soil less than 15 ppm	PUD	0	80 tons			
6/26	Clothing, filters, gloves, boots, rag, misc. debris, penta	Chemical co.	200 gal.	0			

* * *	* Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* * *
	6/28	Inorganic lead, water	Ceramic plant	150 drums	0	
	6/28	Inorganic lead, rock, sand, soil debris	Ceramic plant	500 tons & 37 drums	0	
	OTHERS - 1					
	6/25	Hydrofluoric acid spill	Research facil. (I.D.)	0	4,400 gal.	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

June, 1985
(Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	13	127	4	67	181	172
Airports			1	12	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	June, 1985 (Month and Year)
---	--------------------------------

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Lane	Goodwill Industries of Lane County Eugene	6/85	No Violation
Lane	Kingsford Plant Springfield	6/85	In Compliance
Lane	Lane Plywood, Inc. Eugene	6/85	No Violation
Josephine	Donivan Shale Quarry Wilderville	6/85	Source Closed
Douglas	Whitaker Airport	6/85	Boundary Approved

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1985

CIVIL PENALTIES ASSESSED DURING MONTH OF JUNE, 1985:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Riedel International, Inc. dba/Western Pacific Construction Materials Co. Oregon City, Oregon	WQ-NWR-85-45 Discharged turbid waste water in violation of WPCF permit.	6/3/85	\$300	Paid 6/24/85
Glenn L. Althausen Boring, Oregon	SW-NWR-85-77 Unauthorized disposal of solid waste (2 violations).	6/7/85	\$1,000	Request for hearing and answer filed 7/10/85.
Gresham Suzuki, Inc. dba/Gresham Cycle Sports Portland, Oregon	NP-NWR-85-79 Advertised for sale uncertified motor- cycles without provid- ing proper notices.	6/19/85	\$25	Paid 7/10/85.
Bergsoe Metal Corporation St. Helens, Oregon	HW-NWR-85-50 Unauthorized disposal of hazardous waste.	6/20/85	\$2,500	Paid 7/1/85.
Bob Atkinson Logging & Lumber Inc. Estacada, Oregon	AQOB-NWR-85-83 Open burned prohibit- ed materials.	6/20/85	\$50	Paid 6/27/85.
Grant County Hendrix Landfill	SW-AQ-ER-85-73 Open burned prohibit- ed materials.	6/21/85	\$150	Awaiting response to notice.

GB4882

June 1985
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	6	5
2 Discovery	0	0
3 Settlement Action	7	8
4 Hearing to be scheduled	0	0
5 Hearing scheduled	10	5
6 HO's Decision Due	6	4
7 Briefing	0	1
8 Inactive	8	8
SUBTOTAL of cases before hearings officer.	<u>37</u>	<u>31</u>
9 HO's Decision Out/Option for EQC Appeal	2	3
10 Appealed to EQC	1	2
11 EQC Appeal Complete/Option for Court Review	0	0
12 Court Review Option Pending or Taken	1	1
13 Case Closed	1	4
TOTAL Cases	<u>42</u>	<u>41</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

AG1 Attorney General 1

AQ Air Quality Division

AQOB Air Quality, Open Burning

CR Central Region

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

ER Eastern Region

FB Field Burning

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

Hrngrs Hearings Section

NP Noise Pollution

NPDES National Pollutant Discharge Elimination System wastewater discharge permit.

NWR Northwest Region

OSS On-Site Sewage Section

P Litigation over permit or its conditions

Prtys All parties involved

Rem Order Remedial Action Order

Resp Code Source of next expected activity in case

SS Subsurface Sewage (now OSS)

SW Solid Waste Division

SWR Southwest Region

T Litigation over tax credit matter

Transcr Transcript being made of case

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

WQ Water Quality Division

WVR Willamette Valley Region

June 1985

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	Dept	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	Department to draft proposed order.
OLINGER, Bill Inc.	09/10/82	09/13/82	10/20-21/83 11/2-4/83 11/14-15/83 5/24/84	Hrngs	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	Decision due.
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Hrngs	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	Decision due.
McINNIS ENT.	06/17/83	06/21/83		Prtys	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83		Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of \$14,500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	10/25/83	10/26/83		Prtys	59-SS-NWR-83-33290P-5 SS license revocation	Hearing deferred pending conclusion of court action.

June 1985

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	Warrenton Commision has approved a closure plan to be evaluated by Department.
CLEARWATER IND., Inc.	10/11/83	10/17/83		Prtys	58-SS-NWR-83-82 SS Civil Penalty of \$1000	Hearing deferred pending conclusion of related court action.
CLEARWATER IND., Inc.	01/13/84	01/18/84		Prtys	02-SS-NWR-83-103 SS Civil Penalty of \$500	Hearing deferred pending conclusion of related court action.
MALPASS, David C.	03/26/84	03/28/84		Prtys	05-AQ-FB-83-14 FB Civil Penalty of \$500	Scheduled hearing deferred to allow approval of negotiated settlement.
SIMMONS, Wayne	03/27/84	04/05/84	03/14/85	Hrngs	07-AQ-FB-83-20 FB Civil Penalty of \$300	Decision due.
COON, Mike	03/29/84	04/05/84	04/09/85	Prtys	08-AQ-FB-83-19 FB Civil Penalty of \$750	<u>Stipulated penalty of \$500</u> <u>approved by EQC, 6/7/85.</u>
BIELBERG, David	03/28/84	04/05/84	12/11/84	<u>Dept</u>	09-AQ-FB-83-04 FB Civil Penalty of \$300	<u>Decision upholding penalty</u> <u>appealed to EQC.</u>
BRONSON, Robert W.	03/28/84	04/05/84	05/21/85	<u>Resp</u>	10-AQ-FB-83-16 FB Civil Penalty of \$500	<u>Decision upholding penalty</u> <u>issued 6/19/85.</u>

June 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
NEWTON, Robert	03/30/84	04/05/84	03/12/85	Hrngr	11-AQ-FB-83-13 FB-Civil-Penalty of-\$500	<u>Decision upholding penalty not appealed to EQC. Case closed 6/30/85.</u>
KAYNER, Kurt	04/03/84	04/05/84	01/08/85	Resp	12-AQ-FB-83-12 FB Civil Penalty of \$500	<u>Decision upholding penalty issued 6/10/85.</u>
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84	04/12/84	04/30/85	Resp	15-AQ-FB-83-22 FB Civil Penalty of \$500	<u>Decision upholding penalty issued 6/14/85.</u>
TRANSCO Industries, Inc.	06/05/84	06/12/84	02/27/85	Prtys	17-HW-NWR-84-45 HW Civil Penalty of \$2,500	Partys requested hearing postponement to allow conclusion of negotiations.
TRANSCO Industries, Inc.	06/05/84		02/27/85	Prtys	18-HW-NWR-84-46 HW Compliance Order	Partys requested hearing postponement to allow conclusion of negotiations.
INTERNATIONAL PAPER CO.	06/12/84	06/12/84		Prtys	19-WQ-SWR-84-29 WQ Civil Penalty of-\$7,450	<u>Stipulated settlement mitigating penalty to \$5,075 approved by EQC 6/7/85. Case closed.</u>
VANDERVELDE, Roy	06/12/84	06/12/84	08/13/85	Prtys	20-WQ-WVR-84-01 WQ Civil Penalty of \$2,500	Hearing scheduled.
WESTERN PACIFIC LEASING CORP., dba/Killingsworth Fast Disposal	06/01/84	07/23/84	10/14/85	Prtys	22-SW-NWR-84 Solid Waste Permit Modification	Hearing scheduled.

CONTES.T

July 9, 1985

28

June 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
NORTHWEST-BASIC INDUSTRIES, dba/Bristol-Silica and-Limestone-Co.	08/21/84	08/28/84		Prtys	23-AQ-SWR-84-82 Violation of Air Contaminant permit Civil Penalty of \$1,000	<u>Case dismissed by stipulated order 6/24/85. Penalty paid.</u>
CLEARWATER INDUSTRIES, INC.	10/11/84	10/11/84		Prtys	24-SS-NWR-84-P Sewage Disposal Service License Denial	Hearing deferred pending conclusion of court actions.
LAVA DIVERSION PROJECT	12/14/84	12/27/84			25-WQ-CR-FERC-5205 Hydroelectric plant certification	EQC certification denial appealed to Court of Appeals.
UNITED CHROME PRODUCTS, INC.		02/19/85		Prtys	02-HW-WQ-WWR-84-158 \$6,000 civil penalty	Interim order on default issued 4/15/85.
NOFZIGER, Mark	03/11/85	03/11/85	06/11/85	<u>Hrngs</u>	03-AQ-FB-84-144 Civil Penalty of \$500	<u>Decision due.</u>
CATHCART, Channing and Douglas	03/11/85	03/11/85		Prtys	04-AQ-FB-84-137 Civil Penalty of \$750	<u>Scheduled hearing postponed for settlement effort.</u>
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	<u>Resp</u>	05-AQ-FB-84-141 Civil Penalty of \$500	<u>Respondent to file closing argument.</u>
BLADES, Wallace	03/18/85	03/19/85	06/21/85	Prtys	06-AQ-FB-84-139 Civil Penalty of \$750	<u>Scheduled hearing postponed for settlement effort.</u>
DOMES, William	03/20/85	03/21/85	06/18/85	<u>Dept</u>	07-AQ-FB-84-151 Civil Penalty of \$300	<u>Department to dismiss proceeding.</u>

CONTES.T

July 9, 1985

62

June 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
SMITH, Jack		03/19/85	06/25/85	Prtys	08-AQ-FB-84-136 Civil Penalty of \$1,000	Hearing scheduled.
LANG & GANGES CORP., dba/Medply	03/20/85	03/21/85	<u>07/11/85</u>	<u>Prtys</u>	09-AQ-SWR-85-15 Permit violation Civil Penalty of \$3,050	<u>Hearing on Motion for Default scheduled.</u>
WARRENTON LANDFILL	02/28/85	04/04/85		Prtys	10-57-SW-NWR-83-PMT-120 Landfill closure order	Preliminary issues.
COOK, Robert	04/10/85	04/16/85	07/16/85	Prtys	11-AQ-FB-84-138 Civil Penalty of \$500	Hearing scheduled.
KANGAS, M. R.	05/02/85	05/03/85	10/01/85	Prtys	12-AQ-FB-84-145 Civil Penalty of \$500	Hearing scheduled.
JOSEPH FOREST PRODUCTS	<u>05/16/85</u>	05/23/85		Prtys	13-HW-ER-85-29 Hazardous waste disposal Civil Penalty of \$2,500	<u>Hearing deferred for informal resolution effort.</u>
MAIN ROCK PRODUCTS, INC.		05/31/85		Prtys	14-WQ-SWR-85-31 Violation of NPDES permit conditions Civil Penalty of \$3,500	Preliminary issues.
DANT & RUSSELL, INC.	<u>05/31/85</u>	05/31/85		<u>Dept</u>	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	<u>Department to respond to request to stay proceedings.</u>

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division Water Quality Division <u>Hazardous and Solid Waste Division</u> (Reporting Unit)	<u>July 1985</u> (Month and Year)
---	--------------------------------------

SUMMARY OF PLAN ACTIONS

	<u>Plans Received</u>		<u>Plans Approved</u>		<u>Plans Disapproved</u>		<u>Plans Pending</u>
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>	
<u>Air</u>							
Direct Sources	8	8	2	2	0	0	26
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	8	8	2	2	0	0	26
 <u>Water</u>							
Municipal	15	15	26	26	2	2	18
Industrial	16	16	11	11	0	0	16
Total	31	31	37	37	2	2	34
 <u>Solid Waste</u>							
Gen. Refuse	13	13	8	8	-	-	29
Demolition	-	-	-	-	-	-	1
Industrial Sludge	4	4	1	1	-	-	15
Total	16	16	9	9	-	-	45
 <u>Hazardous Wastes</u>							
	2	2	-	-	-	-	2
 <u>GRAND TOTAL</u>							
	57	57	48	48	2	2	107

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
LINN	091	WILLAMETTE INDUSTRIES	VENEER DRYER MODIFICATION	07/18/85	APPROVED
JOSEPHINE	097	SOUTHWEST FOREST INDUSTR.	SANDER AND BAGHOUSE	07/17/85	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			2		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

July 1985
(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
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	4	4	1	1	20		
Existing	0	0	1	1	9		
Renewals	9	9	12	12	113		
Modifications	<u>3</u>	<u>3</u>	<u>5</u>	<u>5</u>	<u>8</u>		
Total	16	16	19	19	150	1195	1224
<u>Indirect Sources</u>							
New	5	5	0	0	11		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	5	<u>5</u>	0	0	11	<u>232</u>	<u>243</u>
<u>GRAND TOTALS</u>	21	21	19	19	161	1427	1467

Number of
Pending Permits

Comments

36	To be reviewed by Northwest Region
21	To be reviewed by Willamette Valley Region
12	To be reviewed by Southwest Region
7	To be reviewed by Central Region
6	To be reviewed by Eastern Region
20	To be reviewed by Program Operations Section
36	Awaiting Public Notice
<u>12</u>	Awaiting end of 30-day Public Notice Period
150	

AS1612
SB:p

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT
DIRECT SOURCES
PERMITS ISSUED

COUNTY	SOURCE	PERMIT NUMBER	APPL. RECEIVED	STATUS	DATE ACHIEVED	TYPE APPL.	PSEL
CURRY	SOUTH COAST LUMBER CO.	08	0003 04/27/83	PERMIT ISSUED	06/25/85	RNW	Y
LINN	ABC CRUSHING	22	1038 03/29/85	PERMIT ISSUED	06/25/85	MOD	N
LINN	MORSE BROS INC	22	5247 12/03/84	PERMIT ISSUED	06/25/85	RNW	N
WASHINGTON	DAELCO, INC.	34	2660 10/24/84	PERMIT ISSUED	06/25/85	RNW	Y
HARNEY	GEORGE'S SHOP & ROCK	13	0011 12/20/84	PERMIT ISSUED	06/27/85	EXT	N
WASCO	MID COLUMBIA GRAIN GROWER	33	0018 06/18/85	PERMIT ISSUED	06/27/85	MOD	
BAKER	MERIDIAN WOOD PRODUCTS CO	01	0035 06/28/85	PERMIT ISSUED	07/11/85	MOD	
COOS	OCEAN PROTEINS INC.	06	0102 03/29/85	PERMIT ISSUED	07/17/85	NEW	Y
MULTNOMAH	PACIFIC POWER & LIGHT CO	26	1886 12/31/84	PERMIT ISSUED	07/17/85	RNW	Y
POLK	WILLAMETTE INDUSTRIES INC	27	0177 08/24/83	PERMIT ISSUED	07/17/85	RNW	Y
TILLAMOCK	FOLEY CREEK SHAKE CO	29	0039 04/25/85	PERMIT ISSUED	07/17/85	RNW	N
UMATILLA	LOUISIANA-PACIFIC CORP	30	0016 01/16/85	PERMIT ISSUED	07/17/85	RNW	Y
PORT.SOURCE	NELSON-DEPPE INC	37	0254 04/16/85	PERMIT ISSUED	07/17/85	RNW	Y
DESCHUTES	CENTRAL OREGON PAVERS	09	0050 05/17/85	PERMIT ISSUED	07/22/85	RNW	
JOSEPHINE	JOSEPHINE GROWERS CO-OP	17	0049 04/04/85	PERMIT ISSUED	07/22/85	RNW	
MARION	LUCAS PLYWOOD & LUMBER	24	5239 00/00/00	PERMIT ISSUED	07/22/85	MOD	N
MULTNOMAH	QUALITY BRASS & ALUMINUM	26	1860 05/10/84	PERMIT ISSUED	07/22/85	RNW	N
UNION	BOISE CASCADE CORPORATION	31	0006 00/00/00	PERMIT ISSUED	07/22/85	MOD	Y
PORT.SOURCE	VANAKEN ROCK PRODUCTS INC	37	0263 06/28/85	PERMIT ISSUED	07/22/85	RNW	

TOTAL NUMBER QUICK LOOK REPORT LINES

19

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)		July 1985 (Month and Year)	
PLAN ACTIONS COMPLETED - 1985			
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
*	*	*	*

MUNICIPAL WASTE SOURCES 26

Lane	Mrs. Bonnie Fick Restaurant and Store Bottomless Sand Filter	7-09-85	Comments to County and Region
Clackamas	Damascus Safeway Store Sand Filter and Absorption System	7-09-85	Comments to Region
Clatsop	Glenwood Mobile Park Treatment/Disposal 19,500 gpd	7-22-85	Comments to Engineer
Clatsop	Westport Service District Emergency Schedule 2	7-05-85	Provisional Approval
Deschutes	Eagle Crest Phase I, Seepage Beds 30,000 gpd	8-07-85	Provisional Approval
Clackamas	Timberline Lodge, USFS STP Expansion 110,000 gpd	7-09-85	Provisional Approval
Lane	NACO - West Park On-Site Disposal System 5,250 gpd	7-25-85	Provisional Approval
Lane	MWMC Contract C74 Major I/I Repair-Springfield	7-12-85	Provisional Approval
Coos	Hilltop Restaurant Recirculating Sand Filter 1,100 gpd	7-16-85	Provisional Approval
Douglas	Drain STP Improvements 242,000 gpd	7-23-85	Comments to Engineer
Multnomah	Fred Meyer Septic Tank/Seepage Pits 9,650 gpd	7-25-85	Provisional Approval
Douglas	Canyonville Fifth Street Extension	8-07-85	Provisional Approval
Deschutes	Bend Industrial Way Sewer	7-29-85	Provisional Approval

MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit)		July 1985 (Month and Year)	
PLAN ACTIONS COMPLETED			
* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
*	*	*	*

MUNICIPAL WASTE SOURCES (Continued)

Lane	Florence Nopal Street Replacement	8-01-85	Provisional Approval
Coos	Charleston Sanitary Dist. Bastendorff Beach Park Service Connection	7-29-85	Provisional Approval
Jackson	Medford Thames-Fordyce Sanitary Sewer	7-29-85	Provisional Approval
Tillamook	Rockaway Lake Lytle Estates, Unit 2	7-29-85	Provisional Approval
Jackson	Ashland H. C. Munson Service Lateral	7-29-85	Provisional Approval
Clackamas	Milwaukie Northridge Heights	7-29-85	Provisional Approval
Baker	Baker 12th Street between Auburn Avenue and Place Street	7-29-85	Provisional Approval
Lincoln	Newport Fred Meyer Retail Store (Sewer Relocation)	7-29-85	Provisional Approval
Clackamas	Lake Oswego Parkridge Apartments	7-29-85	Provisional Approval
Linn	Millersburg Contract No. 5	7-29-85	Provisional Approval
Jackson	Phoenix Sewer Extension (Tax Lots 2500, 2600, 2700)	7-23-85	Provisional Approval
Clackamas	Lake Oswego Viewpoint Estates	7-23-85	Provisional Approval
Douglas	Roseburg RUSA - Mercy Medical Center Linus Oakes	7-23-85	Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1985
(Month and Year)

PLAN ACTIONS COMPLETED - 39

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

INDUSTRIAL WASTE SOURCES - 13

Washington	Tektronix, Inc. 21 Groundwater Monitoring Wells Beaverton	7-3-85	Rejected as Incomplete	
Jefferson	Portland General Electric PCB Equipment Replacement Pelton Plant	7-8-85	Approved	
Multnomah	Portland General Electric Oil Spill Containment Facilities Sullivan Plant	7-8-85	Approved	
Multnomah	Boeing Commercial Airplane Co. Chemical Storage Tanks Gresham	7-18-85	Approved	
Linn	Osmose, Inc. Spill Control System Tangent	7-23-85	Approved	
Clackamas	Vanport Manufacturing Log Yard Turbidity Control System Boring	7-23-85	Approved	
Clackamas	Portland General Electric Oil Spill Control Facilities Three Lynx	7-23-85	Approved	
Clackamas	Portland General Electric Oil Spill Containment Facilities Fairmount Substation	7-24-85	Approved	
Linn	Western Farm Services, Inc. Washwater control system Tangent	7-25-85	Withdrawn	

MAR.3 (5/79)

WM463

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

July 1985
(Month and Year)

PLAN ACTIONS COMPLETED

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

INDUSTRIAL WASTE SOURCES (Continued)

Throughout State	Portland General Electric PCB Capacitor Replacement	7-29-85	Approved
Linn	Teledyne Wah Chang Liquid Waste Storage Tank Albany	7-29-85	Approved
Coos	Weyerhaeuser Company 3500' 12" PVC Effluent Pipe North Bend	7-30-85	Approved
Coos	Weyerhaeuser Company Second Spent Liquor Incinerator Storage Tank North Bend	7-30-85	Approved

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN JUL 85

7 AUG 85

SOURCE CATEGORY & PERMIT SUBTYPE	NUMBER OF APPLICATIONS FILED						NUMBER OF PERMITS ISSUED						APPLICATIONS PENDING PERMIT ISSUANCE (1)			CURRENT TOTAL OF ACTIVE 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	4	0	0	4	0	0	0	1	0	0	1	3	14	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
RWO	3	1	0	3	1	0	2	3	0	2	3	0	22	8	0			
MW	1	0	0	1	0	0	0	0	0	0	0	0	4	1	0			
MWO	3	0	0	3	0	0	0	0	0	1	0	0	7	1	0			
TOTAL	7	5	0	7	5	0	2	3	1	3	3	1	37	24	0	238	145	71
INDUSTRIAL																		
NEW	0	2	2	0	2	2	0	2	1	0	2	1	3	9	4			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	3	2	0	3	2	0	3	4	0	3	4	0	31	11	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
MWO	1	1	0	1	1	0	2	0	0	2	1	0	4	0	0			
TOTAL	4	5	2	4	5	2	5	6	1	5	7	1	39	20	4	168	144	282
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	11	60
GRAND TOTAL	11	10	2	11	10	2	7	9	2	8	10	2	76	44	4	408	300	413

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.

IT DOES INCLUDE APPLICATIONS PENDING FROM PREVIOUS MONTHS AND THOSE FILED AFTER 31-JUL-85.

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	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
=====								
GENERAL: PLACER MINING								
=====								
DOM	600	GEN06 NEW	100082	BROWNING, IRA P.		BAKER/ER	03-JUL-85	31-JUL-86
IND	600	GEN06 NEW	100088	FINANCIAL RESERVE GROUP, INC.	HEREFORD	BAKER/ER	11-JUL-85	31-JUL-86
=====								
NPDES								
=====								
DOM	100090	NPDES RWO	20530	THURMOND, ROBERT E.	EUGENE	LANE/WVR	02-JUL-85	31-MAR-90
DOM	100091	NPDES RWO	25294	DRIFTWOOD SHORES SURFSIDE INN	FLORENCE	LANE/WVR	02-JUL-85	31-MAR-90
IND	100006	NPDES MWO	24357	DAW FOREST PRODUCTS COMPANY, L.P.	BEND	DESCHUTES/CR	15-JUL-85	30-SEP-89
IND	100096	NPDES RWO	32910	GEORGIA-PACIFIC CORPORATION	SPRINGFIELD	LANE/WVR	15-JUL-85	31-DEC-89
IND	100097	NPDES RWO	50782	LINNTON PLYWOOD ASSOCIATION	PORTLAND	MULTNOMAH/NWR	19-JUL-85	30-JUN-90
IND	3684	NPDES MWO	19873	TRIPLETT, ROXY G. & LUCY P.	COOS BAY	COOS/SWR	23-JUL-85	31-MAY-88
IND	100102	NPDES RWO	36535	HANNA NICKEL SMELTING COMPANY	RIDDLE	DOUGLAS/SWR	23-JUL-85	31-MAY-90
=====								
WPCF								
=====								
DOM	100092	WPCF RWO	51690	LANE COUNTY PUBLIC WORKS DEPARTMENT, PARKS DIVISION	LOWELL	LANE/WVR	02-JUL-85	31-MAR-90
IND	100093	WPCF NEW	100063	ELF AQUITAINE ASPHALT, INC.	MADRAS	JEFFERSON/CR	02-JUL-85	06-JUN-90
DOM	100094	WPCF RWO	24423	DIKESIDE HOMEOWNERS	SCAPPOOSE	COLUMBIA/NWR	02-JUL-85	30-JUN-90
IND	100095	WPCF NEW	1010	AIR PRODUCTS & CHEMICALS, INC.	TUALATIN	WASHINGTON/NWR	02-JUL-85	31-JAN-90
IND	100098	WPCF RWO	7525	BEND PLATING CO.	BEND	DESCHUTES/CR	19-JUL-85	30-JUN-90

40

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
IND	100099	WPCF	RWO	51365	LOUISIANA-PACIFIC CORPORATION	PILOT ROCK	UMATILLA/ER	19-JUL-85	30-JUN-90
IND	100100	WPCF	RWO	75555	ROAD & DRIVEWAY CO.	NEWPORT	LINCOLN/WVR	19-JUL-85	30-JUN-90
IND	100101	WPCF	RWO	94631	WELLS, GOWLAN; JEANNETTE; C. WILSON; AND MARJORIE	VAN HORN	HOOD RIVER/CR	19-JUL-85	30-JUN-90
DOM	100103	WPCF	RWO	13660	LANE COUNTY PUBLIC WORKS DEPARTMENT, PARKS DIVISION		LANE/WVR	23-JUL-85	31-MAR-90

41

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

July 1985
(Month and Year)

SUMMARY OF SOLID AND HAZARDOUS WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	1	1	-	-	2		
Closures	1	1	1	1	5		
Renewals	15	15	2	2	44		
Modifications	1	1	24*	24	1		
Total	18	18	27	27	52	178	178
<u>Demolition</u>							
New	-	-	-	-	-		
Closures	-	-	-	-	2		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	-	-	-	-	3	12	12
<u>Industrial</u>							
New	3	3	1	1	6		
Closures	-	-	-	-	6		
Renewals	5	5	-	-	20		
Modifications	-	-	-	-	1		
Total	8	8	1	1	33	103	103
<u>Sludge Disposal</u>							
New	-	-	-	-	-		
Closures	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	-	-	-	-	-	16	16
<u>Hazardous Waste</u>							
New	-	-	-	-	8		
Authorizations	64	64	64	64	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	64	64	64	64	9	14	18
<u>GRAND TOTALS</u>	90	90	92	92	97	323	327

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Opportunity to Recycle Act, ORS 459.250(2).

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

July 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* *
Tillamook	Don Averill Existing landfill	6/28/85**	Letter authorization issued	
Polk	Fowler's Demolition Site Existing landfill	7/1/85	Permit amended*	
Klamath	Beatty Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Bonanza Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Chemult Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Chiloquin Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Crescent Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Ft. Klamath Transfer Sta. Existing facility	7/8/85	Permit amended*	
Klamath	Klamath Falls Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Malin Landfill Existing facility	7/8/85	Permit amended*	
Klamath	Merrill Transfer Sta. Existing facility	7/8/85	Permit amended*	
Klamath	Odessa Transfer Sta. Existing facility	7/8/85	Permit amended*	

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Recycling Opportunity to Recycle Act, ORS 459.250(2).

**Not included on June report.

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	* * *
Klamath	Sprague River Landfill Existing facility	7/8/85	Permit amended*	
Malheur	Adrian Landfill Existing facility	7/8/85	Permit amended*	
Columbia	Vernonia Landfill Existing facility	7/26/85	Permit amended*	
Douglas	Slide Crk. Transfer Sta. Existing facility	7/26/85	Permit renewed	
Douglas	Tiller Transfer Sta. Existing facility	7/26/85	Permit renewed	
Harney	Andrews Landfill Existing facility	7/26/85	Permit amended*	
Harney	Crane Landfill Existing facility	7/26/85	Permit amended*	
Harney	Diamond Landfill Existing facility	7/26/85	Permit amended*	
Harney	Drewsey Landfill Existing facility	7/26/85	Permit amended*	
Harney	Fields Landfill Existing facility	7/26/85	Permit amended*	
Harney	Frenchglen Landfill Existing facility	7/26/85	Permit amended*	
Harney	Riley Landfill Existing facility	7/26/85	Permit amended*	
Harney	Sodhouse Landfill Existing facility	7/26/85	Permit amended*	
Lincoln	Logsdon Transfer Sta. Existing facility	7/26/85	Permit amended*	
Multnomah	Metropolitan Disposal Corp. Closed processing facility	7/26/85	Permit revoked	

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Recycling Opportunity to Recycle Act, ORS 459.250(2).

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*
Yamhill	Whiteson Landfill Closed facility	7/26/85	Closure permit issued	

*Permits amended by the Department, to require a place for collecting source-separated recyclable materials, in accordance with the Recycling Opportunity to Recycle Act, ORS 459.250(2).

SB4960.D
MAR.6 (5/79)

Page 3

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

July 1985
(Month and Year)

HAZARDOUS WASTE DISPOSAL REQUESTS

CHEM-SECURITY SYSTEMS, INC., GILLIAM CO.

WASTE DESCRIPTION

* * Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* *
TOTAL REQUEST GRANTED - 64					
OREGON - 35					
7/8	Zinc chrome hydroxide sludge	Chainsaw mfg.	0	6,528 cu. yd.	
7/8	Lab pack, flammables	Fed. research facility	0	4 drums (55 gal. each)	
7/9	Contaminated lab equipment	Waste mgmt. co.	0	75 cu. yd.	
7/9	Solvent contaminated rags	Waste mgmt. co.	0	10 cu. yd.	
7/9	Discarded equipment parts - tires, hoses etc.	Waste mgmt. co.	0	25-50 cu. yd.	
7/9	Used automotive batteries	Waste mgmt. co.	0	10 cu. yd.	
7/9	Spilled waste, soil, contaminated debris, kiln dust	Waste mgmt. co.	0	100 drums (55 gal. each)	
7/9	PCB liquid lab waste	Waste mgmt. co.	0	100 drums	
7/9	Solid PCB contaminated waste	Waste mgmt. co.	0	40 drums (55 gal. each)	

* Date *	Type	Source	Present	Quantity	Future
7/9	PCB spill clean up	Waste mgmt. co.	0	40 drums	
7/9	Metal sludges, caustic sludges, salts, bounded water, inert clay	Waste mgmt. co.	0	10,000 cu. yd.	
7/9	Pond surface impoundment skimming	Waste mgmt. co.	0	5-10 cu. yd.	
7/10	PCB contaminated light ballast	Medical center	20 cu. yd.	0	
7/10	Surpass (vernolate) paper, gloves, sweepings, rags	Chemical co.	0	10 drums (55 gals. each)	
7/10	Imidan, sweeping, empty paper bags, rags	Chemical co.	0	10 drums (55 gals. each)	
7/10	Devrinol (Napropamide) clay, sweeping, gloves, paper bags	Chemical co.	0	10 drums (55 gals. each)	
7/10	Eptam, paper, clay, gloves, empty paper bags, filter cartridges	Chemical co.	0	10 drums (55 gals. each)	
7/10	Empty containers from thiocarbamate pesticide mfg.	Chemical co.	0	1,200 cu. ft.	
7/10	Lab packed dyfonate retain samples	Chemical co.	0	10 drums	
7/10	Empty containers last contained Mag 6 flowable sulfur	Chemical co.	0	2,000 gal.	
7/10	Sulfur, inerts clay, paper, pail lids	Chemical co.	0	20 drums	
7/10	Empty pails last containing captan flowable	Chemical co.	0	360 cu. ft.	

* * Date *	* Type *	* Source *	* Present *	* Quantity * Future *	* *
7/10	Captan, rags, empty paper bags, clay, paper, water	Chemical co.	0	10 drums (55 gals. each)	
7/10	Lab packed captan retained samples	Chemical co.	0	55 gallons	
7/10	Paint filter test waste - solid	Waste mgmt. co.	0	50-75 cu. yd. (55 gal. or bags)	
7/11	Poisonous solid lab-pack	Research facility	0	8 drums (55 gal. each)	
7/11	Sulfur, paper, wood, sand	Chemical co.	0	20 drums (55 gals. each)	
7/15	Copper, chromium, arsenic, wood, soil	Forest products	13 drums	0	
7/16	Inert materials contaminated with acetone, glycol, trichloroethane trichloroethylene	Spill clean up	800 tons	0	
7/22	General electric capacitors filled with dielektrol II	Electric co.	0	25-55 gal. drum	
7/22	Batteries with nickel and cadmium	Communications company	2 cu. yd.	0	
7/22	Gasoline tank bottoms contaminated with sodium hydroxide	Tank cleaning	8,000 gal.	0	
7/22	Tetrachloroisophthalonitrite, inert ingredients - packed in absorbent	Chemical co.	1-55 gal. drum	0	
7/25	Mixed alkaline waste	Aerospace co.	0	5,000 gal.	

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
7/25	Carbon (filter charcoal) w/dieldrin	Fish lab. research	275 gal.	0	
7/25	Lab drain collection tank waste	Waste mgmt. Co.	0	120,000 gal.	
WASHINGTON - 20					
7/8	Creosote sludge	Wood treatment	0	85 drums (55 gal. each)	
7/8	PCB contaminated soil less than 15 ppm	PUD	0	80 tons	
7/8	Sand, clay, loam, gravel, bricks, rocks, concrete pieces, cement dust, water, contaminated with petroleum, & penta-chlorophenol	Wood treatment	100 tons	0	
7/8	PCB solids	PUD	0	5 units	
7/8	PCB contaminated solids	PUD	0	55 units	
7/10	Ceramic paint sludge with lead	Mfg of glass products	150 drums (55 gal.ea)	0	
7/10	Ceramic lead based paint residue	Mfg of glass products	500 tons & 37 drums	0	
7/11	Copper sulfate waste - empty bags	Pesticide formulation	0	8 gallons	
7/15	Ceramic lead based paint residue	Mfg of glass products	100 drums (55 gal.ea)	0	
7/22	Lead Fluoborate 50% solution in water	Electronic co.	45 gallons	0	
7/22	Asbestos	Dept. of Defense	0	5 drums	

* * Date *	* Type *	* Source *	* Quantity *		* * *
			Present	Future	
7/22	Lead contaminated soil	University	185 cu.yd.	0	
7/22	Drained transformers Containing less than 50 PPM	PUD	0	1,060 cu. ft.	
7/22	Graphite, fiberglass, kevlar, aluminum metal, epoxy resin	Aerospace co.	0	500 cu. yd.	
7/22	Graphite, fiberglass, kevlar, aluminum metal, epoxy resin	Aerospace co.	0	500 cu. yd.	
7/22	Graphite, fiberglass, kevlar, aluminum metal, epoxy resin	Aerospace co.	0	500 cu. yd.	
7/23	PCB contaminated solids	Aluminum co.	0	60 tons (98 cu. yd.)	
7/25	Soil, rock, gravel, asphalt, etc. with premerge 3	Spill cleanup	6 drums	0	
7/25	Clean up debris contaminated with baghouse dust (pelletized)	Steel mfg.	0	1 ton	
7/25	Light ballasts containing PCB liquid	School	0	50 drums (55 gal. each)	

OTHERS - 9

7/8	Cadmium contaminated machinery	Electronic co. ID	2 cu. yd.	0	
7/11	Flammable, lab packs	University ID	0	630 cu. ft.	
7/11	Poison - lab packs	University ID	0	285 cu. ft.	
7/11	Combustible, lab pack	University ID	0	150 cu. ft.	
7/11	Corrosive, lab packs	University	0	450 cu. ft.	

* Date *	* Type *	* Source *	* Present *	* <u>Quantity</u> * Future *	* *
7/11	Absorbent material, hydrofluoric acid solution	Research lab ID	0	1,650 gal.	
7/22	Pesticide Lab packs containing DDT	Lab research ID	25 drums	0	
7/22	Vermiculite, water, Iron, aluminum, potassium hydroxide, surfactant, amine	Electronic co. ID	0	30 drums	
7/22	Vermiculite, water, Iron, aluminum, filter paper, potassium hydroxide, amine, surfactant	Electronic co. ID	0	50 drums	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	July, 1985 (Month and Year)
---	--------------------------------

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
	Industrial/ Commercial	16	16	5	5	192
Airports			1	1	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

July, 1985
(Month and Year)

FINAL NOISE CONTROL ACTIONS COMPLETED

County	Name of Source and Location	Date	Action
Clackamas	Fred Meyer Store, King Road, Clackamas	07/85	In Compliance
Multnomah	Gateway Volkswagen, Portland	07/85	In Compliance
Multnomah	U-Trailer Concrete, Portland	07/85	In Compliance
Washington	Times Litho Newspaper, Forest Grove	07/85	Exception Granted
Lane	Agripac, Inc., Eugene	07/85	In Compliance
Deschutes	Rock Mountain Heliport, Bend	07/85	Boundary Approved

CIVIL PENALTY ASSESSMENTS
DEPARTMENT OF ENVIRONMENTAL QUALITY
1985

CIVIL PENALTIES ASSESSED DURING MONTH OF JULY, 1985:

<u>Name and Location of Violation</u>	<u>Case No. & Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Merit Oil & Refining, Inc. Portland, Oregon	WQ-NWR-85-89 Oil spill and a chemical spill.	7/3/85	\$1,200	Hearing request and answer filed 7/18/85.
Albany Cabinets & Building Supply, Inc. Albany, Oregon	NP-WVR-85-87 Excessive noise from dust collection system.	7/22/85	\$150	Awaiting response to notice.
GM & JM, Inc. dba/Honda of St. Johns Portland, Oregon	NP-NWR-85-106 Advertised uncertified motorcycles for sale without providing proper notice in the ad.	7/29/85	\$250	Awaiting response to notice.

VAK:b
GB4962

July 1985
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	5	4
2 Discovery	0	0
3 Settlement Action	8	8
4 Hearing to be scheduled	0	0
5 Hearing scheduled	5	8
6 HO's Decision Due	4	0
7 Briefing	1	1
8 Inactive	8	8
SUBTOTAL of cases before hearings officer.	<u>31</u>	<u>29</u>
9 HO's Decision Out/Option for EQC Appeal	3	6
10 Appealed to EQC	2	2
11 EQC Appeal Complete/Option for Court Review	0	0
12 Court Review Option Pending or Taken	1	1
13 Case Closed	4	3
TOTAL Cases	<u>41</u>	<u>41</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

AG1 Attorney General 1

AQ Air Quality Division

AQOB Air Quality, Open Burning

CR Central Region

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

ER Eastern Region

FB Field Burning

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

Hrngrs Hearings Section

NP Noise Pollution

NPDES National Pollutant Discharge Elimination System wastewater discharge permit.

NWR Northwest Region

OSS On-Site Sewage Section

P Litigation over permit or its conditions

Prtys All parties involved

Rem Order Remedial Action Order

Resp Code Source of next expected activity in case

SS Subsurface Sewage (now OSS)

SW Solid Waste Division

SWR Southwest Region

T Litigation over tax credit matter

Transcr Transcript being made of case

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

WQ Water Quality Division

WVR Willamette Valley Region

July 1985

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	Dept	23-AQ-FB-81-15 FB Civil Penalty of \$3,000	Department to draft proposed order.
OLINGER, Bill Inc.	09/10/82	09/13/82	10/20-21/83 11/2-4/83 11/14-15/83 5/24/84	Dept	33-WQ-NWR-82-73 WQ Civil Penalty of \$1,500	<u>Decision issued 8/1/85</u> <u>No liability.</u>
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Resp	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	<u>Decision upholding penalty</u> <u>issued 7/18/85.</u>
McINNIS ENT.	06/17/83	06/21/83		Prtys	52-SS/SW-NWR-83-47 SS/SW Civil Penalty of \$500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83		Prtys	56-WQ-NWR-83-79 WQ Civil Penalty of \$14,500	Hearing deferred pending conclusion of court action.
McINNIS ENTERPRISES, LTD., et al.	10/25/83	10/26/83		Prtys	59-SS-NWR-83-33290P-5 SS license revocation	Hearing deferred pending conclusion of court action.

CONTES.T

Aug. 9, 1985

58

July 1985

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	<u>Department to report on case status.</u>
CLEARWATER IND., Inc.	10/11/83	10/17/83		Prtys	58-SS-NWR-83-82 SS Civil Penalty of \$1000	Hearing deferred pending conclusion of related court action.
CLEARWATER IND., Inc.	01/13/84	01/18/84		Prtys	02-SS-NWR-83-103 SS Civil Penalty of \$500	Hearing deferred pending conclusion of related court action.
MALPASS, David C.	03/26/84	03/28/84		Prtys	05-AQ-FB-83-14 FB Civil Penalty of \$500	<u>Hearing scheduled.</u>
SIMMONS, Wayne	03/27/84	04/05/84	03/14/85	<u>Resp</u>	07-AQ-FB-83-20 FB Civil Penalty of \$300	<u>Decision upholding penalty issued 7/11/85.</u>
BIELENBERG, David	03/28/84	04/05/84	12/11/84	<u>Prtys</u>	09-AQ-FB-83-04 FB Civil Penalty of \$300	Decision upholding penalty appealed to EQC.
BRONSON, Robert W.	03/28/84	04/05/84	05/21/85	Resp	10-AQ-FB-83-16 FB Civil Penalty of \$500	<u>Decision upholding penalty not appealed to EQC. Case closed 7/25/85.</u>
KAYNER, Kurt	04/03/84	04/05/84	01/08/85	Resp	12-AQ-FB-83-12 FB Civil Penalty of \$500	<u>Decision upholding penalty not appealed to EQC. Case closed 7/10/85.</u>
GORACKE, Jeffrey dba/Goracke Bros.	04/10/84	04/12/84	04/30/85	Resp	15-AQ-FB-83-22 FB Civil Penalty of \$500	<u>Decision upholding penalty not appealed to EQC. Case closed 7/15/85.</u>

59

July 1985

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	Parties requested hearing postponement to allow conclusion of negotiations.
TRANSCO Industries, Inc.	06/05/84		02/27/85	Prtys	18-HW-NWR-84-46 HW Compliance Order	Parties requested hearing postponement to allow conclusion of negotiations.
VANDERVELDE, Roy	06/12/84	06/12/84	<u>08/22/85</u>	Prtys	20-WQ-WVR-84-01 WQ Civil Penalty of \$2,500	<u>Hearing rescheduled.</u>
WESTERN PACIFIC LEASING CORP., dba/Killingsworth Fast Disposal	06/01/84	07/23/84	10/14/85	Prtys	22-SW-NWR-84 Solid Waste Permit Modification	Hearing scheduled.
CLEARWATER INDUSTRIES, INC.	10/11/84	10/11/84		Prtys	24-SS-NWR-84-P Sewage Disposal Service License Denial	Hearing deferred pending conclusion of court actions.
LAVA DIVERSION PROJECT	12/14/84	12/27/84			25-WQ-CR-FERC-5205 Hydroelectric plant certification	EQC certification denial appealed to Court of Appeals.
UNITED CHROME PRODUCTS, INC.		02/19/85	<u>09/16/85</u>	Prtys	02-HW-WQ-WVR-84-158 \$6,000 civil penalty	<u>Hearing scheduled.</u>
NOFZIGER, Mark	03/11/85	03/11/85	06/11/85	<u>Dept</u>	03-AQ-FB-84-144 Civil Penalty of \$500	<u>Decision issued 7/30/85.</u> <u>No liability.</u>

July 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
CATHCART, Channing and Douglas	03/11/85	03/11/85		Prtys	04-AQ-FB-84-137 Civil Penalty of \$750	Scheduled hearing postponed for settlement effort.
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	Resp	05-AQ-FB-84-141 Civil Penalty of \$500	Respondent to file closing argument.
BLADES, Wallace	03/18/85	03/19/85	06/21/85	Prtys	06-AQ-FB-84-139 Civil Penalty of \$750	Scheduled hearing postponed for settlement effort.
DOMES, William	03/20/85	03/21/85	06/18/85	Dept	07-AQ-FB-84-151 Civil Penalty of \$300	<u>Department withdrew penalty.</u>
SMITH, Jack		03/19/85	06/25/85	<u>Resp</u>	08-AQ-FB-84-136 Civil Penalty of \$1,000	<u>Decision upholding penalty issued 7/29/85.</u>
LANG & GANGNES CORP., dba/Medply	03/20/85	03/21/85	07/11/85	<u>Resp</u>	09-AQ-SWR-85-15 Permit violation Civil Penalty of \$3,050	<u>Decision upholding penalty issued 7/29/85.</u>
WARRENTON LANDFILL	02/28/85	04/04/85		Prtys	10-57-SW-NWR-83-PMT-120 Landfill closure order	Preliminary issues.
COOK, Robert	04/10/85	04/16/85	07/16/85	Prtys	11-AQ-FB-84-138 Civil Penalty of \$500	<u>Scheduled hearing postponed for settlement effort.</u>
KANGAS, M. R.	05/02/85	05/03/85	10/01/85	Prtys	12-AQ-FB-84-145 Civil Penalty of \$500	Hearing scheduled.

61

July 1985

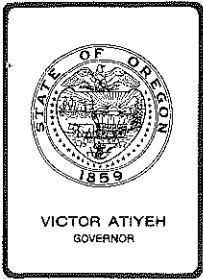
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
JOSEPH FOREST PRODUCTS	05/16/85	05/23/85		Prtys	13-HW-ER-85-29 Hazardous waste disposal Civil Penalty of \$2,500	Hearing deferred for informal resolution effort.
MAIN ROCK PRODUCTS, INC.		05/31/85	<u>10/10/85</u>	Prtys	14-WQ-SWR-85-31 Violation of NPDES permit conditions Civil Penalty of \$3,500	<u>Hearing scheduled.</u>
DANT & RUSSELL, INC.	05/31/85	05/31/85		Dept	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	Department to respond to request to stay proceedings.
<u>GREENE, TIMOTHY</u>	<u>07/10/85</u>	<u>07/11/85</u>	<u>08/12/85</u>	<u>Prtys</u>	<u>16-SS-SWR-85-P</u> <u>Denial of Certificate of</u> <u>Satisfactory Completion</u>	<u>Hearing scheduled.</u>
<u>ALTHAUSER,</u> <u>GLENN L.</u>	<u>07/08/85</u>	<u>07/16/85</u>	<u>09/20/85</u>	<u>Prtys</u>	<u>17-SW-NWR-85-77</u> <u>Unauthorized Waste</u> <u>Disposal</u>	<u>Hearing scheduled.</u>
<u>WARNOCK, STEPHEN</u>	<u>07/08/85</u>	<u>07/19/85</u>		<u>Prtys</u>	<u>18-SS-SWR-85-P</u> <u>S.S. Permit Revocation</u>	<u>Preliminary issues.</u>
<u>MERIT OIL &</u> <u>REFINING CO.</u>		<u>07/24/85</u>		<u>Prtys</u>	<u>19-WQ-NWR-85-59</u> <u>20-WQ-NWR-85-61</u> <u>WQ Civil Penalty of \$1,200</u>	<u>Preliminary issues.</u>

CONTES.T

Aug. 9, 1985

62



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

TO: Environmental Quality Commission
FROM: Director
SUBJECT: Agenda Item C, September 27, 1985 EQC Meeting

Tax Credit Applications

Director's Recommendations

It is recommended that the Commission take the following action:

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

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1596	International Paper Co.	Modifications to wood fired boilers
T-1721	Weyerhaeuser Company	Polyethylene pipe and microprocessor flowmeter
T-1722	Weyerhaeuser Company	Secondary blow heat condenser
T-1751	Hilton Fuel and Supply	Sacking plant for processed bark

2. Issue tax credit certificates for facilities subject to new tax credit law:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1729	Willamette Industries	Evaporator foul condensate oxygen treatment system
T-1747	Supreme Perlite Company	Reverse air baghouse

3. Revoke Pollution Control Facility Certificate Nos. 591, 706, 786, and 1167 issued to Georgia-Pacific Corporation. The plants have been closed and dismantled. (Letter attached)
4. Revoke Pollution Control Facility Certificate No. 1124 issued to Joe Naumes and reissue it to Mary Mac Orchard, Inc. (Letter attached)
5. Revoke Pollution Control Facility Certificate Nos. 1229 and 1386 issued to Weyerhaeuser Company and reissue them to Sun Plywood, Inc. (Letter attached)

Fred Hansen

FH:y
MY921

Agenda Item C
Page 2
September 27, 1985

Proposed September 27, 1985 Totals:

Air Quality	\$ 14,283.00
Water Quality	289,135.42
Hazardous/Solid Waste	227,691.00
Noise	<u>-0-</u>
	\$531,109.42

1985 Total Calendar Year Totals:

Air Quality	\$ 153,165.08
Water Quality	729,416.03
Hazardous/Solid Waste	295,798.00
Noise	<u>-0-</u>
	\$1,178,379.11

SCheW
229-6484
9/11/85

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

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

The applicant owns and operates a lumber and plywood manufacturing plant 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 is the modification of two dutch oven wood-fired boilers.

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 provisions of the new tax credit law, Chapter 637, or Oregon Law 1983.

Construction was initiated on the claimed facility in September, 1981, completed in January 1982, and the facility was placed in operation on September 19, 1982.

Facility Cost: \$471,017.02 (Revised Claim) (Accountant's Certification provided for an original claimed amount of \$700,466.30).

3. Evaluation of Application

Beginning in 1979, International Paper Company initiated an extensive modernization of their sawmill and plywood facility at Gardiner. The project included modifying the two dutch oven wood-fired boilers to attain compliance with emission standards while operating at projected higher steam generation rates which approached the design maximum.

Costs claimed for pollution control tax credit certification for the boiler modifications included an overfire air system, a perimeter air system, fuel feed improvements, instruments and controls, a new electrical power distribution system, and an improved ash disposal facility.

The total claimed cost was \$471,017.02, as revised by letter received on July 20, 1985.

In evaluating this tax credit application, the Department analyzed each major category of the project to ascertain its eligibility for tax credit. The overfire air systems, the perimeter air systems and the fuel feed improvements are facilities which can be effective in enhancing fuel combustion resulting in the reduction of the boiler stack particulate emissions. Cinder reinjection to the combustion chamber was eliminated, and a new ash disposal facility was constructed to handle the additional unburned cinders. The cost of these projects was \$176,335.61.

To determine what portion of the instruments and controls should be eligible for pollution control tax credit, a ratio of the number of instruments for emission monitoring, the new air systems and fuel feed system to the total instruments was determined. The company estimated this percentage to be 44 percent, resulting in a claimed cost for pollution control of \$130,572.06.

Miscellaneous mechanical and electrical costs (less than \$100 each) for \$1,626.78 was also claimed.

The company claimed \$162,482.57 for a new power distribution station to provide a reliable and stable power source for the boiler operations. Since these are replacement and improved facilities basic to powerhouse operation, the Department considers this part of the project ineligible for pollution control tax credit.

The company did not indicate that they evaluated any other alternatives for controlling emissions. The Department estimates the installation of a wet scrubber type emission control system on the two boiler stacks, a commonly applied technology, would have a cost in the range from \$400,000 to \$600,000.

Following the boiler modifications, particulate source test demonstrated marginal compliance for boiler no. 2 at a reduced steam rate. Boiler no. 1 met the particulate emission standard at 73 percent of rated capacity. For operation at steaming rates at or near design rated capacity additional source tests may be necessary to verify compliance with emission standards.

As detailed above, the Department has determined the total eligible cost associated with the boiler modifications at \$308,534.45. This is less than the cost of adding wet scrubber type emission controls. No economic benefits attributable to the project have been identified. Therefore, the eligible expenditures of \$308,534.45 should be certified for 80 percent or more.

The application was received on January 5, 1983, additional information was received on November 23, 1983 and July 30, 1985, and the application was considered complete on July 30, 1985. Long delays in obtaining requested accurate support information for the tax credit from the applicant were caused in part by changes in plant personnel and temporary mill shutdowns.

4. Summation

- a. The facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. The facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. The facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is \$308,534.45.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$308,534.45, with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1596.

DKN:s
AS1619
(530) 229-6480
September 11, 1985

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Weyerhaeuser Company
Willamette Region - Paperboard Manufacturing
Tacoma, Washington 98477

The applicant owns and operates a pulp and paper mill at Springfield, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is 1500 feet of 20" diameter polyethylene pipe and a Leeds & Northrup microprocessor flowmeter.

Request for Preliminary Certification for Tax Credit was made May 17, 1982 and approved July 7, 1982.

Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility June 1982, completed July 1982, and the facility was placed into operation July 1982.

Facility Cost \$162,146 (accountant's certification was provided.)

3. Evaluation of Application

The claimed facility conveys primary treated pulp and paper effluent to the mill's biological secondary waste water treatment system. Prior to installation of the claimed facility, the original 20" diameter wood stave pipe leaked which required frequent repairs. The metal pipe bands were badly deteriorated and each time a section of pipe was uncovered, adjacent sections were damaged. Since it got to the point where the line was no longer repairable, it was replaced with 1500 feet of new 20" diameter polyethylene pipe. A flowmeter was also added. (The wood stave pipe was installed in 1966. A request for tax credit was never submitted for this pipe).

An Attorney General opinion indicated "if an existing pollution control facility is in need of extensive repair and such facility is replaced rather than repaired, the facility is eligible for tax credit certification, but only to the extent of the excess of the replacement cost over the cost that would have been necessary to repair the existing facility." Since the wood stave pipe was no longer repairable, the replacement pipe is fully eligible for tax credit certification.

The new pipe has eliminated leakage between the primary clarifier and the secondary treatment system. There has been no return on investment from the pollution control facility.

4. Summation

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

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$162,146, with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1721.

LDP:m
229-5374
7/24/85
WM379

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Weyerhaeuser Company
Willamette Region - Paperboard Manufacturing
Tacoma, Washington 98477

The applicant owns and operates a pulp and paper mill at Springfield, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is a Rosenblad secondary blow heat condenser.

Request for Preliminary Certification for Tax Credit was made March 17, 1982 and approved October 12, 1982. The facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility June 1982, completed September 1982, and the facility was placed into operation September 1982.

Facility Cost: \$63,191.00 (Accountant's certification was provided.)

The Accountant certified a Facility Cost of \$82,441.00 which was the entire cost of the new condenser.

An Attorney General opinion provided in 1979 indicated "if an existing pollution control facility is in need of extensive repair and such facility is replaced rather than repaired, the facility is eligible for tax credit certification, but only to the extent of the excess of the replacement cost over the cost that would have been necessary to repair the existing facility."

The applicant was notified in writing that the accountant's certified facility cost was in error in that it did not account for estimated costs of repairs. The applicant submitted a revised request for tax credit with a Facility Cost of \$63,191.00 based on a repair cost of \$19,250.00 ($\$82,441.00 - \$19,250.00 = \$63,191.00$).

3. Evaluation of Application

Pollution Control Certificate No. 987, issued on June 29, 1979, included various components of an evaporator condensate treatment system. Primary and secondary heat exchangers are part of this system and are used to condense vapors from the batch pulp digesters. The condensed vapors are removed as turpentine, thus removing about 4000 lb/day of BOD from the waste treatment system. The noncondensable vapors are burned in the lime kiln for air pollution control.

The original secondary condenser (heat exchanger) failed due to intense thermal stresses on the improperly designed unit. Without this unit in operation, contaminated condensate is occasionally discharged to the sewer. The new secondary condenser has been specifically designed to withstand the thermal stresses which has resulted in a much more reliable treatment system.

The original secondary condenser was repairable. However, such repairs would have been expensive and it would have still resulted in an improperly designed unit. The applicant has estimated the cost of repairing the unit would have equalled the original cost of the unit of \$19,250.00. The replacement unit cost \$82,441.00.

Since the cost of the replacement condenser exceeded the estimated cost of repairs to the original unit by \$63,191, the facility is eligible for tax credit certification up to this amount.

The original application for Pollution Control Certificate No. 987 (T-1083) showed an income from the sale of crude sulfate turpentine of \$8,700/year. However, operating expenses for the evaporator condensate treatment system were over \$600,000/year. Costs are still such that there is no return on investment from this facility.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. The 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% 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 \$63,191.00, with 80 % or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1722.



Weyerhaeuser Company

P.O. Box 275
Springfield, Oregon 97477
A/C 503 • 746-2511

June 17, 1985

Larry D. Patterson
Industrial Waste Engineer
Source Control Section
Water Quality Division
DEPARTMENT OF ENVIRONMENTAL QUALITY
P.O. Box 1760
Portland OR 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
JUN 20 1985
WATER QUALITY CONTROL

Dear Mr. Patterson

RE: POLLUTION CONTROL TAX RELIEF - No. T-1722

Please find enclosed a copy of Mr. Allen's letter explaining the project. Mr. Allen was the engineer in charge for the project and the expert to answer your question.

Based upon his letter, I would suggest our application be reduced to \$63,191.00. That would represent the \$82,441.00 being reduced by \$19,250.00.

If you need further information, please call.

Sincerely,

Gary L. Shearer
General Accounting Manager

/jp

enc

Interoffice Communication



Weyerhaeuser

Date June 14, 1985
From S. J. Allen
Location Springfield
Subject Secondary Blow Heat Condenser Pollution Tax Credit
To Al Coleman

The old secondary blow heat condenser, like the current one, was a Rosenblad plate/envelope type of heat exchanger. The original unit was not designed to handle the thermal stresses generated during operation. As result, the sheets of stainless separating the envelopes from the shell (the tubesheet in a normal shell-and-tube heat exchanger) were flexing constantly, leading to stress corrosion failure. The heat exchanger was repairable technically, but not economically. The exchanger would have had to have been painstakingly cut apart piece by piece to salvage the individual plates, cleaned up, placed in a custom made jig, and reassembled. The cost of the repair was judged to be far too great to justify, considering the fact that the whole exercise would likely have to be repeated within a few years due to the poor original design.

The original heat exchanger was on the books at \$14,100 when it was replaced in 1982. It was four years old at the time. Based on these two facts, my estimate is that it cost \$19,250 when new.

The letter from the DEQ states that "the facility is eligible for tax credit certification, only to the extent of the excess of the replacement cost that would have been necessary to repair the existing facility." There was no estimate made of what the cost would have been to repair the old unit. However, at the time the decision was made to scrap the old unit and replace, it was generally felt that considering the cost of repairs made to the unit in 1981, the cost to repair would have been as much as the original cost of the unit.


S. J. Allen

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Raymond G. Hilton
Hilton Fuel and Supply
8087 Blackwell Rd.
Central Point, OR 97502

The applicant owns and operates a bark processing plant at Central Point.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a sacking plant for processed bark. Equipment consists of the following:

Materials handling equipment	\$ 64,039
Processing and sacking equipment	77,358
Building	<u>86,295</u>
Total	\$227,691

Three pieces of equipment were contained in the total as follows:

1 - Loader 1971 AC 745	\$30,000
2 - Forklifts (2) Hyster H30-XL	25,000

Construction was initiated on the claimed facility on November 30, 1980, completed on December 27, 1983, and the facility was placed into operation on December 27, 1983 (Because of the statute change on January 1, 1984, the facility was inspected for completion on December 29, 1983).

Facility Cost: \$227,691 (Accountant's Certification was provided).

3. Evaluation of Application

Even though the applicant submitted an independent request for preliminary certification, this facility is actually Phase 2 of a bark processing facility that produces decorative bark mulch. The original facility was certified under Application T-929 (copy attached) and included bark handling equipment, hammer hogs and a building. That facility could only produce bulk quantities of barkdust for commercial landscapers and large volume users. The sacking facility was added to

increase the market potential of the bark and thus increase the amount of waste bark being utilized. An additional 25 units of bark per day will be processed which will increase the amount of waste consumed over 50%. As sales increase more waste bark will be utilized. The material being processed has been, in the past, taken to landfills in the area.

The substantial purpose of the facility is to use material that would otherwise be solid waste, and the end product is an item of real economic value and competitive with end products produced in another state. Since the facility was commenced before December 31, 1980, and completed prior to December 31, 1983, it is not subject to the additional requirements imposed by the 1979 legislature or the percentage allocable (added on January 1, 1984). The additional requirements were:

ORS 468.170(9)(b) (Effective for those facilities where construction is started after December 31, 1980, and completed prior to January 1, 1984)

- A. That the facility is necessary to assist in solving a severe or unusual solid waste, hazardous wastes or used oil problem;
- B. That the facility will provide a new or different solution to a solid waste, hazardous wastes or used oil problem than has been previously used, or the facility is a significant modification and improvement of similar existing facilities; or
- C. That the Department has recommended the facility as the most efficient or environmentally sound method of solid waste, hazardous wastes or used oil control.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. As required by ORS 468.165, the facility was under construction on or after January 1, 1973, and
 - (1) The substantial purpose of the facility is to utilize material that would otherwise be solid waste, through the processing of materials which have useful physical properties;
 - (2) The end product of the utilization is an item of real economic value;
 - (3) The end product of the utilization, is competitive with an end product produced in another state; and
 - (4) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.

- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 100 percent (because the facility was completed prior to January 1, 1984, it is not subject to percentage allocable).

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$227,691 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1751.

Attachment: Staff Report T929
R. L. Brown:1
(503) 229-6237
SL2373
August 5, 1985

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Hilton Fuel
8087 Blackwell Road
Central Point, Oregon 97502

The applicant owns and operates a decorative bark processing facility at Central Point, Oregon.

Application was made for tax credit for a solid waste pollution control facility.

2. Description of Claimed Facility

The facility described in this application utilizes waste bark from two local sawmills. Waste bark is hogged, sized, sorted, cleaned, stored and sold for landscaping purposes. The installed cost of the system includes the following:

1. Building cost	\$ 27,488.93
2. Bark processing equipment	44,684.35
3. 1972 Terex Loader, 1970 International Truck and Box, 1970 Peerless Trailer and 1966 International truck	<u>72,500.00</u>
TOTAL	\$144,673.28

Request for Preliminary Certification for Tax Credit was made May 15, 1976, and approved September 29, 1976. Construction was initiated on the claimed facility June 15, 1976, completed February 15, 1977, and the facility was placed into operation February 1977.

Facility cost: \$144,673.28 (accountant's certification was provided).

3. Evaluation of Application

The claimed facility is a complete waste bark processing storage and transporting system. Waste bark is processed into salable decorative landscape bark of different grades and quality. The off-fall materials from the cleaning belts are reprocessed and salvaged. The plant is utilizing approximately 12,500 units of waste bark annually.

4. Summation

- A. Facility was constructed after receiving preliminary certification issued pursuant to ORS 468.175.
- B. Facility was constructed on or after January 1, 1973, as required by ORS 468.165(1)(c).
- C. Facility is designed for and is being operated to a substantial extent for the purpose of preventing, controlling, or reducing solid waste.
- D. The facility satisfies the intents and purposes of ORS Chapter 459 and the rules adopted under that chapter.
- E. Facility qualifies for 100 percent of actual cost as stipulated in ORS 468.165(2).

5. Director's Recommendation

It is recommended that a Pollution Control Facility Certificate bearing the cost of \$144,673.28 with 100 percent allocated to pollution control be issued for the facility claimed in Tax Credit Application No. T-929.

William Dana/kz
229-5913
11/2/77

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Willamette Industries, Inc.
Albany Paper Mill
3800 First Interstate Tower
Portland, Oregon 97201

The applicant owns and operates a pulp and paper mill in Albany, Oregon.

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 evaporator foul condensate oxygen treatment system.

Request for Preliminary Certification for Tax Credit was made June 26, 1984, and approved January 31, 1985.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility October 27, 1984, completed December 14, 1984 and the facility was placed into operation December 14, 1984.

Facility Cost: \$63,798.42 (Accountant's Certification was provided).

3. Evaluation of Application

Foul condensates from the pulp mill liquor evaporator system are sewerred to the wastewater treatment system. These wastes are high in BOD and sulfide content. Prior to installation of the claimed facility, the mills treated waste water occasionally approached the BOD limits of the NPDES permit. Obnoxious sulfide odors were also released from the sewer manholes which resulted in occasional complaints from workers in the area. The claimed facility feeds liquid oxygen into the foul condensate waste line and allows it to react with the wastes in four oxygen absorption columns. The oxygen converts odorous sulfide to a non-odorous sulfate. This chemical oxygen demand is now satisfied by the claimed facility and removes this demand from the aerated waste water stabilization basin. The facility has resulted in an average reduction of foul condensate BOD of 42% and has greatly reduced odors. There has been no return on investment from the claimed facility.

4. Summation

- a. Facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. Facility was constructed on or after January 1, 1967, as required by ORS 465.165(1) (a).
- c. The facility is designed for and is being operated for the sole purpose of preventing, controlling or reducing a substantial quantity of water pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468, and the rules adopted under that chapter and complies with DEQ statutes and rules.
- 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 \$63,798.42, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1729.

LDP:m
WM402
229-5374
7/18/85

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Supreme Perlite Company
4600 N. Suttle Road
Portland, OR 97217

The applicant owns and operates a perlite expansion plant at 4600 N. Suttle Road, 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 reverse air baghouse.

Request for Preliminary Certification for Tax Credit was made on March 20, 1985 and approved on April 25, 1985.

The applicant was notified by letter on March 20, 1985 that their application for Preliminary Certification was complete and that construction could be initiated without waiting 30 days.

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

Construction was initiated on the claimed facility on April 18, 1985, completed on May 1, 1985, and the facility was placed into operation on May 3, 1985.

Claimed facility Cost: \$14,783.00 (Complete Documentation by copies of invoices was provided of which \$14,283.00 is eligible.)

3. Evaluation of Application

The claimed facility consists of a reverse air stainless steel baghouse installed on a 3 million BTU/hr rotary horizontal perlite expanding furnace. Perlite is a rock-like material used for insulation purposes. The claimed facility, fabricated in-house, replaced an identical unit which has never been certified as an air pollution control facility and which was no longer capable of maintaining compliance. All existing fans, ducting and related equipment were retained.

The claimed facility was inspected by Department personnel on May 7, 1985 and was found to be operating in compliance with Department regulations and permit conditions. Prior to installation of the claimed facility, violations with opacity levels up to 100% were observed. Installation of the claimed facility has reduced these levels below 5% opacity.

The actual cost of the claimed facility, \$14,783.00, must be reduced by \$500.00, the salvage value of the replaced baghouse, to arrive at the eligible facility cost of \$14,283.00.

The estimated average annual operating expense of \$3,846.00 exceeds the estimated average annual income of \$111.00 from the value of the perlite collected. Therefore, there is no return on the investment in the facility and 100% of the eligible facility cost is allowable to pollution control.

The application was received on June 17, 1985 and the application was considered complete on June 17, 1985.

4. Summation

- a. The facility was constructed in accordance with the requirements of ORS 468.175, regarding preliminary certification.
- b. The facility was constructed on or after January 1, 1967, as required by ORS 468.165(1)(a).
- c. The facility is designed for and is being operated for the principal purpose of preventing, controlling or reducing pollution and was required by the Department.
- 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 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 \$14,283 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1747.

W.J. Fuller:p
AP203
(503) 229-5749
July 30, 1985

State of Oregon
Department of Environmental Quality

REVOCATION OF POLLUTION CONTROL FACILITY CERTIFICATE

1. Certificates issued to:

Georgia Pacific Corporation		Georgia Pacific Corporation
900 SW Fifth Avenue	and	P.O. Box 580
Portland, OR 97204		Toledo, OR 97371

The certificates were issued for air and solid waste pollution control facilities.

2. Summation:

The Environmental Quality Commission issued certificates to Georgia-Pacific for pollution control facilities on August 22, 1975, April 22, 1977, August 27, 1976 and December 19, 1980. The plant for three of these facilities was closed in December of 1984 and the plant for the fourth facility was abandoned in October 1980. The company notified the Department of this action by letter. (attached)

3. It is recommended that Pollution Control Facility Certificate Nos. 591, 706, 786, and 1167 be revoked.

SChew
229-6484
9/11/85



Georgia-Pacific Corporation

900 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone (503) 222-5561

August 26, 1985

Department of Environmental Quality
Management Services Division
P.O. Box 1760
Portland, OR 97207

ATTN: Sherry Chew

Dear Ms. Chew:

We would like to notify you of the following abandonments or retirements of certain pollution control facilities:

1. Coos Bay Coquille Plywood Hog-Waste Bark
Coos Bay, OR in Coos County
Certificate No. 591 \$ 30,462.62
Abandoned, discontinued use in October 1980
2. Toledo scrubber for control of veneer dryer emissions
Toledo, OR in Lincoln County
Certificate No. 706 \$152,000.00
Plant closed December 1984
3. Toledo Dust collection system
Toledo, OR in Lincoln County
Certificate No. 786 \$ 55,440.00
Plant closed December 1984
4. Toledo Wood Fuel Heat Cell-Oxygen Meter
Toledo, OR in Lincoln County
Certificate No. 1167 \$128,231.00
Plant closed December 1984

Should you have any questions, please contact us.

Sincerely,

J. M. Gent
Property Clerk

JMG/ss

cc: H. R. Egbert
S. L. Wilkins
R. McGraw-Toledo

M. L. Moore
R. C. Dubay - Atlanta-8
P. Fetter-Springfield

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1167

Date of Issue 12/19/80

Application No. T-1156

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Georgia-Pacific Corporation Toledo Plywood Division P. O. Box 580 Toledo, Oregon 97371	Location of Pollution Control Facility: Toledo, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Wood fired heat cell, oxygen meter.	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>12/11/78</u>	Placed into operation: <u>12/11/78</u>
Actual Cost of Pollution Control Facility: \$ <u>128,231.00</u>	
Percent of actual cost properly allocable to pollution control: 80% or more	

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

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

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

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

Signed 

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on

the 19th day of December, 19 80

Certificate No. 591Date of Issue 08-22-75State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITYApplication No. T-637**POLLUTION CONTROL FACILITY CERTIFICATE**

Issued To: Georgla-Pacific Corporation Coos Bay Division 900 S. W. Fifth Avenue Portland, Oregon 97204	As: Owner	Location of Pollution Control Facility: Coquille Plywood Plant Coquille, Oregon Coos County
Description of Pollution Control Facility: Williams 50 KS hog used to break up waste bark to be used as fuel in power boiler.		
Date Pollution Control Facility was completed and placed in operation: <u>July, 1974; July, 1974</u>		
Actual Cost of Pollution Control Facility: <u>\$ 30,462.62</u>		
Percent of actual cost properly allocable to pollution control: <u>One hundred percent (100%)</u>		

In accordance with the provisions of ORS 449.605 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "pollution control facility" within the definition of ORS 449.605 and that the facility was erected, constructed, or installed on or after January 1, 1967, and on or before December 31, 1978, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air or water pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 449 and regulations thereunder.

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

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

Signed Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission

on the 22nd day of August 19 75

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 786

Date of Issue 4/22/77

Application No. T-784

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Georgia-Pacific Corporation 900 S. W. Fifth Avenue Portland, Oregon 97204	Location of Pollution Control Facility: Plywood Plant Toledo, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Cyclone, blower, ductwork for dust collection system serving the veneer dryer feeders and veneer stackers	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: October 1974 Placed into operation: October 1974	
Actual Cost of Pollution Control Facility: \$55,440.00	
Percent of actual cost properly allocable to pollution control: <p style="text-align: center;">40% or more but less than 60%</p>	

In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air and water or solid waste facility was erected, constructed or installed on or after January 1, 1967, or January 1, 1973 respectively, and on or before December 31, 1980, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapters 459, 468 and the regulations thereunder.

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

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

Signed *Joe E. Richards*
 Title Chairman

Approved by the Environmental Quality Commission on

the 22 day of April, 19 77

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 706
Date of Issue 8/27/76
Application No. T-783

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Georgia Pacific Corporation 900 S.W. Fifth Avenue Portland, Oregon 97204	Location of Pollution Control Facility: Toledo, Oregon Lincoln County
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Scrubber for the control of veneer dryer emissions	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste	
Date Pollution Control Facility was completed: <u>July 19, 1975</u> Placed into operation: <u>July 21, 1975</u>	
Actual Cost of Pollution Control Facility: <u>\$ 152,000.00</u>	
Percent of actual cost properly allocable to pollution control: <u>100%</u>	

In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air and water or solid waste facility was erected, constructed or installed on or after January 1, 1967, or January 1, 1973 respectively, and on or before December 31, 1980, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapters 459, 468 and the regulations thereunder.

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

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

Signed _____

Title _____

J. B. Burkhardt
Chairman

Approved by the Environmental Quality Commission on
the 27th day of August, 1976

State of Oregon
Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATION

I. Certificate issued to:

Joe Naumes
P.O. Box 996
Medford, OR 97501

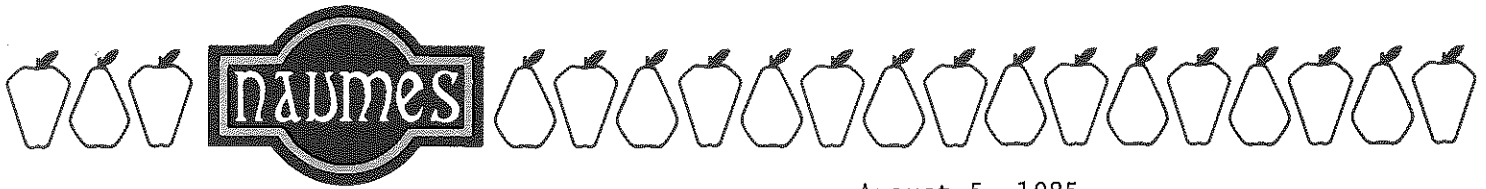
The certificate was issued for an air pollution control facility.

2. Summation

The Environmental Quality Commission issued a certificate for five wind machines to Joe Naumes on September 19, 1985. Mr. Naumes sold Mary Mac Orchard to Mary Mac Orchard, Inc.. The Pollution Control Facility Certificate needs to be revoked and reissued to reflect the change. (letter attached)

3. It is recommended that Pollution Control Facility Certificate No. 1124 be revoked and reissued to Mary Mac Orchard, Inc.; the certificate to be valid only for the time remaining from the date of the first issuance.

SChew
229-6484
9/11/85



August 5, 1985

Department of Environmental Quality
Post Office Box 1760
Portland, OR 97207
Attn: Sherry Chu

Dear Ms. Chu,

This is to notify you of the transfer of five (5) Orchard Rite Wind Machines which were certified for Pollution Control Facility Credit. In accordance with IRC Section 351, Joe Naumes transferred his orchard and all of its assets to Mary Mac Orchard, Inc., on December 16, 1983.

Enclosed please find copies of this Notice of Election and the Pollution Control Facility Certificate (#1124) issued to Joe Naumes on September 19, 1980. Under the provisions of ORS 316.097(8), subsequent to the revocation of the original certification, a new certificate may be issued to Mary Mac Orchard, Inc., for the unclaimed balance of the tax credit.

Following is a schedule delineating the original credit granted and the balance still available to the transferee.

Pollution Control Facility Credit available to transferee under provisions of ORS 316.097(8):

Total cost of facility	<u>\$85000</u>
Percentage of cost allocable to pollution control by certificate number 1124	80%
Maximum credit allowed (5% for 10 yr)	<u>\$42500</u>
Less credits taken by transferor:	
1980	\$4250
1981	4250
1982	4250
1983	<u>4250</u>
	<u>\$17000</u>
Credit available for transfer	<u>\$25500</u>

Sincerely,

MARY MAC ORCHARD, INC.

Lynn Green

Corporate Accountant

NAUMES, INC.

HOME OFFICE: PHONE (503) 772-6268 POST OFFICE BOX 996 MEDFORD, OREGON 97501

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1124

Date of Issue 9/19/80

Application No. T-1236

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Joe Naumes P. O. Box 996 Medford, Oregon 97501	Location of Pollution Control Facility: Kings Highway and S. Stage Road Medford, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Five (5) Orchard Rite Wind Machines, tower serial numbers: 80004, 80002, 80007, 79145 and 80005.	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>2/29/80</u>	Placed into operation: <u>2/29/80</u>
Actual Cost of Pollution Control Facility: <u>\$ 85,000.00</u>	
Percent of actual cost properly allocable to pollution control: <u>80% or more</u>	


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

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

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

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

Signed


Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on

the 19th day of September, 1980

State of Oregon
Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATION

1. Certificates issued to:

Weyerhaeuser Company
P.O. Box 389
North Bend, OR 97459

The certificates were issued for air pollution control facilities.

2. Summation

The Environmental Quality Commission issued certificates to Weyerhaeuser Company on April 16, 1982 for modifications of veneer dryers and on June 5, 1981 for equipment on boilers. These facilities were sold to Sun Plywood, Inc. on June 20, 1985. The Department was notified by letter. (attached)

3. It is recommended that Pollution Control Facility Certificate Nos. 1229 and 1386 be revoked and reissued to Sun Plywood, Inc.; the certificate to be valid only for the time remaining from the date of the first issuance.

SChew
229-6484
9/11/85



Weyerhaeuser Company

Tacoma, Washington 98477
(206) 924-2345

August 21, 1985

State of Oregon
Department of Environmental Quality
Management Services Division
P. O. Box 1760
Portland OR 97207

To Whom It May Concern:

Re: Transfer of Pollution Control Tax Credits

In accordance with ORS 317.116(4)(a)(C), Weyerhaeuser Company respectfully requests that the unused credits applicable to certificates #1386 and #1229 be transferred to the taxpayer name of Sun Studs, Inc., P. O. Box 1127, Roseburg, Oregon 97470-0257. The facilities were sold to the purchaser on June 20, 1985. The two certificates are further described as follows:

Certificate #1386 (AirControl)

Date of Issue 4/16/82

Application #T-1366

Actual Cost \$972,453

Percent of cost allocable to pollution control - 80% or more

Description - Modifications and sealing of veneer dryers #1 and #2 to control fugitive emissions from dryers.

Certificate #1229 (AirControl)

Date of Issue 6/5/81

Application #T-1318

Actual Cost \$906,093

Percent of cost allocable to pollution control - 80% or more

Description - Combustion air preheaters and associated equipment on bailers #1 and #2. In stack opacity monitor.

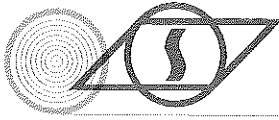
Thank you for your assistance and cooperation.

Sincerely,

John P. Dodson
Assistant Tax Manager,
Excise Taxes

JPD:sun
att.

cc: George Funk, Sun Studs, Inc.
Gabe Gedvila, CH 2J28



SUN PLYWOOD, INC.

OFFICE 503-673-0141
SALES 503-672-5059
P.O. BOX 177
ROSEBURG, OR 97470-0257

PLANT 503-756-3141
3201 TREMONT
P.O. BOX 527
NORTH BEND, OR 97459

August 27, 1985

State of Oregon
Dept. of Environmental Quality
Management Services Division
P.O. Box 1760
Portland, OR. 97207

Attn: Sherry Chew

Subject: Transfer of pollution control tax credits

In accordance with ORS 468.170 and 317.116(8), Sun Plywood, Inc. hereby applies for the (unused) credits applicable to certificates number 1386 and 1229 previously owned by Weyerhaeuser Company.

By letter of August 21, 1985, Weyerhaeuser Company notified the Department of Environmental Quality of its transfer of the subject credits to Sun Studs, Inc. Sun Studs, Inc. is not the transferee of these credits; rather, the correct transferee is Sun Plywood, Inc. As further evidence of the correct name of the transferee, enclosed is a copy of the facing and signature sheets from the purchase and sale agreement between Sun Plywood, Inc. and Weyerhaeuser Company.

A description of the two certificates is included in Weyerhaeuser Company's letter to the Department of August 21, a copy of which is attached hereto.

Please notify Sun Plywood, Inc. as soon as your transfer of these credits to our account is completed. Thank you for your cooperation; please call the undersigned if you have any questions or if further information is necessary.

Very truly yours,

SUN PLYWOOD, INC.

George D. Funk
Vice President

GDF/lt
enclosures

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1386

Date of Issue 4/16/82

Application No. T-1366

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Weyerhaeuser Company P. O. Box 389 North Bend, OR 97459	Location of Pollution Control Facility: Water Front, North Bend
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Modifications and sealing of veneer dryers Nos. 1 and 2 to control fugitive emissions from dryers.	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>1/9/80</u>	Placed into operation: <u>1/9/80</u>
Actual Cost of Pollution Control Facility: \$ <u>972,453.00</u>	
Percent of actual cost properly allocable to pollution control: <u>80% or more</u>	

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

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

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

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

Signed _____

_____ Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on
the 16th day of April, 1982

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1229

Date of Issue 6/5/81

Application No. T-1318

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Weyerhaeuser Co. P. O. Box 380 North Bend, Oregon 97459	Location of Pollution Control Facility: North Bend, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Combustion air preheaters and associated equipment on boilers #1 and #2. In stack opacity monitor.	
Type of Pollution Control Facility: <input checked="" type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Water <input type="checkbox"/> Solid Waste <input type="checkbox"/> Hazardous Waste <input type="checkbox"/> Used Oil	
Date Pollution Control Facility was completed: <u>2/1/80</u> Placed into operation: <u>3/15/79</u>	
Actual Cost of Pollution Control Facility: \$ <u>906,093.00</u>	
Percent of actual cost properly allocable to pollution control: <u>80% or more</u>	

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

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

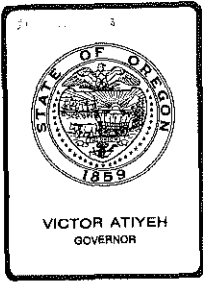
1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation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

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

Signed 

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on
the 5th day of June, 1981



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. D, September 27, 1985, EQC Meeting

Request for Authorization to Conduct a Public Hearing on the Proposed Amendment of Notice of Violation Rules, OAR 340-12-040.

Background

The Resource Conservation and Recovery Act of 1976 (RCRA) established a national program for hazardous waste management. RCRA further provides for delegation of implementing authority, termed "authorization", to states to operate equivalent state hazardous waste management programs. Once authorized, a state program operates in lieu of the federal program.

RCRA sets forth the following six statutory standards which state programs must meet in order to qualify for Final Authorization:

1. Equivalent Program
2. No less Stringent Program
3. Consistent Program
4. More Stringent Program (allowable)
5. Adequate Enforcement
6. Notice and Hearing in the Permit Process.

These standards are further interpreted by the Environmental Protection Agency (EPA) in regulations at 40 CFR Part 271.

On June 1, 1984, the Department of Environmental Quality (DEQ) submitted on behalf of the State of Oregon, an application for Final Authorization to EPA. In subsequent comments, EPA raised a strong concern with the state's ability to impose equivalent penalties and thereby provide for adequate enforcement (RCRA standards # 1 and 5). EPA took issue with the requirement in Oregon Revised Statutes (ORS) 468.125(1) that five days

advance notice be given prior to the assessment of a civil penalty. The five-day notice would allow a violator at least five days after receipt of the notice to correct a violation before a penalty could be assessed. In general, if the violation is corrected, a penalty could not be assessed. In contrast, EPA's national enforcement response policy requires that penalties be assessed for violators with Class I¹ violations (called High-Priority Violations by EPA). EPA concluded that ORS 468.125 would preclude the state from taking an equivalent enforcement action in those cases where a Class I violation is corrected within five days after receipt of the notice.

A related issue identified by EPA pertained to the state's authority to recover civil penalties for each day of violation. EPA viewed ORS 468.125 as precluding the Department from recovering penalties for each day of violation prior to the notice, as well as for each day of the prescribed five-day notice period. Again, EPA's conclusion was that ORS 468.125 constrained the state's ability to take equivalent enforcement actions.

The Department maintained that it had adequate and equivalent enforcement authority. DEQ's response to EPA's concerns included three major points. First, the Class I violation category (as defined by EPA) contained violations of the type which generally could not be corrected within five days. Hence, as a matter of practicality, the Department would not be precluded from assessing penalties subsequent to a five-day notice. Second, ORS 468.125 allows for civil penalties without prior notice if violations are intentional or involve unauthorized disposal of hazardous waste. Last, DEQ pointed out that ORS 459.995(2) provided that penalties could be assessed for each day of a violation.

EPA was not swayed by DEQ and in November 1984 formally advised DEQ that statutory amendments to ORS 468.125 would need to be sought to ensure the state program was equivalent to the federal program and could qualify for Final Authorization.

In February 1985, the Department and EPA signed a Letter of Intent which identified steps which the state agreed to take in order for EPA to consider granting Final Authorization. Included therein was a DEQ commitment to seek statutory amendments to eliminate the five-day notice requirement of ORS 468.125 for hazardous waste violations.

¹Class I violations, as defined in the Department's proposed Enforcement Guidelines and Procedures (see Agenda Item No.P) are violations which:

- Create a likelihood for harm or for significant environmental damage, or have caused actual harm or environmental damage;
- Involve the unauthorized disposal of hazardous waste; or
- Result in the failure to assure that groundwater will be protected or that proper closure and post-closure activities will be undertaken.

Accordingly, the Department pursued the needed legislation during the 1985 Oregon Legislative Assembly. House Bill 2145 (Attachment V), as amended by the House Committee on Environment and Energy, proposed to amend ORS 468.125(2) to eliminate the requirement for five days advance notice prior to a penalty when it is assessed for a violation of ORS 459.410 to 459.450 and 459.460 to 459.690 (i.e., hazardous waste program requirements). HB 2145 was subsequently passed by the Legislature and signed by the Governor.

Although HB 2145 became effective September 19, 1985, The Department of Justice advised the Department that OAR 340-12-040, regarding Notice of Violation for civil penalty assessment, should be amended to conform to the statutory change in ORS 468.125(2). Therefore, the proposed amendment of OAR 340-12-040 is the subject of this agenda item.

Discussion

The Department proposes to amend OAR 340-12-040 (Attachment III). The proposed change to section (1) of 340-12-040 is a technical correction of existing improper references in the phrase "subsection (3) of this section..." to "...section (3) of this rule..." A change to 340-12-040(3)(b) would replace the word "where" with the phrase "under sections (1) and (2) of this rule if:" to conform to the change in statutory wording of ORS 468.125(2).

Finally, a new subparagraph (F) would be added to 340-12-040(3)(b) to specify that no advance notice is required if "the penalty to be assessed is for a violation of ORS 459.410 to 459.450 and 459.460 to 459.690 or rules adopted or orders or permits issued pursuant thereto."

Alternatives and Evaluation

The proposed amendment to OAR 340-12-040 is merely a codification of statutory changes to ORS 468.125. Although ORS 468.125 is effective on its own, since OAR 340-12-040 codifies the existing provisions of ORS 468.125, a conforming change to the rule is necessary to ensure consistency between statute and rule. Additionally, since the Department's rules (as opposed to statutes) are used generally by the regulated community and public as a reference for DEQ requirements and procedures, it is important that the rules be kept up to date with statutory changes.

Not adopting the proposed rule amendment would cause an inconsistency between the statute, ORS 468.125, and its implementing rule, OAR 340-12-040. This inconsistency could cause confusion among potentially affected parties.

The Department proposes to solicit public comment (Attachment IV) on the proposed rule amendment prior to presenting a final recommendation to the Commission.

Summary

1. The DEQ presently operates a comprehensive state hazardous waste management program.
2. The Department desires and has been advised by the public, regulated community and legislature to seek RCRA Final Authorization, which requires an equivalent state program that provides for adequate enforcement.
3. EPA has advised DEQ that an equivalent state program must provide for assessment of civil penalties for each day of violation including prior to and during any notice period.
4. Recently enacted statutory changes to ORS 468.125 eliminate the requirement for five days notice prior to assessment of civil penalties for violations of hazardous waste program requirements. The statutory change was determined by EPA to be necessary for the state to be able to qualify for Final Authorization.
5. The attached proposed amendment to OAR 340-12-040 codifies the recent changes to ORS 468.125 and is necessary to ensure consistency between the statute and implementing rule.

Director's Recommendation

Based on the Summation, it is recommended that the Commission authorize a public hearing to take testimony on the proposed amendment of OAR 340-12-040.



Fred Hansen

- Attachments
- I. Statement of Need for Rules
 - II. Statement of Land Use Consistency
 - III. Proposed Amendment of OAR 340-12-040
 - IV. Draft Public Notice of Rule Amendment
 - V. Oregon Law 1985 C. 735 (HB 2145)

Alan S. Goodman:f
229-5254
ZF208

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF AMENDING)	STATEMENT OF NEED FOR RULE
OAR CHAPTER 340,)	AMENDMENT AND FISCAL AND
RULE 340-12-040)	ECONOMIC IMPACT

Statutory Authority:

ORS 459.995(2) and (3) provide that:

2. In addition to any other penalty provided by law, any person who violates ORS 459.410 to 459.450 and 459.460 to 459.690, a license condition or any commission rule or order pertaining to the generation, treatment, storage, disposal or transportation by air or water of hazardous waste, as defined by ORS 459.410, shall incur a civil penalty not to exceed \$10,000 for each day of the violation.
3. The civil penalty authorized by subsections (1) and (2) of this section shall be established, imposed, collected and appealed in the same manner as civil penalties are established, imposed and collected under ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and ORS Chapter 468.

ORS 468.125, as amended by Oregon Law 1985, c. 735 states:

1. No civil penalty prescribed under ORS 468.140 shall be imposed until the person incurring the penalty has received five days' advance notice in writing from the department or the regional air quality control authority, specifying the violation and stating that a penalty will be imposed if a violation continues or occurs after the five-day period, or unless the person incurring the penalty shall otherwise have received actual notice of the violation not less than five days prior to the violation for which a penalty is imposed.
2. No advance notice shall be required under subsection (1) of this section if:
 - a. The violation is intentional or consists of disposing of solid waste or sewage at an unauthorized disposal site or constructing a sewage disposal system without the department's permit.
 - b. The water pollution, air pollution or air contamination source would normally not be in existence for five days, including but not limited to open burning.
 - c. The water pollution, air pollution or air contamination source might leave or be removed from the jurisdiction of the department or regional air quality control authority, including but not limited to ships.
 - d. The penalty to be imposed is for a violation of ORS 459.410 to 459.450 and 459.460 to 459.690.

Need for the Rules:

Existing 340-12-040 codifies the provisions of ORS 468.125 which were in effect prior to Oregon Law 1985, c.735. The changes to ORS 468.125 made by the 1985 Oregon Legislative Assembly necessitate a conforming revision of OAR 340-12-040. Adoption of the proposed amendment would ensure consistency between ORS 468.125 and OAR 340-12-040.

Principal Documents Relied Upon:

ORS 468.125 as amended by Oregon Law 1985, c.735;
ORS 459.995; and OAR 340-12-040.

Fiscal and Economic Impact:

The proposed rule amendment does not affect the substantive or administrative requirements pertaining to hazardous waste handlers and therefore will have no measurable fiscal or economic impact.

The small business impact is similar to that noted above.

ZF208.I

ATTACHMENT II
Agenda Item No. D
9/27/85 EQC Meeting

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF AMENDING)
OAR CHAPTER 340)
RULE 340-12-040) LAND USE CONSISTENCY

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

ZF208.II

Proposed Amendment to
OAR 340-12-040

(Deleted material is in brackets [] and new material to be added is underlined).

Notice of Violation

340-12-040 (1) Except as provided in [sub]section (3) of this [section] rule, prior to the assessment of any civil penalty the Department shall serve a Notice of Violation upon the respondent. Service shall be in accordance with rule 340-11-097.

(2) A Notice of Violation shall be in writing, specify the violation and state that the Department will assess a civil penalty if the violation continues or occurs after five days following receipt of the notice.

(3)(a) A Notice of Violation shall not be required where the respondent has otherwise received actual notice of the violation not less than five days prior to the violation for which a penalty is assessed.

(b) No advance notice, written or actual shall be required [where] under sections (1) and (2) of this rule if:

(A) The act or omission constituting the violation is intentional;

(B) The violation consists of disposing of solid waste [hazardous waste] or sewage at an unauthorized disposal site;

(C) The violation consists of constructing a sewage disposal system without the Department's permit;

(D) The water pollution, air pollution, or air contamination source would normally not be in existence for five days; [or]

(E) The water pollution, air pollution or air contamination source might leave or be removed from the jurisdiction of the Department[.]; or

(F) The penalty to be imposed is for a violation of ORS 459.410 to 459.450 and 459.460 to 459.690, or rules adopted or orders or permits issued pursuant thereto.

A CHANCE TO COMMENT ON...

Proposed Amendment to Rule Regarding Notice of Violation

Date Prepared: August 28, 1985
Hearing Date: October 16, 1985
Comments Due: October 16, 1985

- WHO IS AFFECTED:** Persons who manage hazardous waste, including generators, air and water transporters, and owners and operators of hazardous waste treatment, storage and disposal facilities.
- BACKGROUND:**
- o Existing 340-12-040 implements provisions of Oregon Revised Statutes (ORS) 468.125 regarding advance notice prior to assessment of civil penalties by the Department.
 - o ORS 468.125 was amended by the 1985 Oregon Legislative Assembly to eliminate the notice requirement for hazardous waste violations.
- WHAT IS PROPOSED:** The Department of Environmental Quality (DEQ) proposes to amend OAR 340-12-040, regarding Notice of Violation for violations of the DEQ's hazardous waste management rules, to ensure consistency with ORS 468.125 as amended.
- WHAT ARE THE HIGHLIGHTS:**
- o The rule amendment would eliminate the existing requirement of OAR 340-12-040 that the Department provide five-days notice prior to assessing civil penalties.
 - o The rule amendment would allow the Department to assess civil penalties without prior notice for violations of hazardous waste:
 - statutes,
 - rules adopted by the Environmental Quality Commission,
 - Commission orders, and
 - permits (licenses)
- HOW TO COMMENT:** A public hearing to receive oral comments is scheduled for:
- Tuesday, October 16
9:30 a.m.
DEQ Portland Headquarters
Room 1400
522 SW Fifth Avenue
- Written comments can be submitted at the public hearing or sent to DEQ, Hazardous and Solid Waste Division, Attn: Alan Goodman, P.O. Box 1760, Portland, OR 97207, by October 16, 1985.
- For more information, or to receive a copy of the proposed rules contact Alan Goodman at 229-5254.
- WHAT IS THE NEXT STEP:** After the public hearing, DEQ will evaluate the comments, prepare response to comments and make a recommendation to the Environmental Quality Commission on November 22, 1985.



DEQ 4
P.O. Box 1760
Portland, OR 97207

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 1-800-452-4011.

HOUSE AMENDMENTS TO HOUSE BILL 2145

By COMMITTEE ON ENVIRONMENT AND ENERGY

April 5

Amended Summary

Punishes failure to obtain hazardous waste disposal site post-closure license or violation of certain rules or orders of Environmental Quality Commission by maximum fine of \$10,000, maximum jail term of one year, or both. Imposes maximum civil penalty of \$10,000 for each day of violation. **Makes related changes.**

1 In line 2 of the printed bill, after "waste" insert "; creating new provisions; amending ORS 459.455 and
2 468.125; and repealing ORS 459.455".

3 After line 4, insert:

4 "SECTION 2. ORS 459.455 is amended to read:

5 "459.455. The commission and the department are authorized to perform or cause to be performed any act
6 necessary to gain interim and final authorization of a hazardous waste regulatory program under the provisions
7 of the Federal Resource Conservation and Recovery Act, P.L. 94-580 [*as amended*] and P.L. 98-616, and federal
8 regulations and interpretive and guidance documents issued pursuant to P.L. 94-580 and P.L. 98-616. The
9 commission may adopt, amend or repeal any rule or license and the commission or department may enter into
10 any agreement necessary to implement this section.

11 "SECTION 3. ORS 468.125 is amended to read:

12 "468.125. (1) No civil penalty prescribed under ORS 468.140 shall be imposed until the person incurring the
13 penalty has received five days' advance notice in writing from the department or the regional air quality control
14 authority, specifying the violation and stating that a penalty will be imposed if a violation continues or occurs
15 after the five-day period, or unless the person incurring the penalty shall otherwise have received actual notice of
16 the violation not less than five days prior to the violation for which a penalty is imposed.

17 "(2) No advance notice shall be required [, *however, where*] **under subsection (1) of this section if:**

18 "(a) The violation is intentional or consists of disposing of solid waste [, *hazardous waste*] or sewage at an
19 unauthorized disposal site [,] ~~or~~ constructing a sewage disposal system without the department's permit. [*or*
20 *where*]

21 "(b) The water pollution, air pollution or air contamination source would normally not be in existence for
22 five days, including but not limited to open burning. [*or where*]

23 "(c) The water pollution, air pollution or air contamination source might leave or be removed from the
24 jurisdiction of the department or regional air quality control authority, including but not limited to ships.

25 "(d) The penalty to be imposed is for a violation of ORS 459.410 to 459.450 and 459.460 to 459.690.

26 "SECTION 4. (1) ORS 459.455 is repealed.

"(2) The repeal of ORS 459.455 by this section does not become operative until July 1, 1987."

House Bill 2145

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Department of Environmental Quality)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

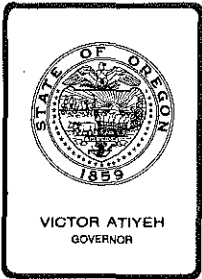
Punishes failure to obtain hazardous waste disposal site post-closure license or violation of certain rules or orders of Environmental Quality Commission by maximum fine of \$10,000, maximum jail term of one year, or both. Imposes maximum civil penalty of \$10,000 for each day of violation.

A BILL FOR AN ACT

1
2 Relating to hazardous waste.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 459.455 and 459.695 are added to and made a part of ORS 459.460 to 459.690.



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. E, September 27, 1985, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Changes in Rules Relating to the "Opportunity to Recycle" (OAR 340-60-025(1)(c) and OAR 340-60-030(4)), creating a West Linn Wasteshed.

Background

On December 14, 1984, the Environmental Quality Commission adopted rules relating to implementation of the Oregon Recycling Opportunity Act. One of those rules OAR 340-60-025 identified areas of the state which were to be recognized as wastesheds. One of these, the Clackamas Wasteshed is all of the area within Clackamas County and all of the area within the cities of Lake Oswego, Wilsonville and Rivergrove and excluding the area within the City of Portland and the City of Tualatin. The City of West Linn is included within the Clackamas Wasteshed.

ORS 459.175(2)(a) provides that "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." The City of West Linn has appealed its inclusion in the Clackamas Wasteshed and has requested to be identified as a separate wasteshed.

Wasteshed status is formalized in rules under the provisions of ORS 459.170. Wasteshed, as defined in ORS 459.005, 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. The City of West Linn can be identified as a separate wasteshed through a change in the rules to exclude West Linn from the Clackamas Wasteshed and identify it as a separate wasteshed. The staff is proposing such a rule change and is requesting authorization to hold a public hearing.

Alternatives and Evaluation

The City of West Linn is requesting a change in status which will require a formal action from the Commission. The proposed rule change will accomplish what West Linn is requesting. No other method of providing West Linn with separate wasteshed status is available to the Commission.

The city feels it has a comprehensive program for the implementation of the opportunity to recycle, and wants its program to be recognized and evaluated independently. Its program meets the requirement of the opportunity to recycle and includes: weekly on-route collection, drop-off depots, recycling from multi-family housing, yard-debris collection and recycling, school and community education, recycling promotion and

franchise rate structure which encourages recycling. A change in the watershed status of West Linn would not appear to have a significant effect on the other cities within the Clackamas Watershed or on the watershed as a whole.


The proposed rules are intended to affect only the status of the City of West Linn.

Summation

1. The City of West Linn is presently a part of the Clackamas Watershed.
2. The city has appealed under ORS 459.175(2)(A) to be identified as a separate watershed.
3. The city meets the statutory definition of a watershed as "an area of the state within which to develop a common recycling program" and is eligible for status as a separate watershed.
4. A positive response to the appeal will require a rule change.
5. The proposed rule change would not appear to have a significant adverse effect on the Clackamas Watershed.

Director's Recommendation

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



Fred Hansen

- Attachments
- I. Rulemaking Statements - Authority, Need and Land Use Consistency
 - II. Draft Public Notice of Rules Change
 - III. Proposed Rule Change
 - IV. Appeal from City of West Linn

William R. Bree:b
229-6975
August 23, 1985
YB5011.M

RULEMAKING STATEMENTS

for

Amendments to the Rules Pertaining to the Opportunity to Recycle
OAR Chapter 340, Division 60 Sections 025 and 030

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

STATEMENT OF NEED:

Legal Authority

ORS 459.170 requires the Commission to adopt rules and guidelines necessary to carry out the provisions of ORS 459.165 to 459.200. ORS 459.175 allows a local government to appeal inclusion. Wastesheds are established by rule under these provisions. ORS 459.175 allows a local government to appeal inclusion in a wasteshed.

Need for the Rule

The City of West Linn has appealed its inclusion in the Clackamas Wasteshed. For the City of West Linn to be identified as a separate wasteshed, the Commission must amend the present rules which identify wasteshed areas.

Principal Documents Relied Upon

- a. Oregon Revised Statutes Chapter 459.
- b. Oregon Administrative Rules, Chapter 340, Division 60

FISCAL AND ECONOMIC IMPACT STATEMENT:

This action should have no significant fiscal impact. The affected persons in the City of West Linn need to prepare their own recycling report rather than participate in the preparation of a recycling report for the Clackamas Wasteshed. Small businesses are unaffected.

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.

A CHANCE TO COMMENT ON . . .

Proposed Rules to Identify the City of West Linn as a Wasteshed
PUBLIC HEARING

Date Prepared: 8/22/85
Hearing Date: 10/22/85
Comments Due: 10/22/85

**WHO IS
AFFECTED:**

Owners and operators of solid waste or recycling businesses in Clackamas County, the City of West Linn, Clackamas County and other cities within Clackamas County. Individuals involved in the implementation of the Oregon Recycling Opportunity Act. (Oregon Revised Statutes 459.005 to 459.285)

**WHAT IS
PROPOSED:**

The Department proposes a rule amendment to exclude the City of West Linn from the Clackamas Wasteshed and identify West Linn as a separate wasteshed.

**WHAT ARE THE
HIGHLIGHTS:**

The city of West Linn has requested this change. There should be no significant impact on other affected persons in the Clackamas Wasteshed or other wastesheds in the state. The City of West Linn will provide a separate Recycling Report to the Department by July 1, 1986 as required by the Recycling Opportunity Act.

**HOW TO
COMMENT:**

Public Hearing

3:00 p.m.
Tuesday, October 22, 1985
Council Chambers
West Linn City Hall
West Linn, Oregon

Written or verbal comments can be presented at the hearing. Also written comments can be sent to the Department of Environmental Quality Hazardous and Solid Waste Division, P.O. Box 1760, Portland, OR 97207, by Tuesday, October 22, 1985, 5:00 p.m.

A copy of the proposed rule amendment is attached. Statements of Need, Fiscal Impact, Land Use Consistency, Statutory Authority, and Principal Documents Relied Upon are filed with the Secretary of State.

**WHAT IS THE
NEXT STEP:**

The Environmental Quality Commission may adopt rule amendments identical to the ones proposed, adopt modified amendments as a result of testimony received, or may decline to amend the rule.

YB5011.3



P.O. Box 1760
Portland, OR 97207

8/16/84

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 1-800-452-4011.

OAR 340-60-025 and 340-60-030 are proposed to be amended as follows:

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
 - (C) the city of West Linn
- (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 watershed 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) West Linn watershed is all of the area in the city of West Linn

[(jj)] (kk) Wheeler watershed is all of the area within Wheeler County

[(kk)] (ll) Yamhill watershed 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 watershed.

340-60-030

(1) The following are identified as the principal recyclable materials in the watersheds 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) West Linn wasteshed

[(q)] (r) 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 material 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 at least annually review the principal recyclable material lists and will submit any proposed changes to the Commission.



City of West Linn

4900 PORTLAND AVENUE
WEST LINN, OREGON 97068
PHONE (503) 656-4211

July 30, 1985

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

Attn: Chairman, James Petersen

Dear Mr. Petersen,

The West Linn City Council recently discussed Senate Bill 405 on recycling, where the City can be recognized as an independent reporting district. The City of West Linn's Solid Waste and Recycling Committee recently voted unanimously to recommend to the City Council that they petition the Environmental Quality Commission for recognition as an independent reporting district. The Council, at a recent meeting adopted the enclosed resolution requesting that the City become an independent watershed and reporting district for the provisions of the opportunity to recycle under Oregon Revised Statutes Chapter 459, as interpreted by Oregon Administrative Rules 340-60-10 through 304-60-85.

If you have any further questions please feel free to give us a call.

Sincerely,

JOHN A. BUOL
City Administrator

Enclosure

/djn

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
AUG 01 1985

OFFICE OF THE DIRECTOR

RESOLUTION NO. 85-18

A RESOLUTION PETITIONING THE ENVIRONMENTAL QUALITY COMMISSION FOR RECOGNITION OF THE CITY OF WEST LINN AS AN INDEPENDENT WASTESHED AND REPORTING DISTRICT UNDER ORS 459.175(2)(a).

WHEREAS, the City of West Linn has been designated as part of the Clackamas wasteshed by OAR 340-60-025 (1)(c); and

WHEREAS, the City of West Linn has a comprehensive recycling program, together with an active education and promotion program that in many areas is unique in the State of Oregon; and

WHEREAS, the City of West Linn desires to stimulate cooperative discussion between cities, and other local jurisdictions on the matter of recycling and various promotional and educational techniques.

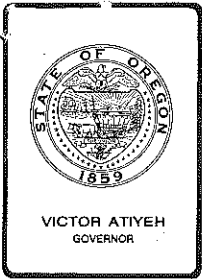
NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF WEST LINN that petition is hereby made to the Department of Environmental Quality, Environmental Quality Commission, for inclusion of the City of West Linn as an independent wasteshed and reporting district for provision of the opportunity to recycle under ORS chapter 459, as interpreted by OAR 340-60-010 to 340-60-085.

This resolution adopted this 10th day of July, 1985.

Ray M. Dwyer
Mayor

ATTEST:

Miana J. Nicolay
City Recorder



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item No. F, September 27, 1985, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Amendments to the State Implementation Plan Regarding the Ozone Control Strategy for the Oregon Portion of the Portland-Vancouver Interstate AQMA (OAR 340-20-047, Section 4.3) and Growth Increment Allocation (OAR 340-20-241)

BACKGROUND

The federal Clean Air Act requires States to submit plans to demonstrate how they will attain and maintain compliance with national ambient air quality standards for those areas designated as "nonattainment." The Environmental Protection Agency (EPA) designated the Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) as a nonattainment area for ozone on March 3, 1978.

The Metropolitan Service District (Metro) was designated by the Governor as the lead agency responsible for developing the Portland area ozone plan. Metro adopted the ozone attainment plan for the Oregon portion of the AQMA on February 25, 1982. The Portland ozone plan was adopted by the Commission as a revision to the State Implementation Plan (SIP) on July 16, 1982 and approved by EPA on October 7, 1982. The Portland area was the first, of 35 urban areas in the United States needing 1982 ozone plans, to have its plan approved by EPA.

The 1982 ozone plan for the Portland area, using a 1980 base year, projected that hydrocarbon emissions would be reduced sufficiently to meet the ozone standard by 1987 (the outside deadline of the Clean Air Act) with a small growth cushion to allow for some increased emissions from new or expanding sources during the 1980-87 period.

Problem Statement

Two factors have resulted in the need to update the ozone plan for the Portland area:

1. The Department received several requests for use of the growth cushion, which would have used all or most of the growth cushion. The Department reviewed this issue with the Commission at the November 1983 EQC meeting. The Commission directed the Department to work with an advisory committee to evaluate additional control measures for implementation if necessary to maintain a growth cushion.

2. The economic recession has had a significant effect on employment, traffic, and industrial-commercial activity in the Portland area, all of which change the database used in the 1982 plan. The Department and Metro have prepared a detailed 1983 base year emission inventory, updated the 1987 emission projections, and re-evaluated the ozone modeling using 1982-84 ambient ozone and precursor data.

The Department established the Portland Ozone Task Force in July 1985. The purpose of the task force is to advise the Department on the most acceptable ozone control plan update to attain and maintain compliance with air quality standards in the Portland area. The membership of the task force is outlined in Attachment 1. The organizations represented, and many of the individuals, are essentially the same as those on the former Portland Air Quality Advisory Committee.

Authority for the Commission to Act

ORS 468.295 authorizes the Commission to establish air quality rules and standards; ORS 468.305 authorizes the Commission to prepare and develop a comprehensive plan. Attachment 2 contains the Statements of Need for Rulemaking, Fiscal and Economic Impact, and Land Use Consistency.

ALTERNATIVES AND EVALUATION

Ozone is a highly reactive compound of oxygen and the main component of photochemical oxidants or smog. In high concentrations it can cause difficulty in breathing, chest pain, chest and nasal congestion, coughing, eye irritation, nausea, and/or headaches. Ozone can reduce plant growth and crop yield. It can affect a variety of materials, resulting in fading of paint and fabric, and accelerated aging and cracking of synthetic rubbers and similar materials.

Ozone is formed by photochemical reactions in the atmosphere between hydrocarbons or volatile organic compounds (VOC) and oxides of nitrogen in the presence of direct sunlight and warm temperatures. The highest concentrations of ozone generally occur downwind of urban areas. The highest levels in the Portland-Vancouver area have been recorded at the Carus monitoring site located between Oregon City and Molalla.

Reducing VOC emissions is the accepted method of lowering ozone levels. The major sources of VOC emissions are motor vehicles, gasoline transport/storage/marketing, and industrial coating and degreasing operations.

Ambient Ozone Levels

Ambient ozone levels are monitored continuously at three sites in the Portland area: The Sauvie Island monitoring site located north of the Portland area, the Milwaukie monitoring site located at Milwaukie High School, and the Carus monitoring site located southeast of Oregon City.

The Sauvie Island site normally records the lowest ozone levels in the Portland area and the Carus site normally records the highest ozone levels.

The maximum ozone levels during 1982-84 are summarized below:

Maximum Hourly Ozone (ug/m³) During 1982-84

<u>Rank</u>	<u>Carus (Date)</u>	<u>Milwaukie (Date)</u>	<u>Sauvie Island (Date)</u>
1	280 (8/8/84)	245 (7/30/83)	240 (9/2/82)
2	255 (7/24/84)	244 (5/24/83)	235 (6/24/82)
3	236 (6/10/82)	235 (7/25/82)	202 (7/24/84)
4	229 (7/25/82)	226 (6/19/82)	186 (7/23/84)
5	221 (7/24/82)	216 (7/26/82)	178 (6/18/82)

Compliance with the ambient ozone standard is based on the fourth highest ozone day in a 3-year period at each monitoring site. The ozone standard is 235 micrograms per cubic meter (ug/m³), which is equivalent to 0.12 parts per million (ppm). The fourth highest ozone days during 1982-84 were 229 ug/m³ at Carus, 226 ug/m³ at Milwaukie, and 186 ug/m³ at Sauvie Island.

The Department and Portland Ozone Task Force considered the possibility of redesignating the Portland area as attainment for ozone, based on the 1982-84 ozone data and the expected reduction in VOC emissions between now and 1987. However, the ambient ozone standard was exceeded in the Portland airshed on July 19 and 20, 1985, during one of the warmest months on record. The maximum ozone levels during 1983-85 are summarized below:

Maximum Hourly Ozone (ug/m³) During 1983-85

<u>Rank</u>	<u>Carus (Date)</u>	<u>Milwaukie (Date)</u>	<u>Sauvie Island (Date)</u>
1	280 (8/08/84)	305 (7/19/85)	202 (7/24/84)
2	267 (7/19/85)	245 (7/30/83)	186 (7/23/84)
3	256 (7/20/85)	244 (5/24/83)	177 (8/08/84)
4	255 (7/24/84)	231 (7/08/85)	176 (7/19/85)
5	220 (6/18/85)	196 (7/03/85)	157 (7/15/84)

The four highest ozone days in each 3-year period (1982-1984 and 1983-1985) are summarized below:

<u>3-Year Period</u>	<u>Fourth Highest Hourly Ozone Level (ug/m³)</u>		
	<u>Carus</u>	<u>Milwaukie</u>	<u>Sauvie Island</u>
1982-1984	229	226	186
1983-1985	255	231	176

This indicates that ambient ozone levels at the Carus site violated the ozone standard during 1983-1985. Therefore, redesignation of the Portland-Vancouver airshed as attainment for ozone does not appear to be an option at this time.

VOC Emission Trends

Metro recently completed its analysis of 1983 and 1987 mobile source emissions. This analysis used the latest EPA motor vehicle emission factor program (Mobile 3.0) and revised population and employment forecasts adopted by Metro in September 1984. The results of this analysis indicate that mobile source VOC emissions will decrease by about 30 percent between 1983 and 1987 in the Portland-Vancouver area. The projected 1987 mobile source emissions are about six percent lower than previously forecast. The predominant reason for the lower projected 1987 emissions are the lasting effects of the recession in which the region lost 39,000 jobs between 1980 and 1983.

The Department recently completed 1983 and 1987 emission inventories for stationary sources. The 1983 inventory is based on actual production and emissions reported for 1983. The 1987 projected inventory is generally based on allowable VOC emissions as specified in plant site emission limits.

The emissions analysis indicates that the reductions in mobile source emissions between 1983 and 1987 will be partially offset by an increase in stationary source emissions due to the recovering economy. The annual VOC emission inventories for 1980-87 are outlined in Figure 1. The 1980-83 inventories are based on actual emissions. The 1984-87 inventories are based on projected emissions.

The longer range VOC emission projections (1980-2005) are outlined in Figure 2. The VOC emission inventories are expected to decrease each year through 1995, primarily due to reductions in motor vehicle emissions from the federal motor vehicle emission control program (requiring progressively more effective pollution control equipment on new cars) and the Portland automobile inspection and maintenance (I/M) program. After 1995, the VOC emissions from population and traffic growth are expected to be greater than the continued reductions from motor vehicles, thus causing overall emissions to increase unless additional control measures are adopted.

EPA is currently evaluating methods of controlling gasoline vapors during automobile refueling. One method would require onboard vapor control canisters on new automobiles nationwide. Figure 3 outlines the long-range VOC emission projections if onboard canisters were required on 1989 and later automobiles. The result of this potential control measure would be that post-1995 VOC emission increases would be largely offset by emission reductions due to the onboard canisters.

Airshed Capacity for Growth

The Department and EPA recently completed computer modeling to determine the VOC emission level necessary to maintain compliance with the ozone standard in future years. The ozone modeling indicates that compliance with the ozone standard is expected in future years if VOC emissions are limited to 154 megagrams per day (Mg/d) or less. (154 Mg/d is equivalent to 154,000 kilograms per day.)

Figure 1
 PORTLAND-VANCOUVER VOC EMISSION TREND
 Short Range Projection

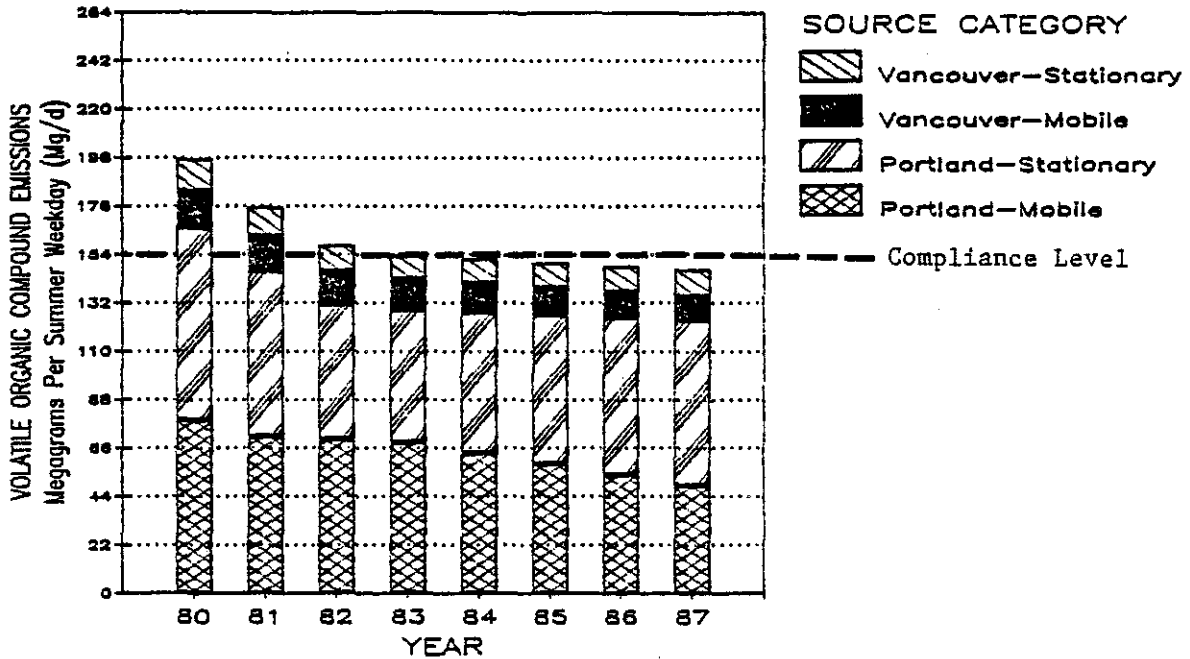


Figure 2
 PORTLAND-VANCOUVER VOC EMISSION TREND
 Long Range Projection

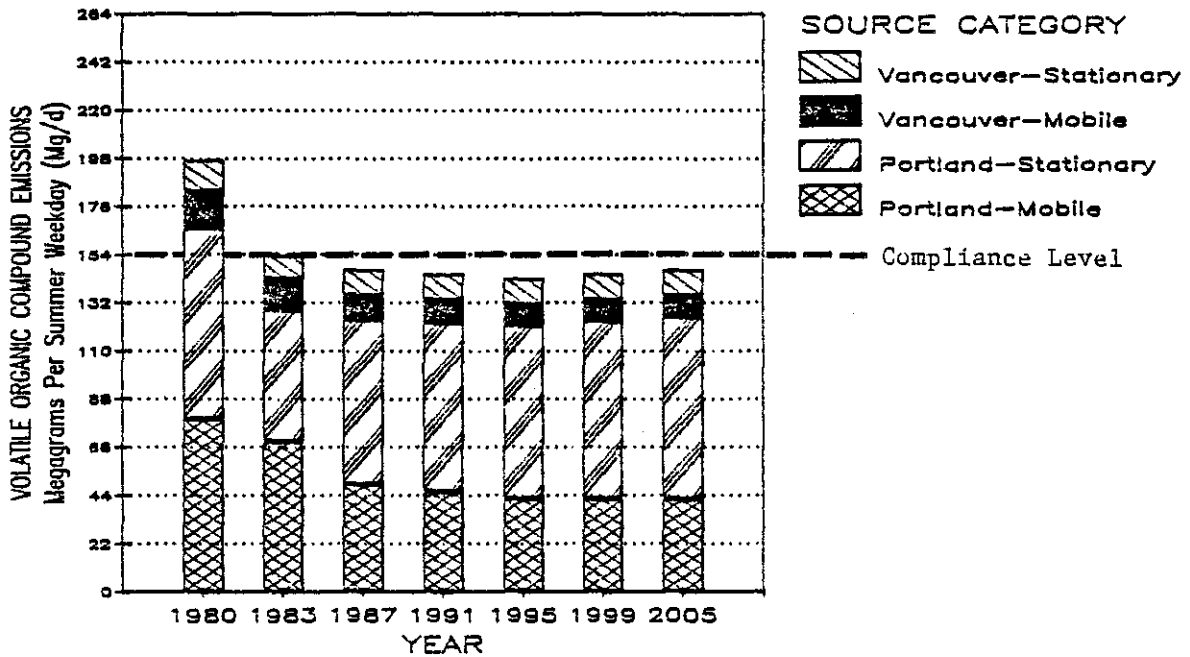


Figure 2*
 PORTLAND-VANCOUVER VOC EMISSION TREND
 Assumed: No Additional Controls

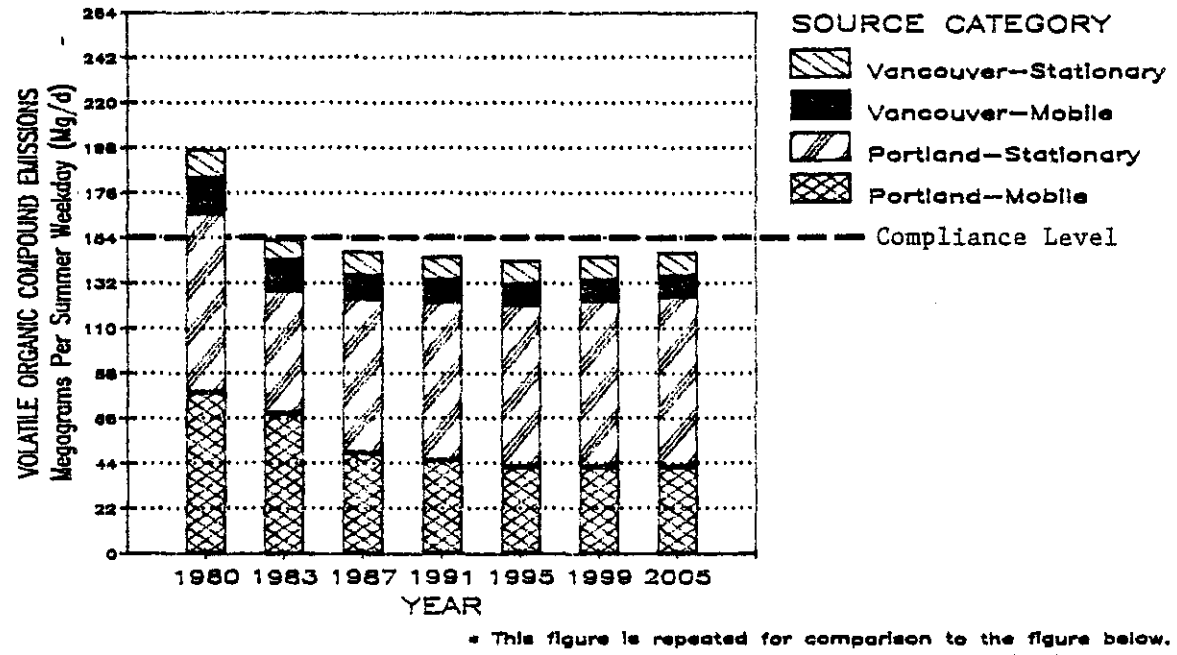
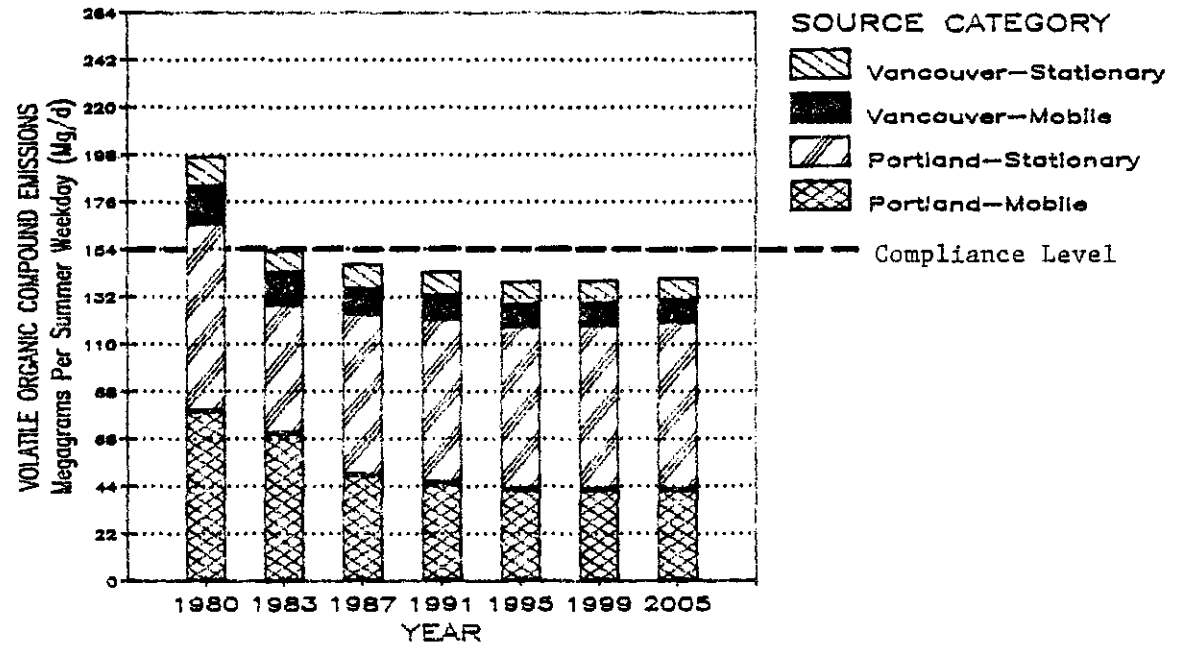


Figure 3
 PORTLAND-VANCOUVER VOC EMISSION TREND
 Assumed: Onboard Controls in 1989



The airshed capacity for growth is the difference between 154.0 Mg/d and the actual VOC emission rate. Based on the VOC projections outlined earlier, the airshed capacity is expected to increase as outlined below:

<u>Year</u>	<u>Additional Airshed Capacity (Mg/d)</u>
1986	4.9
1987	6.6

Although VOC emissions are projected to continue to decrease between 1987 and 1995, emissions are expected to increase again to 1987 levels by the year 2005 (without onboard canisters). Thus the 1987 additional airshed capacity (6.6 Mg/d) should be viewed as the total airshed growth capacity for the next 20 years unless additional control measures are implemented.

Available Growth Cushion

The updated ozone analysis indicates that the Portland-Vancouver airshed will have capacity for additional VOC emissions in future years. EPA requirements, for areas in nonattainment with the ozone standard after 1982, limit the amount of new VOC emissions that could be allocated for new or expanding sources to the lesser of:

1. The overall VOC emissions reduction in the airshed beyond the EPA Reasonably Available Control Technology (RACT) guidelines; or
2. The additional airshed capacity that is available to accommodate new VOC emissions without violating the ambient ozone standard.

The only significant VOC control measure in the Portland-Vancouver area that provides controls beyond RACT is the Portland I/M program. Since I/M programs are increasingly effective over time, the Portland I/M program that began in 1975 is about 1.8 Mg/d (1,780 kilograms per day) more effective than a minimum RACT I/M program (beginning in 1983) for both Portland and Vancouver would be. Therefore, 1.8 Mg/d of the airshed capacity could be allocated for new VOC emissions. After the area is redesignated as attainment for ozone, all of the additional airshed capacity could be allocated for new VOC emissions.

The difference between the additional airshed capacity and the available growth cushion was not a significant issue in the 1982 plan because both amounts were similar (about 1.7 Mg/d, or 1,700 kilograms per day). Of the original 1.7 Mg/d in the 1982 plan, about 1.3 Mg/d remains identified as the additional airshed capacity since 0.4 Mg/d was allocated for transportation changes. About 1.0 Mg/d remains identified as available for new or expanded Oregon sources since 0.3 Mg/d was set aside for Washington use. (The 1982 plan divided the available growth cushion between Oregon and Washington using an 85 percent/15 percent split, based on the population ratio of the two areas.)

The Portland Ozone Task Force recommended that the updated growth cushion (1.8 Mg/d, until redesignation) be reserved entirely for allocation to Oregon sources since the available growth cushion is due solely to the high effectiveness (beyond minimum EPA requirements) of the Oregon automobile I/M program. The proposed plan update incorporates this recommendation.

In 1983, the Department had received requests for growth cushion allocations that exceeded the available growth cushion. Since that time, some of the requests have been withdrawn (due to cancellation or postponement of plant expansions) and one large allocation has been returned. Thus, the growth cushion issue is not as critical now as it appeared to be in 1983. But the current remaining growth cushion from the 1982 plan is not fully adequate to accommodate VOC rule relaxations for metal coaters proposed in a separate agenda item (Agenda Item No. G) and two pending growth cushion requests.

The overall results of the items discussed above are summarized in the following table. The airshed capacity and growth cushion identified in the 1982 plan falls about 0.3 Mg/d short of meeting the immediate needs for VOC emission allocations. The airshed capacity and growth cushion identified in the proposed plan update appear adequate for immediate needs and expected growth during the next two years.

<u>Adjustment</u>	<u>Volatile Organic Compound Emissions (Mg/d)</u>			
	<u>Additional Airshed Capacity</u>		<u>Available Growth Cushion</u>	
	<u>1982 Plan</u>	<u>Proposed Update</u>	<u>1982 Plan</u>	<u>Proposed Update</u>
Initial Amount	1.7	6.6	1.7	1.8
Allocation to Washington	- 0.3		- 0.3	
Transportation Adjustments	- 0.4		- 0.4	
Proposed Metal Coater Rules Relaxation	- 0.4		- 0.4	
Port of Portland Pending Request	- 0.6	- 0.6	- 0.6	- 0.6
Tektronix Pending Request	- 0.3	- 0.3	- 0.3	- 0.3
Net Results	- 0.3	5.7	- 0.3	0.9

In the proposed update, the difference between the additional airshed capacity (6.6 Mg/d) and the available growth cushion (1.8 Mg/d) cannot be allocated until redesignation as attainment for ozone--expected in 1987. An interstate agreement would need to be developed at the time of redesignation specifying how the additional airshed capacity would be allocated.

Growth Cushion Allocation Procedure

The current procedure for allocating the VOC growth cushions in the Portland and Medford areas is outlined in OAR 340-20-241. The current rule indicates that allocation is on a first-come-first-serve basis, with not more than 50 percent of the remaining growth cushion being allocated to any one applicant.

The Portland Ozone Task Force has recommended that the allocation procedure be revised. The task force has recommended that not more than 100 tons/year plus 25 percent of the remaining cushion be allocated to any one industry. The Department has proposed revisions to OAR 340-20-241, consistent with the task force recommendation, in Attachment 3.

The proposed revision would allow more even distribution of the maximum growth cushion available to the first, second, third, fourth and subsequent users of the cushion. The proposed revision would also provide an allocation of at least 100 tons per year to a greater number of users, so that offsets would not be required sooner for Oregon sources than would be required for sources in other states such as Washington. (The federal criteria, and the criteria used by many states, require offsets for new sources emitting more than 100 tons per year of any pollutant.) The existing procedures allow a larger maximum portion of the cushion to the first and second users, but a smaller maximum portion to the third, fourth and subsequent users.

The differences between the proposed and the existing allocation procedures are illustrated in Figures 4-7. (Figures 4 and 5 are for the Portland area, Figures 6 and 7 are for the Medford area.) The only Oregon growth cushions identified at present are for VOC in the Portland and Medford area.

Additional Control Measures

A subcommittee of the Portland Ozone Task Force will be evaluating potential new control measures in the coming weeks. This evaluation may result in recommendations to the Department and Commission on additional control measures in the future.

The available growth cushion should be adequate for the next two years. Upon redesignation as an ozone attainment area--expected in late 1987--a larger growth cushion would become available that should be adequate for at least the following five years. Expansion of the available growth cushion by adoption of additional control measures does not appear to be an immediate need and, in any event, the major potential new control measures could not be implemented before 1988.

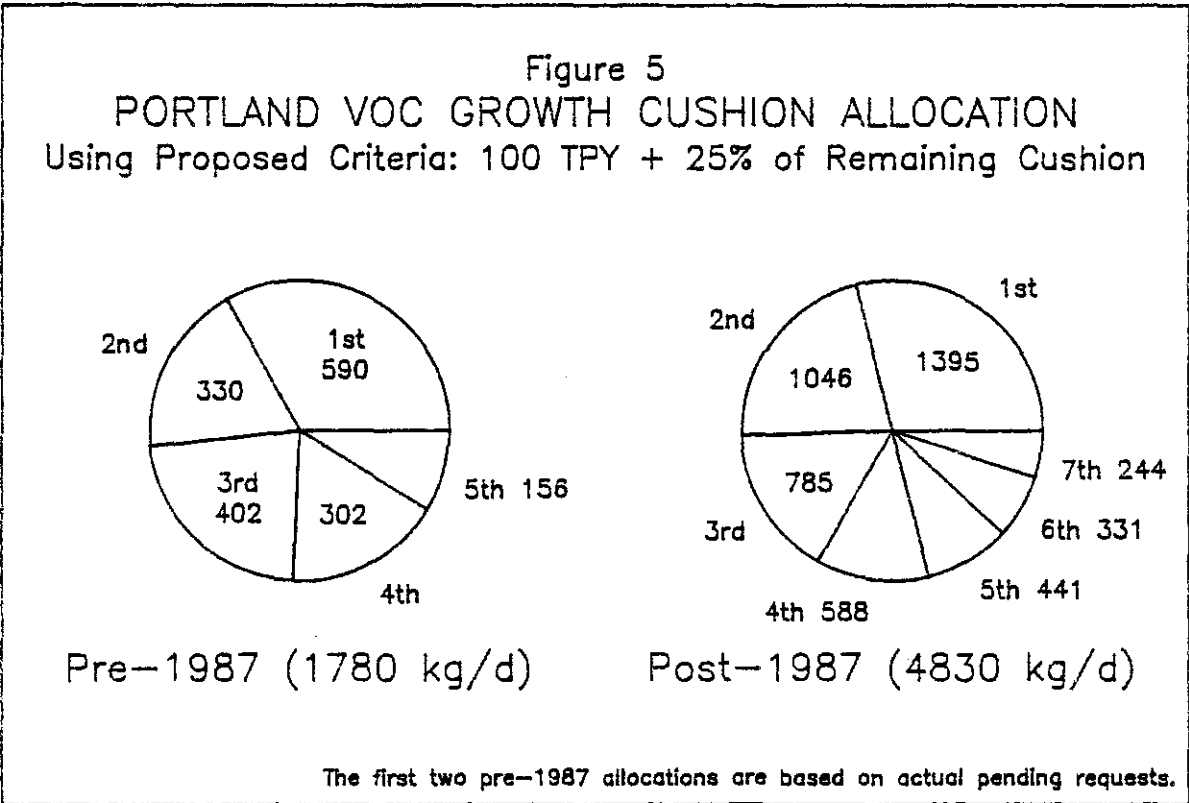
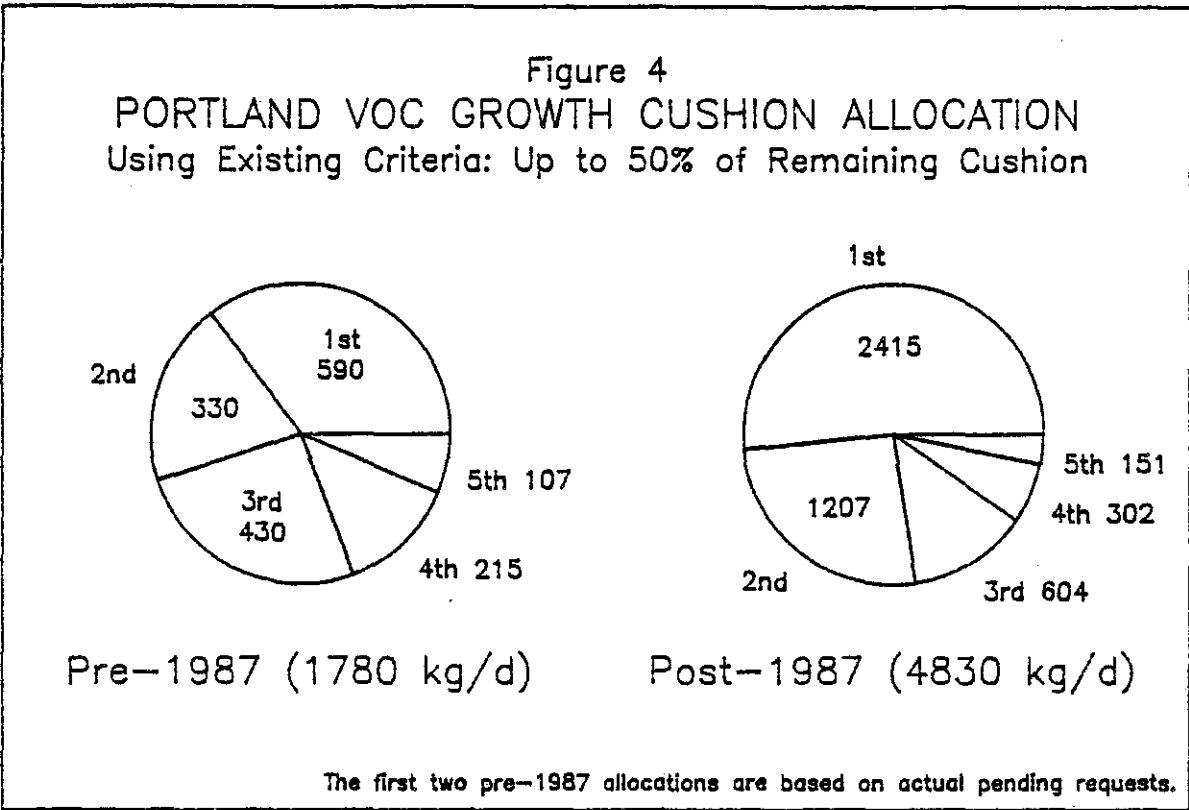
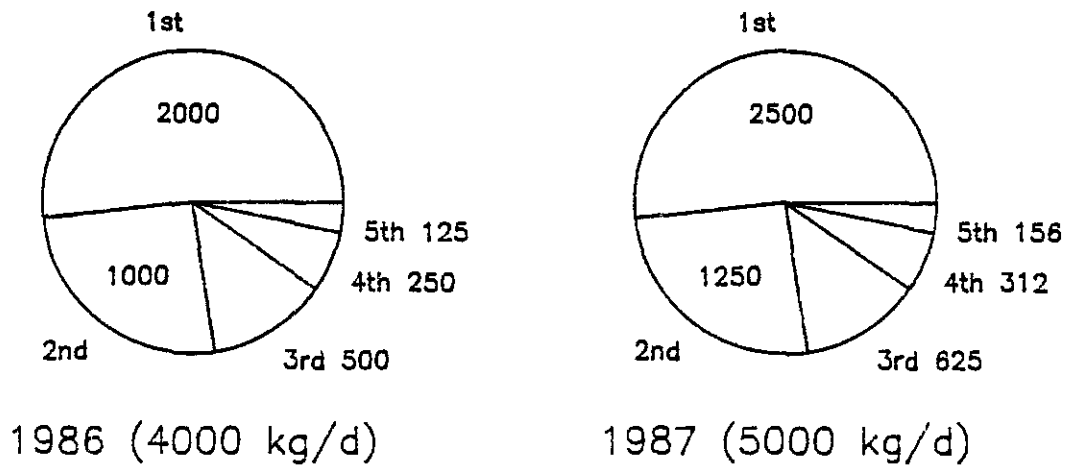
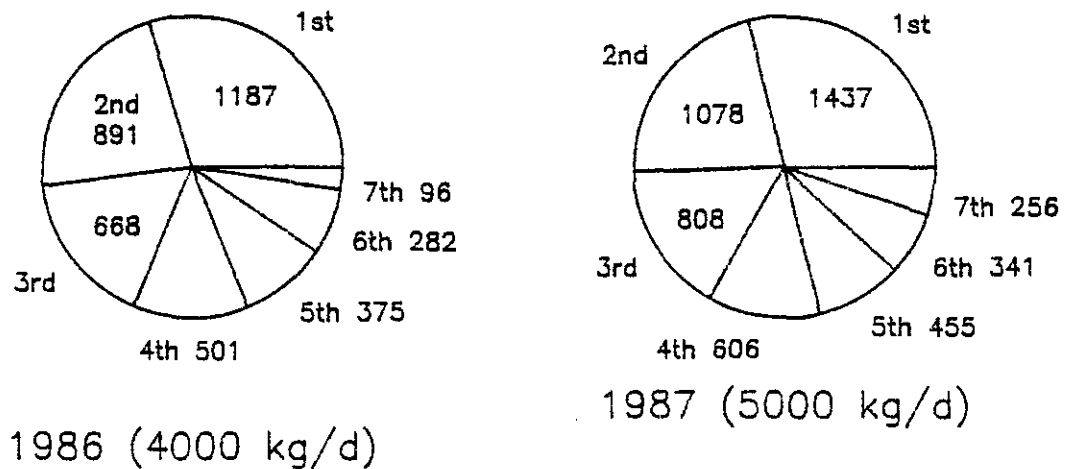


Figure 6
 MEDFORD VOC GROWTH CUSHION ALLOCATION
 Using Existing Criteria: Up to 50% of Remaining Cushion



Based on series of applicants, each using the maximum possible.

Figure 7
 MEDFORD VOC GROWTH CUSHION ALLOCATION
 Using Proposed Criteria: 100 TPY + 25% of Remaining Cushion



Based on series of applicants, each using the maximum possible.

Available Offsets

Another subcommittee of the Portland Ozone Task Force will be working with the Department to develop a portfolio of information on available offsets in the Portland area. This portfolio would be intended for use by any new or expanding industry that needs to increase emissions more than available from the growth cushion.

Addendum to Portland Ozone Plan

The updated VOC emission inventories and available growth cushion are outlined in the proposed addendum to the Portland Ozone Plan (Attachment 4). This addendum is proposed as a revision to Section 4.3 of the State of Oregon Clean Air Act Implementation Plan (OAR 340-20-047).

The Portland Ozone Task Force has reviewed the current ozone analysis and has recommended that the 1982 ozone plan for the Portland area be updated.

SUMMATION

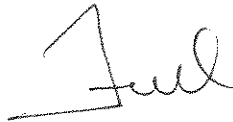
1. An ozone control plan for the Portland area was adopted by Metro and the EQC, and approved by EPA, in 1982.
2. The 1982 plan, using a 1980 base year, projected that VOC emissions would be reduced sufficiently to meet the ozone standard by 1987 with a small growth cushion to allow for some increased emissions from new or expanding sources during 1980-87.
3. Two factors prompted the Department and Metro staffs to prepare an updated ozone plan:
 - a. The Department received several requests for use of the growth cushion, which would have used all or most of the cushion. (Closely related to this are proposed rule relaxations for metal coaters in Agenda Item G.) The Commission directed the Department at the November 1983 EQC meeting to work with an advisory committee to evaluate additional control measures for implementation in order to maintain a growth cushion.
 - b. The economic recession has had a significant effect on employment, traffic, and industrial-commercial activity in the Portland area, which change the database used in the 1982 plan. Department and Metro staffs have prepared a detailed 1983 base year emission inventory, updated the 1987 emission projections, and re-evaluated the ozone modeling using 1982-84 ambient ozone and precursor data.
4. The results of the updated ozone analysis are similar to those in the 1982 plan. The previously adopted VOC control measures are expected to provide attainment of the ozone standard by 1987 with a growth cushion. The updated growth cushion is slightly larger than that

identified in the 1982 plan, primarily due to the availability of more complete ozone data and the lasting effects of the economic recession on employment and traffic levels.

5. The Portland Ozone Task Force has reviewed the current ozone analysis and has recommended that the 1982 plan be updated. The task force has also recommended some changes in the growth cushion allocation procedures.
6. The updated growth cushion appears to be adequate for expected development in the next two years. Additional growth cushion would become available for use upon redesignation as attainment for ozone, expected in late-1987. The Portland Ozone Task Force will be evaluating potential new control measures in the next few months for possible recommendation to the Commission as a means of further increasing the growth cushions in the future.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the Commission authorize a public hearing to consider public testimony on the proposed addendum updating the ozone control strategy for the Portland area as a revision to the State Implementation Plan (SIP). The proposed SIP revision includes: an addendum to Section 4.3 of the State of Oregon Clean Air Act Implementation Plan (OAR 340-20-047), and revisions to the new source review rules regarding allocation of growth increments (OAR 340-20-241).



Fred Hansen

- Attachments:
1. Membership List of Portland Ozone Task Force.
 2. Public Hearing Notice, Statements of Need for Rulemaking, Fiscal and Economic Impact, and Land Use Consistency.
 3. Proposed Revisions to the New Source Review Rules Regarding Growth Increment Allocation (OAR 340-20-241).
 4. Proposed Addendum Updating the Ozone Control Strategy for the Portland-Vancouver AQMA (Oregon Portion) as a Revision to the State Implementation Plan.

Merlyn Hough:s
229-6446
September 10, 1985

AS1649

PORTLAND OZONE TASK FORCE

Membership List

<u>Organization</u>	<u>Member</u>	<u>Alternate</u>
1. City of Portland	Judith Kenny	Steve Dotterrer
2. Multnomah County	Bob Hall	Ed Pickering
3. Clackamas County	Gary Spanovich	Richard Van Ingen
4. Washington County	Mike Sandberg	Bill Ross
5. Oregon Dept. of Transportation	Jef Kaiser	Craig Markham
6. Port of Portland	Jack Sabin	Carter MacNichol
7. Western Oil and Gas Association	John Hartup	Mike Caldwell
8. Associated Oregon Industries	Tom McCue	Tom Donaca
9. Portland Chamber of Commerce	Dan Heagerty	John Pittman
10. Oregon Environmental Council	Daniel Halloran	John Charles
11. League of Women Voters	Jeanne Roy	Ellen Lowe
12. Oregon Lung Association	Jan Bader	Joe Weller
13. Tri-Met	Alonzo Wertz	
14. Academic Institution	Dr. Trygve Steen	
15. American Electronics Association	Bob Percy	
16. Medical Community	Dr. Bill Holden	
17. Public-at-Large (City of Portland)	T. Dan Bracken	
18. Public-at-Large (Multnomah County)	Steve Lockwood	Michael Siedler
19. Public-at-Large (Clackamas County)	Joan Batten	
20. Public-at-Large (Washington County)	Priscilla Senior	
21. Washington State Dept. of Ecology	Victor Feltn	
22. Southwest Washington Air Pollution Control Authority	Bill Prastka	
23. Intergovernmental Resource Center (Clark County)	Tom Waltz	

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Revision of the Ozone Control Strategy for the Portland Area and
Revision of the Growth Increment Allocation Procedures for the Portland and Medford Areas
NOTICE OF PUBLIC HEARING

Date Prepared: August 27, 1985
Hearing Date: November 19, 1985
Comments Due: November 22, 1985

WHO IS AFFECTED: Residents, industries, and local governments in Clackamas, Multnomah, Washington, and Jackson Counties.

WHAT IS PROPOSED: The Department of Environmental Quality is proposing to amend:

- o OAR 340-20-047, the State of Oregon Clean Air Act Implementation Plan, by updating the ozone control strategy for the Oregon portion of the Portland-Vancouver Interstate Air Quality Maintenance Area; and
- o OAR 340-20-241, the growth increment allocation procedures.

WHAT ARE THE HIGHLIGHTS: Major elements of the rule changes include:

- o Updated emission inventories for volatile organic compounds reflecting the effects of the economic recession on employment, traffic, and industrial-commercial activity.
- o Updated projection of 1987 emission inventories.
- o Recalculated additional airshed capacity for volatile organic compound (VOC) emissions in the Portland-Vancouver area: Currently, the plan identifies additional airshed capacity for about 1,290 kilograms per day by 1987; the proposal would identify additional airshed capacity for about 6,600 kilograms per day by 1987.
- o Revised formula for allocation of growth cushions to new or expanding industries: Currently, an applicant can receive up to 50 percent of the remaining growth cushion; the proposal would set the maximum at 100 tons/year plus 25 percent of the remaining cushion.
- o Revised available growth cushion until 1987: The current plan identifies 1,030 kilograms per day as the remaining VOC growth cushion in the Portland area; the proposal would identify 1,780 kilograms per day as the available growth cushion. All of this growth cushion would be available to Oregon sources since it results from the high effectiveness of the Portland automobile inspection-maintenance program. (The available growth cushion is currently split 85 percent/15 percent between Oregon and Washington.)



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-7813, and ask for the Department of Environmental Quality. **1-800-452-4011**



**HOW TO
COMMENT:**

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (522 S.W. Fifth Avenue) or the regional office nearest you. For further information contact Merlyn Hough at 229-6446, or toll-free from outside the Portland area at 1-800-452-4011.

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

1:00 p.m.
November 19, 1985
DEQ Conference Room 1400
Yeon Building, 14th Floor
522 SW Fifth Avenue
Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Air Quality Division, P.O. Box 1760, Portland, OR 97207, but must be received by no later than November 22, 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 January 1986 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.

AS1669

RULEMAKING STATEMENTS

for

Proposed Revision of the Ozone Control Strategy for the Portland Area and Revision of the Growth Increment Allocation Procedures for the Portland and Medford Areas

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

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-20-047 and OAR 340-20-241. It is proposed under authority of ORS 468.020, 468.295, and 468.305.

Need for the Rule

The economic recession has affected employment, traffic, and industrial-commercial activity levels. Emission forecasts based on these levels need to be updated. There is more capacity for industrial growth than indicated in the current Portland ozone plan. Recent Portland ozone and precursor data has been evaluated and included in the updated calculation of airshed capacity. In addition, the Portland Ozone Task Force has recommended that the growth increment allocation procedures be revised.

Principal Documents Relied Upon

Clean Air Act as Amended (PL 95-95) August 1977.
EPA Control Technology Guidelines.
EPA Guideline for Use of City-Specific EKMA in Preparing Ozone SIPs.
DEQ and Metro 1983 and 1987 emission inventories.
DEQ ambient monitoring data for ozone and precursors.
EPA Users Manual for Empirical Kinetic Modeling Approach and Ozone Isopleth Plotting Package.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The proposed rules would not adversely affect small businesses. The proposed rules would provide for the continued use of a growth cushion for new or expanding industries, thus reducing the need and cost of emission offsets that are required in many urban areas in other states. The proposal would result in more even distribution of the growth cushion to major new or expanded VOC sources in the Portland and Medford areas. The proposal would reduce the maximum portion of the growth cushion available to the first few applicants (when compared to the existing rules) but increase the relative portion available to subsequent applicants. The proposal could require some offsets for large sources with very large emission increases that would not have been required under the existing rule.

LAND USE CONSISTENCY STATEMENT:

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

With regard to Goal 6 (air, water, and land resources quality) the rules are designed to enhance and preserve air quality in the affected area and are considered consistent with the goal.

Goal 11 (public facilities and services) is deemed unaffected by the rule. The rule does not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this notice.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state, or federal authorities.

AS1670

Growth Increments

340-20-241 The ozone control strategies for the Medford-Ashland Air Quality Maintenance Area and Portland ozone nonattainment area[s] establish growth margins for new major sources or major modifications which will emit volatile organic compounds. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. No single source shall receive an allocation of more than 100 tons per year plus 25% [50%] of any remaining growth margin. The allocation of emission increases from the growth margins shall be calculated based on the ozone season ([April 1 to October 31] May 1 to September 30 of each year). The amount of each growth margin that is available is defined in the **State Implementation Plan** for each area and is on file with the Department.

Note: Proposed deletions are enclosed in brackets; proposed additions are underlined.

AS1676

Proposed Addendum to Section 4.3
State of Oregon
Clean Air Act Implementation Plan

OZONE CONTROL STRATEGY FOR THE
PORTLAND-VANCOUVER INTERSTATE
AIR QUALITY MAINTENANCE AREA
(Oregon Portion)

September 1985

Oregon Department of Environmental Quality

TABLE OF CONTENTS

<u>Section</u>	<u>Description</u>	<u>Page</u>
4.3.7	PURPOSES OF ADDENDUM	1
4.3.8	AMBIENT AIR QUALITY UPDATE	1
4.3.8.1	Ozone Monitoring Data	1
4.3.8.2	Comparison to Standard	2
4.3.9	EMISSION INVENTORY UPDATE	2
4.3.9.1	Mobile Source Emissions	2
4.3.9.2	Stationary Source Emissions	3
4.3.9.3	Summary of VOC Emissions	3
4.3.10	OZONE MODELING	4
4.3.11	GROWTH CUSHION ALLOCATION	5
4.3.12	REASONABLE FURTHER PROGRESS UPDATE	5
4.3.13	PUBLIC NOTICE AND HEARINGS ON ADDENDUM	8

PORTLAND AREA OZONE PLAN ADDENDUM

4.3.7 PURPOSE OF ADDENDUM

The purpose of this addendum is to update the database and analysis of the 1982 ozone plan. The economic recession has had effects on population, employment, traffic, and industrial-commercial activity, all of which change the database in the 1982 plan.

Emission inventories for mobile and stationary sources are updated in this addendum. Ambient ozone and precursor data from 1982-84 are analyzed. The overall effects on the adequacy of the ozone control strategy and amount of the available growth cushion are identified. Finally, a new graph for determining reasonable further progress is outlined.

4.3.8 AMBIENT AIR QUALITY UPDATE

4.3.8.1 Ozone Monitoring Data

Ambient ozone levels are monitored continuously at three sites in the Portland area: The Sauvie Island monitoring site located north of the Portland area, the Milwaukie monitoring site located at Milwaukie High School, and the Carus monitoring site located southeast of Oregon City. The Sauvie Island site normally records the lowest ozone levels in the Portland area and the Carus site normally records the highest ozone levels. The maximum ozone levels during 1979-84 are outlined in Table 4.3.8-1.

Table 4.3.8-1. Summary of Ambient Ozone Levels in the Portland Area.

Site	Year	Ozone Concentration (ug/m ³) Hourly Average		Number of Days Over 235 ug/m ³
		Maximum (Date)	2nd Highest (Date)	
Carus (#0300101)	1979	245 (07/17)	206 (05/14)	1
	1980	206 (07/21)	196 (04/27)	0
	1981	421 (08/11)	285 (08/06)	5
	1982	246 (06/10)	229 (07/25)	1
	1983	207 (05/27)	182 (07/30)	0
	1984	280 (08/08)	255 (07/24)	2
Milwaukie (#0343111)	1979	225 (07/16)	176 (07/17)	0
	1980	186 (04/27)	171 (09/10)	0
	1981	212 (08/18)	208 (08/12)	0
	1982	235 (07/25)	226 (06/19)	0
	1983	245 (07/30)	244 (05/24)	2
	1984	190 (08/08)	163 (08/15)	0
Sauvie Island (#0400104)	1979	331 (07/16)	188 (07/17)	1
	1980	166 (07/21)	150 (10/05)	0
	1981	225 (08/07)	213 (08/08)	0
	1982	240 (09/02)	235 (06/24)	1
	1983	115 (08/06)	110 (05/24)	0
	1984	202 (07/24)	186 (07/23)	0

4.3.8.2 Comparison to Standard

Compliance with the ambient ozone standard is based on the fourth highest ozone day in a 3-year period at each monitoring site. The ozone standard is 235 micrograms per cubic meter (ug/m^3). The fourth highest ozone days during 1982-84 were 229 ug/m^3 at Carus, 226 ug/m^3 at Milwaukie, and 186 ug/m^3 at Sauvie Island, as outlined in Table 4.3.8-2.

Table 4.3.8-2. Five Highest Ozone Days at Each Site During 1982-84.

Rank	<u>Maximum Hourly Ozone (ug/m^3) During 1982-84</u>					
	Carus (Date)		Milwaukie (Date)		Sauvie Island (Date)	
1	280	(8/08/84)	245	(7/30/83)	240	(9/02/82)
2	255	(7/24/84)	244	(5/24/83)	235	(6/24/82)
3	236	(6/10/82)	235	(7/25/82)	202	(7/24/84)
4	229	(7/25/82)	226	(6/19/82)	186	(7/23/84)
5	221	(7/24/82)	216	(7/26/82)	178	(6/18/82)

4.3.9 EMISSION INVENTORY UPDATE

4.3.9.1 Mobile Source Emissions

Updated mobile source emission inventories for volatile organic compounds (VOC) are outlined in Table 4.3.9-1. These inventories are based on EPA Mobile 3 emission factors and revised population and employment forecasts adopted by Metro in September 1984.

Table 4.3.9-1. Mobile Source VOC Emission Inventories for the Portland-Vancouver AQMA.

<u>Area/Category</u>	<u>VOC Emissions (Kg/d)</u>	
	1983	1987
Oregon		
Highway Vehicles	63,060	43,840
Other Mobile Sources	5,800	5,430
Washington		
Highway Vehicles	13,000	9,790
Other Mobile Sources	1,540	1,810
Total	83,400	60,870

Highway vehicle VOC emissions are projected to decrease by 30 percent between 1983 and 1987. The decrease is due to better pollution control equipment on newer cars and the Portland automobile inspection and maintenance (I/M) program.

The 1987 highway VOC emissions are 3,100 kg/d lower than previously forecast. The 1987 VMT is 3,049,000 miles/day lower than previously forecast. The predominant reason for the lower VOC emission and VMT forecasts are the lasting effects of the recession during which the region lost 39,000 jobs between 1980 and 1983.

4.3.9.2 Stationary Source Emissions

Updated stationary source emission inventories are outlined in Table 4.3.9-2. The 1983 emission inventories are based on actual production and emissions reported for 1983. The 1987 emission inventories are based on allowable emissions as identified in plant site emission limits.

Table 4.3.9-2. Stationary Source VOC Emissions in the Portland-Vancouver AQMA.

Area	VOC Emissions (Kg/d)	
	1983	1987
Oregon	59,970	74,550
Washington	10,650	12,000
Total	70,620	86,550

Stationary source emissions are expected to increase from 1983 to 1987 due to population growth and the recovering economy. The actual emissions in 1987 may not be as high as projected if economic recovery is not complete by that date.

4.3.9.3 Summary of Total Emissions

The total emission inventories for volatile organic compounds are outlined in Table 4.3.9-3. Total VOC emissions are expected to decrease from 154.0 megagrams per day (Mg/d) in 1983 to about 147.4 Mg/d in 1987.

Table 4.3.9-3. Total VOC Emission Inventories for the Portland-Vancouver AQMA.

Area/Category	VOC Emissions (Kg/d)	
	1983	1987
Oregon		
Mobile Sources	68,860	49,270
<u>Stationary Sources</u>	<u>59,970</u>	<u>74,550</u>
Oregon Subtotal	128,830	123,820
Washington		
Mobile Sources	14,540	11,600
<u>Stationary Sources</u>	<u>10,650</u>	<u>12,000</u>
Washington Subtotal	25,190	23,600
AQMA Total	154,020	147,420

The annual VOC emission inventories for 1980-87 are outlined in Figure 4.3.9-1. The 1980-83 inventories are based on actual emissions. The 1984-87 inventories are based on projected emissions.

The longer range VOC emission projections (1980-2005) are outlined in Figure 4.3.9-2. The VOC emission inventories are expected to decrease through 1995, primarily due to reductions in motor vehicle emissions from the federal motor vehicle emission control program and the Portland I/M program. After 1995, the VOC emissions from population and traffic growth are expected to be greater than the continued reductions from motor vehicles, thus causing overall emissions to increase unless additional control measures are implemented.

EPA is currently evaluating methods of controlling gasoline vapors during automobile refueling. One method would require onboard vapor control canisters on new automobiles nationwide. Figure 4.3.9-3 outlines the VOC emission projections if onboard controls were required beginning with 1989 model year automobiles.

Oxides of nitrogen (NO_x) emission trends are used in the ozone modeling to determine the VOC compliance level. Annual emissions of NO_x (in tons per year) are projected to decrease by 2.7 percent from 1983 to 1987. Seasonal NO_x emissions (in kilograms per average summer weekday) are expected to decrease by 8.3 percent from 1983 to 1987.

4.3.10. OZONE MODELING

The five highest ozone days at the Carus and Milwaukie sites were modeled using Version 2 of the EPA ozone isopleth plotting procedure (OZIPM-2). The results are summarized in Table 4.3.10-1.

Table 4.3.10-1. OZIPM Modeling Results

Ozone Site	Date	Ozone (ppm)	Emission Change Required or Allowed (%)*	
			At 8.3% NO_x Reduction	At 2.7% NO_x Reduction
Carus	08 AUG 84	0.143	-20	-16
Carus	24 JUL 84	0.130	-9	-6
Carus	10 JUN 82	0.121	0	0
Carus	25 JUL 82	0.117	-7	0
Carus	24 JUL 82	0.113	+7	+7
Milwaukie	30 JUL 83	0.125	-11	-5
Milwaukie	24 MAY 83	0.125	-8	-4
Milwaukie	25 JUL 82	0.120	-6	-6
Milwaukie	19 JUN 82	0.115	+4	+4
Milwaukie	26 JUL 82	0.110	0	0

* Negative values indicate that VOC emission reductions are required and positive values indicate that VOC emission increases are allowed.

The fourth most stringent control requirement at each site is used to determine the amount of VOC reduction required. The modeling indicates that no reduction in base year VOC emissions is needed to attain the ozone standard in 1987. Thus, the base year VOC emission inventory of 154.0 Mg/d is the VOC compliance level for the airshed in 1987.

In order to attain the ozone standard by 1987 in the Portland-Vancouver area, the Oregon portion of the VOC emissions must be kept below 130.4 Mg/d (154.0 Mg/d airshed capacity minus 23.6 Mg/d projected for 1987 Washington emissions) by 1987.

4.3.11 GROWTH CUSHION ALLOCATION

The updated ozone analysis indicates that the Portland-Vancouver airshed will have capacity for additional VOC emissions in future years. For ozone nonattainment areas after 1982, the amount of new VOC emissions that could be allocated is the lesser of:

1. The overall VOC emissions reductions in the airshed beyond the EPA Reasonably Available Control Technology (RACT) guidelines; and
2. The additional airshed capacity that is available to accommodate new VOC emissions without violating the ambient ozone standard.

The only significant VOC control measure in the Portland-Vancouver area that provides controls beyond RACT is the Portland I/M program. The Portland I/M program that began in 1975 is about 1,780 kg/d more effective than a minimum RACT program (beginning in 1983) for both Portland and Vancouver area would be.

The total additional airshed capacity that will be available by 1987 is about 6,600 kg/d. Thus, the 1,780 kg/d is the more restrictive of the two criteria and is the amount of growth cushion available until either:

1. Redesignation of the Portland-Vancouver airshed as attainment for ozone; or
2. Implementation of additional beyond-RACT control measures.

The 1,780 kg/d growth cushion is available for immediate allocation to new or expanding industries that can demonstrate need. The allocation procedures are outlined in OAR 340-20-241. Additional growth cushion, up to the amount of airshed capacity, will be available upon redesignation as attainment for ozone, expected in 1987.

4.3.12. REASONABLE FURTHER PROGRESS UPDATE

Evaluation of VOC emission reductions in the Oregon portion of the Portland-Vancouver AQMA will be included in the Department's annual report to EPA on reasonable further progress (RFP). A revised RFP graph is included as Figure 4.3.12-1. Oregon VOC emissions must be kept below 130.4 Mg/d to attain the ozone standard by 1987.

Figure 4.3.9-1
PORTLAND-VANCOUVER VOC EMISSION TREND
 Short Range Projection

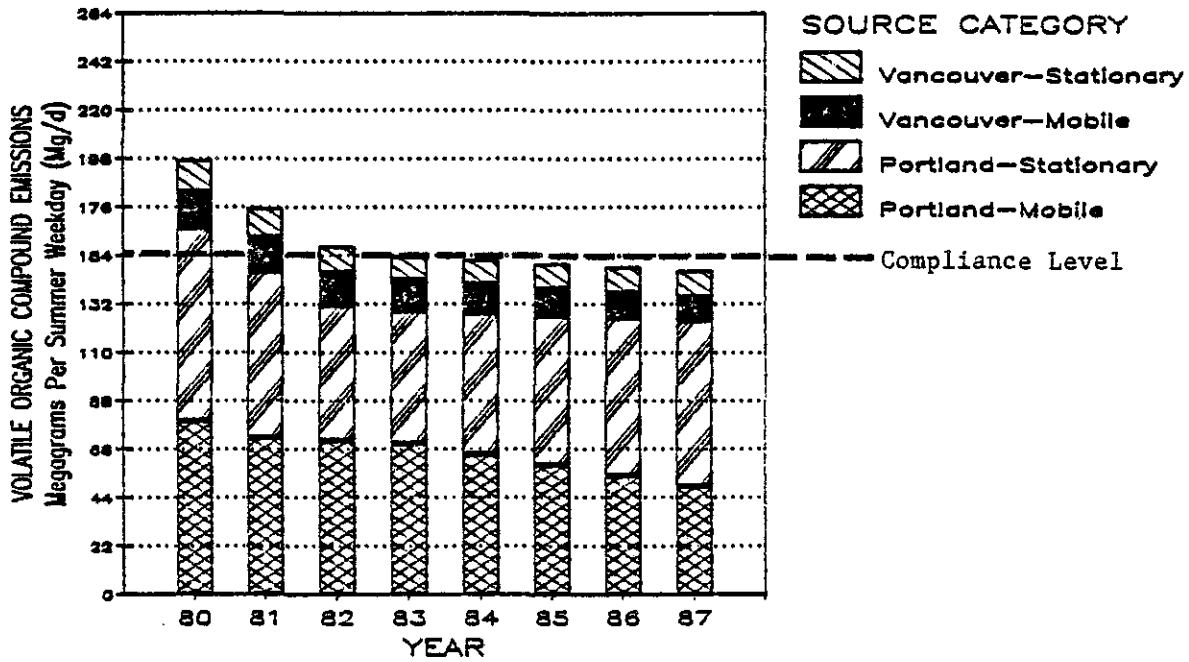


Figure 4.3.9-2
PORTLAND-VANCOUVER VOC EMISSION TREND
 Long Range Projection

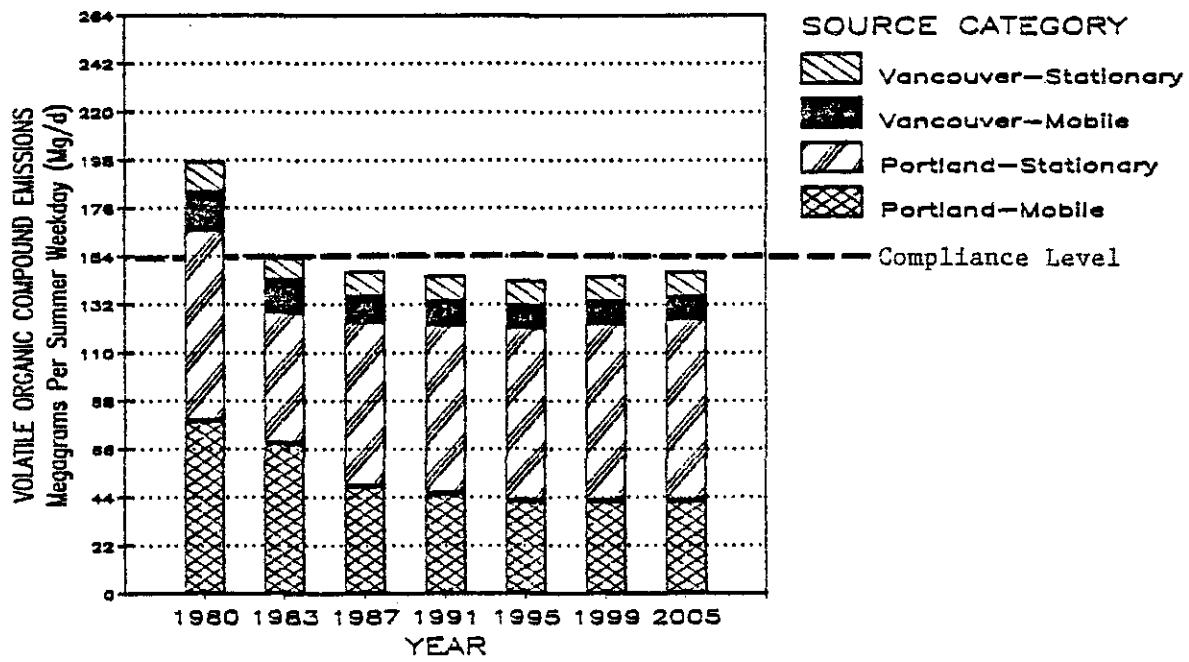
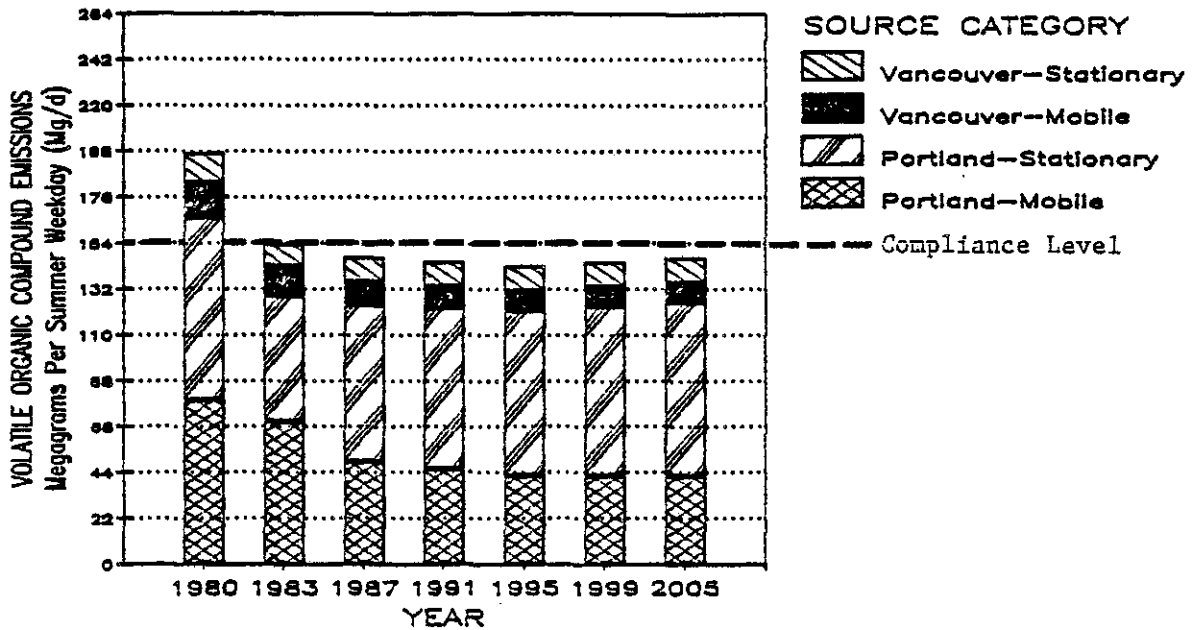
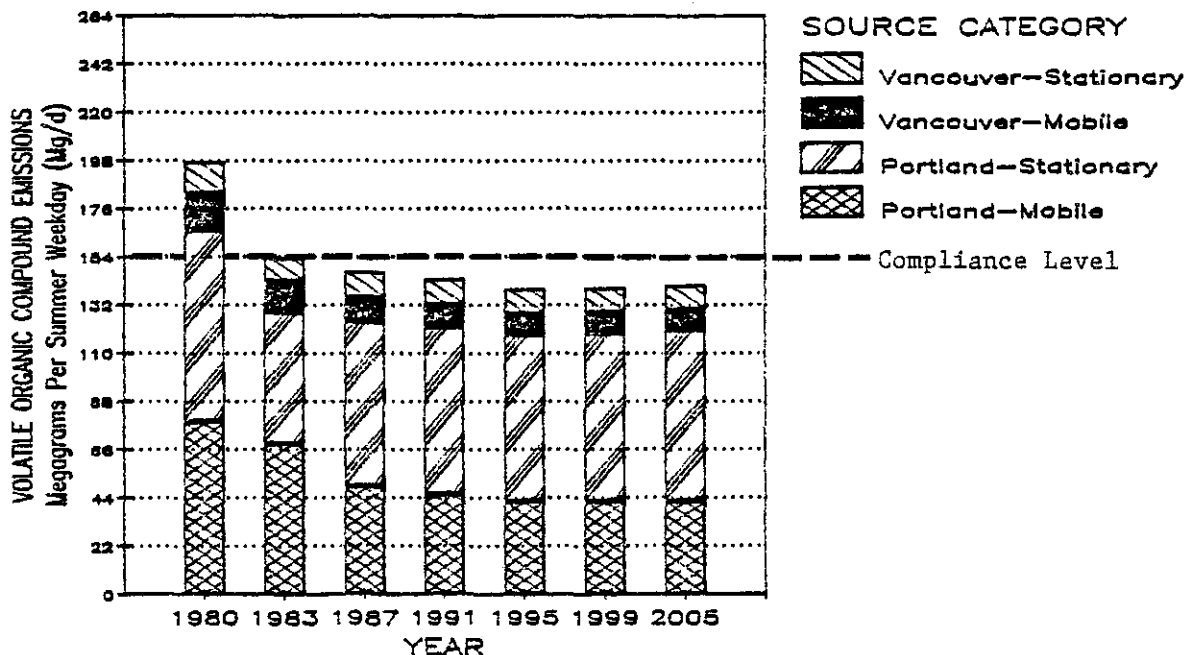


Figure 4.3.9-2*
PORTLAND-VANCOUVER VOC EMISSION TREND
 Assumed: No Additional Controls



* This figure is repeated for comparison to the figure below.

Figure 4.3.9-3
PORTLAND-VANCOUVER VOC EMISSION TREND
 Assumed: Onboard Controls in 1989



4.3.13. PUBLIC NOTICE AND HEARINGS ON ADDENDUM

This addendum to the Portland ozone plan was developed in a series of seven public meetings with the Portland Ozone Task Force during July-September 1985. The membership of the task force is outlined in Table 4.3.13-1.

Table 4.3.13-1. Membership of Portland Ozone Task Force

City of Portland
Multnomah County
Clackamas County
Washington County
Oregon Department of Transportation
Port of Portland
Western Oil and Gas Association
Associated Oregon Industries
Portland Chamber of Commerce
Oregon Environmental Council
League of Women Voters
Oregon Lung Association
Public-at-Large*
Public-at-Large*
Public-at-Large*
Public-at-Large*
Academic Institution
Medical Community
Tri-Met
American Electronics Association
Washington State Department of Ecology**
Southwest Washington Air Pollution Control Authority**
Intergovernmental Resource Center (Clark County)**

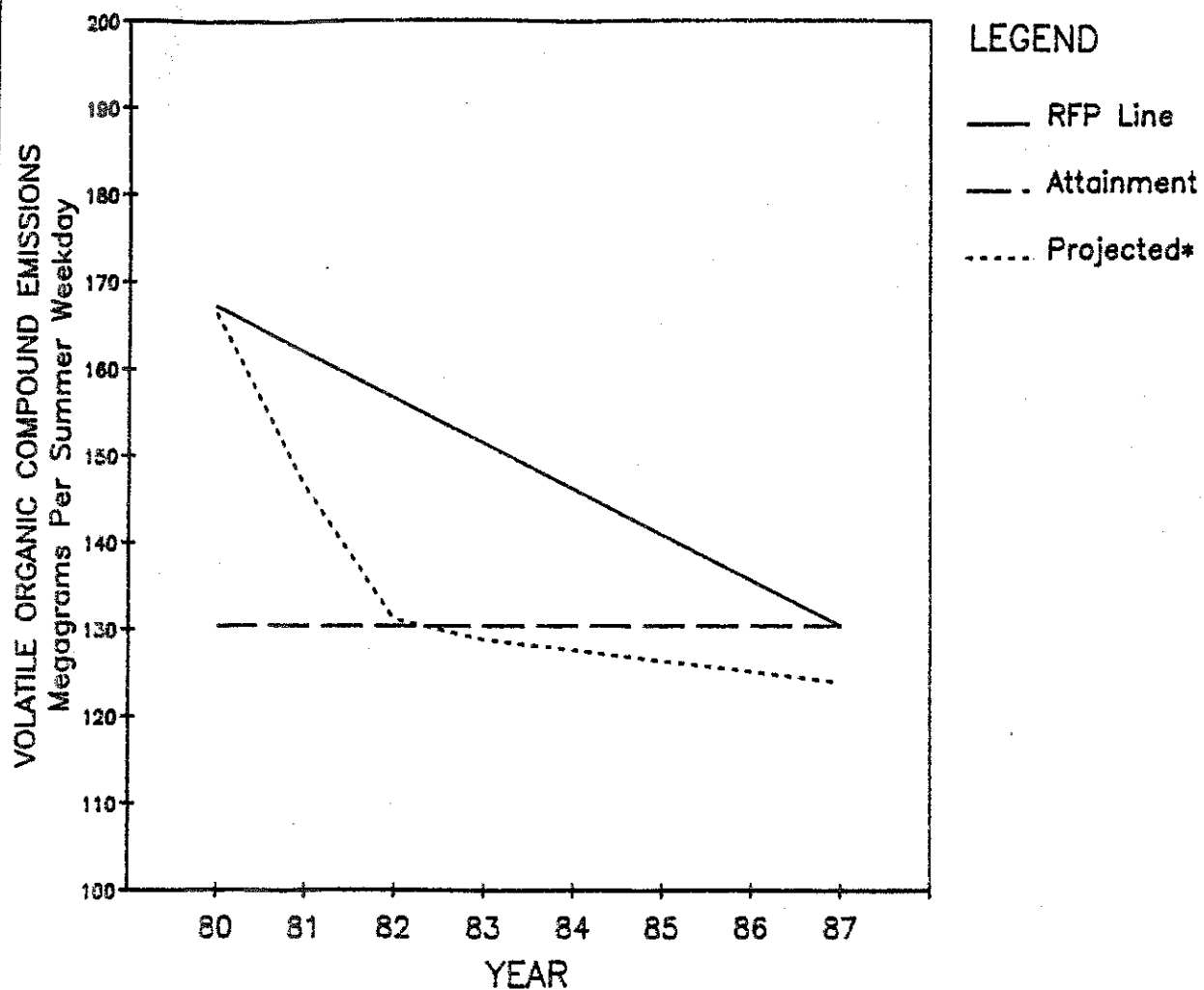
* One each from the City of Portland, Multnomah, Clackamas, and Washington Counties

** Non-voting members

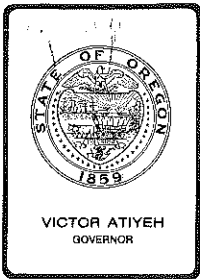
A public hearing on this addendum is scheduled for November 19, 1985. The public hearing notice will be issued at least 30 days prior to the hearing. The public hearing notice will be distributed for local and state agency review by the A-95 State Clearinghouse at least 45 days prior to adoption of this addendum by the Environmental Quality Commission.

AS1672

Figure 4.3.12-1
REASONABLE FURTHER PROGRESS
Oregon Portion of Portland-Vancouver AQMA



* Actual 1980-83 emissions, projected 1984-87 emissions.



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. G, September 27, 1985, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Amendments to the State Implementation Plan Regarding Volatile Organic Compound Rules OAR 340-22-100 to 220, and Permit Rules 340-20-155(1)Table 1

Background

Three areas of Oregon were violating the ambient ozone standard in the late 1970's and were designated as ozone non-attainment areas by the Environmental Protection Agency (EPA). High ozone levels are caused by a photochemical reaction of Volatile Organic Compounds (VOC's), Nitrogen oxides, and strong sunlight. Ozone (O₃) is a highly reactive form of oxygen, which is destructive to human tissue, certain materials (i.e., rubber, nylon) and plant life. In 1979 and 1980 the Commission adopted the VOC rules, applicable to the Medford, Salem, and Portland areas. These rules, as part of the Oregon Clean Air Act's State Implementation Plan, are providing VOC reductions so the ozone standard can be attained and maintained.

Problem Statement

A major problem exists with the rules, in that a number of industrial painting sources have not found the technology to comply with a VOC rule. The Commission has had to adopt a blanket variance (and grant an extension) from this rule, to exempt industrial painting sources, who have been unsuccessful in identifying acceptable, lower VOC coatings. Experience in implementing the original rules has showed that a number of changes are needed. EPA has also suggested some minor changes.

Authority for the Commission to Act is given in ORS 468.295(3) where the Commission is authorized to establish different rules for different areas of the state. A "Hearing Notice and Rulemaking Statement" is proposed as Attachment 2.

Alternatives and Evaluation

The Department should correct certain deficiencies in its VOC rules, not only to respond to EPA's comments, but also to address compliance problems where the rules do not meet the practical situation. No known existing plants would be affected by EPA requested revisions, so no real emission changes will result because of the rule changes.

Changes Proposed by EPA

EPA Proposal 1:

OAR 340-22-153 - Petroleum Refinery Leaks - (a) EPA requested DEQ to have the phrase "and operating" added to the requirements for intermediate valves on open ended lines. (b) EPA requested clarification that the exemption in paragraph (4) is determined at the highest temperature at which liquid is handled. (c) EPA requests the reference to the definition of "true vapor pressure" be updated.

DEQ Evaluation

This rule only applies to one fractionating tower at the Chevron asphalt plant in Portland. The changes requested by EPA improve the clarity of the rule, would not require additional control by Chevron and are proposed in Attachment 1.

EPA Proposal 2:

OAR 340-22-160(4) - Secondary Seals on VOC Liquid Storage - EPA requested DEQ to correct the temperature at which the vapor pressure is measured to be the "storage temperature."

DEQ Evaluation

This rule change clarifies the applicability of the rule.

EPA Proposal 3:

OAR 340-22-210 - Rotogravure and Flexographic Printing - EPA requested DEQ to clarify the application of the regulation for specialty printers and revise the regulation to require monitoring of temperature rise across catalytic incinerator beds.

DEQ Evaluation

These are additional requirements, but at this time there are no large specialty printers in Oregon and no catalytic incinerators on these types of printing plants in Oregon. EPA wants to make sure that large specialty printers are covered under this rule or under 340-22-170(4)(e). DEQ proposes to add specialty printing to the 340-22-210 rule.

EPA Proposal 4:

OAR 340-22-170(5) - Surface Coating in Manufacturing - EPA requests the addition of language referencing DEQ Test Method 24 for compliance determination, in addition to Method 25 or Method 34.

DEQ Evaluation

Addition of Method 24 is useful for determining compliance as this method may be more accurate and less costly.

Changes Proposed by the Department

1. Surface Coating in Manufacturing

Rule 340-22-170(2)(b)(A) limits the applicability of the painting of parts rule to those manufacturing sources emitting 15 or more pounds per day of solvent, or 3 or more pounds per hour of solvent. This is equivalent to about two tons a year, or about 3 gallons of paint per day. When the rules were written in 1980, the Department accepted EPA's research that lower solvent paint formulations were available to meet this rule. In the last five years most of the affected plants have been unable to find conforming paints. The Commission has had to address this problem with variances that expire on January 31, 1986.

One way to permanently address this problem is to raise the exemption point for the smaller sources.

EPA is accepting exemptions for surface coating facilities emitting in the range of 10 to 30 tons per year in other states. The increased allowable emissions from setting the cut-off point of the rule at 40 tons per year (which is the Department's significance level) could be accommodated within the Portland area's ozone control strategy. The extra emissions amount to 380 kg/day, against a recently computed airshed capacity of 154,000 kg/day. (See Agenda Item F, September 27, 1985, EQC Meeting.)

Alternative Actions on Coating Rule

An alternative the Commission could consider is extending the variance for the small surfaces coaters when it expires on January 31, 1986. EPA has indicated they may not recognize such variances, which may mean that EPA would consider enforcement action against these sources.

Evaluation

The Department believes a proposed rule change raising the exemption point from 15 lb/day (or about 2 tons/yr) to 40 tons per year for the Coating in Manufacturing rule is the best option to deal with the non-compliance of the surface coating operations. Technology does not

appear to be currently available to achieve compliance. The table below indicates how miscellaneous paint sources currently covered by variances would be affected.

STATUS OF MISCELLANEOUS PAINTING SOURCES IN PORTLAND AREA
 PRESENTLY UNDER VARIANCE FROM VOC RULES

	<u>FIRM NAME</u>	<u>PERMIT NO.</u>	<u>TONS/YEAR VOC (PSEL)</u> *
1. Compliance achieved by switching to complying coatings.	Portland Willamette	26-2435	59.5
	Freightliner Assy.	26-2197	161.9
2. Compliance achieved by bubbling/or research to find complying coatings.	FMC (Gunderson RR Cars)	26-2944	549.0
	Pacific Coating	26-3115	66.4
3. Exempt by being under 40 T/Y Proposed Exemption	Pacific Fireplace Furn.	26-3031	8.9
	Dura Inc.	26-3112	5.9
	Winter Products	26-3033	10.9
	Oregon Steel Mills**	26-1865	22.5
	non-Marine Coatings		
	Myers Drums	26-3035	24.7
	Wagner Mining	26-3039	10.5
	Bingham Willamette	26-2749	4.1
	Cascade Corporation	26-3038	5.8
	Wade Manufacturing	34-2667	4.2
	Lear Siegler	34-2670	4.2
	ESCO	26-2068	7.4
	Hearthcraft	26-3037	21.1
	Brod & McClung Pace	03-2680	13.9
	Union Pacific	26-3098	39.0
Tektronix	34-2638	26.3	
Chevron	26-2027	16.5	
Boeing	26-2204	2.1	
Amcoat	26-3036	28.2	

* Portion of sources' emissions affected by rule 340-22-170(4)(j).

** Oregon Steel also is permitted to use 35.5 tons/year of marine coatings under an existing rule exception in 340-22-170(2)(a).

2. Painting with Stencils

In rule 340-22-170, stencils are not exempted as they are in San Francisco and Los Angeles rules. The San Francisco and Los Angeles rules are referenced here and in subsequent parts of this report as an example of an area that has had lengthy experience with VOC rules. Painting in numbers with stencils involves very little paint volume, but requires a higher solvent content for fast drying than the rule allows.

Evaluation

Adding an exemption for stencil painting to rule 340-22-170(2)(a) is a reasonable and practical action.

3. Roadway Traffic Markings Paint

Since the VOC rules were written in 1980, new low VOC traffic markings paint has been developed. The specific exemption at the end of paragraph 340-22-170(2)(a) is no longer needed.

Evaluation

Deletion of the traffic markings paint exemption in 340-22-170(2)(a) is desirable, and acceptable to the State Highway Division.

4. Barrel Painting

One barrel painting operation in Portland has an interior coat which is sprayed on. Formulations with lower solvent to meet the 3.5 lb/gal rule have not been found.

Evaluation

Rules in Los Angeles and San Francisco addressed this problem by allowing barrel interior coats the same standard as cans, namely 4.2 lb/gal. Therefore, the Department proposes to add definition 340-22-102(4) to include drums in the can coating rules, alter 340-22-170(4)(a)(B) to include exterior coating, and add an item in 67.b. in Table 1 of 340-20-155(1), the permit rules, so that barrel makers will have the same fees as formerly, but under can coating.

5. Paper Coating Rule for Precision Coating

The 3 M Company of Medford has installed a natural gas fired incinerator to control solvents emitted from their film and paper coating lines. The Department and EPA are satisfied with the reductions from this incinerator. However, with certain precision coated products processed through one of their two ovens, the system cannot capture enough solvent to meet the 2.9 lb/gallon rule. The system can meet a 55 lb of VOC per 1000 sq. yards coated, per pass, on a monthly average which is equivalent to an average control efficiency of 62 percent. The EPA guideline of 2.9 lb/gallon is equivalent to 81 percent control.

Evaluation

Attachment 1 contains a proposed new category for Precision Coating of Paper and Film (340-22-170(4)(e)). This rule requires 3M's incinerator to operate at its present efficiency. The Medford area, in which this plant operates, is now well in attainment for ozone, and further reductions of VOC are not required. The rule relaxation would not have any significant effect on attainment status. EPA has indicated their concurrence with this rule change.

6. Coil Coating

There are no sources of coil coating in Oregon. However, there are two rules: the 1980 VOC rules, 340-22-170(4)(b) at 2.6 lbs/gal would be applicable to any existing source; and a more stringent 1983 rule, 340-25-670 at 1.75 lbs/gal (0.28 g/l) which applies to new sources, statewide.

Evaluation

It is proposed to delete the 1980 rule 340-22-170(4)(b) as the newer, more stringent rule will always apply.

7. Special Rule for High Performance Aluminum

No allowance is made for high performance coating on aluminum for outside use required by the specifications of Architectural Aluminum Manufacturer's Association's publication number AAMA605.2-1980, as allowed in San Francisco. These parts require high solvent content to get the required long-life finish.

Pacific Coating in the Portland area does this type of painting. Without a rule change, they may lose this major part of their business to out-of-state competitors.

Evaluation

The proposed rule change for architectural coatings is a special 6.2 lb/gal limit (340-22-170(4)(j)(E)). The change is desirable to achieve extra long life coatings, so that repainting (releasing VOCs) will only occur every 20 years or longer.

8. Clarify Compliance Method

The present rule 340-22-170(5) references an EPA memo to describe how compliance with rule 340-22-170(4) can be determined. This method of using a memo is not acceptable, so the rule has been rewritten.

Evaluation

See proposed revised 340-22-170(5) and new (6) to describe the adjustments and methods allowed for determining and achieving compliance, described within the rule.

9. Permit Fee Rules

The Table 1 entry No. 66 could be interpreted as applying to a water tank, which was not the intent. It was written only for tanks regulated by rule 340-22-160. Similarly, entry No. 69 could mean painting a wood porch.

Evaluation

Adding "regulated by 340-22-160" and "340-22-200" to Table 1 entry No. 66 and 69 will clarify the above ambiguity.

10. Forty Ton Limit

Since 40 tons per year is being considered as the exemption point for coating in manufacturing sources of VOC, item 70 in Table 1 of 340-20-155(1) of the permit rule needs to be revised to change the 1-20 tons category to 10-40 tons, and change the 20-100 tons category to 40-100 tons. These new cutoff levels would require sources over 10 tons/year to have a permit so the Department can track their emissions. Sources over 40 tons/year would be required to reduce solvent emissions.

11. Natural Gas Afterburner Exemption

Rule 340-22-106 allows natural-gas-fired-afterburners to be turned off in winter (November through March) to save fuel. EPA has indicated that under certain circumstances, industry would not be held to VOC rules when meteorological conditions are not conducive for ozone formation. The Commission directed the staff to research a possible change in ozone season duration in its recommendation on September 19, 1980, Agenda Item P, issue 2.

Evaluation

The Department evaluated more than five years of ozone readings, looking for high readings and standard violations. None were found in April or October. The staff met with industry, received input from EPA, and is proposing to exempt these additional months in VOC rules 340-22-106 and 340-22-100(2). The proposed ozone season would extend from May through September.

12. Obsolete Rules

The efforts from 1979 to 1983 to bring existing sources into compliance with the VOC rules have been completed. Rules 340-22-107(3) and Table 1 and the second half of 340-22-107(2) can be deleted, because these past compliance dates have been met (except for sources under variances).

Evaluation

Since the compliance dates are all past, it is proposed to shorten the rules by a page and a half by deleting these compliance schedules.

13. Small Gasoline Stations

About 20 of the 400 gasoline service stations in the Portland area have great difficulty meeting vapor balance rule 340-22-110. Some have 2" diameter fill pipes; parts for vapor balance and submerged fill are not available under 3" diameter size. Several have offset fill lines where a drop tube for submerged fill cannot be inserted; and, one has welded-in drop tubes that are too short.

Evaluation

A new exemption is proposed to be added as 340-22-110(2)(d) to cover these few cases. The same exemptions are found in certain urban California rules. The increase in VOC is only about 5.6 kg/day because of the low volume of sales by these small sources.

14. Small Gasoline Tanks

Small gasoline tanks have low throughput, and often parts cannot be found to meet vapor balance rule 340-22-100.

Evaluation

It is proposed to extend the agricultural exemption to all small tanks, and cut out the submerged fill requirement, by deleting the latter part of paragraph 340-22-100(2)(b).

15. Gasoline Transfer Responsibility

Rules 340-22-110, -120, -130, and -137, do not say that the owner must keep the vapor recovery fittings in good repair, nor does it say specifically that the delivery truck operator must connect the vapor recovery hose.

Evaluation

The rule additions cited in 340-22-110(1)(d), 340-22-120(1)(b), and in 340-22-130(1)(c)and(d), and 340-22-137(1)(d), make these important operating and maintenance responsibilities clear.

16. Gasoline Bulk Plant Exemption

Small businesses cannot afford to put in vapor recovery at existing or new bulk plants which have very low throughputs and profit margins.

Evaluation

Add paragraph 340-22-120(5) to provide exemption from the rule for bulk plants with throughputs of 600,000 gal/yr of gasoline or less. This exemption point is used in San Francisco.

17. Tight Vapor Connections at Gasoline Terminals

Some gasoline terminals have valving that does not correspond to the way former 340-22-130(3)(c) is written.

Evaluation

Paragraph 340-22-130(3)(c) has been rewritten and (d) added so that the unidirectional valves can be covered by the rule.

18. New Legal Description of Marking on Delivery Trucks for Gasoline

Since the VOC rules were written in 1980, a new U.S. Department of Transportation Leak test rule has been issued. It specifies the marking of gasoline delivery trucks.

Evaluation

The obsolete reference in rule 340-22-137(1)(c) should be deleted and replaced with the current reference.

19. New Test Method 21

EPA released a new test Method 21 which can be used to test gasoline delivery truck leaks, or leaks at refineries.

Evaluation

It is proposed to add this test Method 21 as an alternate in rule 340-22-137(1)(a), and as the only method in rule 340-22-153(2). Method 21 is cheaper and simpler than the older test method.

20. Large Tank Seals

In Rule 340-22-160(1)(c), original equipment is permitted for primary seals on large tanks yet, in 1980, rule 340-22-160(4) was added to require secondary seals.

Evaluation

Section 340-22-160(1)(c) needs to be repealed, to no longer allow the use of single seals.

21. Degreaser Rules

Since the three degreaser rules were adopted in 1979, the Department has found the need to revise the rules based on what has been encountered in the field.

For instance, rule 340-22-180(1)(b) requires a drainrack, so that residual solvent may be allowed to drain back into the cold cleaner upon completion of cleaning. In the field, suspension baskets and suspension hoists were found which function the

same as drainracks. A rule addition is proposed to allow draining by use of suspension baskets or suspension hoists.

Another proposed change would add a crossreference to the Department's hazardous waste rule in three places. Waste degreaser solvent is a hazardous waste, and rules adopted since VOC rule adoption in 1979 govern how that waste is to be disposed of.

Evaluation

Eight minor revisions in rules 340-22-180, -183, and -186 have been added which improve clarity and flexibility.

22. No Exemption for Extremely Small Dry Cleaners

Rule 340-22-220 has no exemption point for extremely small perchloroethylene dry cleaners.

Evaluation

Under 340-22-220(2)(d) the Department proposes to exempt dry cleaners which use 320 gallons per year or less as allowed in San Francisco rules.

23. Dry-to-Dry Cleaning Machines

Since the 340-22-220 perchloroethylene dry cleaning rule was written, a new machine has been installed in Oregon. Present rules do not fit these dry-to-dry machines, as they have no outlet emissions, during drying, as the older machines do. The present rule, which limits outlet emissions during drying, is inadequate to regulate these new dry-to-dry machines.

Evaluation

It is proposed to add 340-22-220(1)(h) to cover the dry-to-dry type machine and to clarify the exemption in 340-22-220(2)(b).

24. Vapor Pressure of VOC

The definition of VOC in 340-22-102(45) has a vapor pressure cut-off of 0.1 mm of mercury measured at standard conditions. Organic liquids with a vapor pressure of 0.1 mm of mercury or less are not defined as VOC's. Problems with this definition encountered in the field include inks with a vapor pressure of less than 0.1 mm of Hg. These inks are purchased, stored, and applied at that low vapor pressure but are heated and carbon compounds are volatilized and emitted as visible smoke. The rule seems to exclude fumes from the VOC rules.

Evaluation

Current definitions of VOC from EPA and San Francisco do not give a vapor pressure exemption point. San Francisco bases the definition on whether the compound is an organic precursor of photochemical oxidants.

It is therefore proposed to drop the reference to vapor pressure in the definition, and in its place include a reference to those compounds that are photochemically reactive.

Summation

1. Volatile organic compounds (VOC) Rules are an important part of the Department's ozone control strategies.
2. During the period of VOC rule implementation, the Department has identified a number of problems which require correction. The Commission is requested to authorize for hearing several proposed changes in the VOC rules:
 - a. Changes requested by EPA
 - b. A relaxation of the rule affecting small surface coating operations presently covered by variance who have not found complying coatings. Their five year search for this technology has been unsuccessful, so relief by rule change is being proposed. The rule change would allow an increase in VOC of about 380 kg/day in the Portland airshed, which has a present growth cushion of about 6,000 kg/day.
 - c. Many other changes that address problems encountered in the application of the rules over the last five years, which will not significantly affect attainment of the ozone standard, but will improve enforceability.
3. VOC rule changes are also proposed changes in the State Implementation Plan. Agenda Item F describes the effect of these and other changes on the overall control strategy for ozone.

Director's Recommendation

It is recommended that the Commission authorize a public hearing to receive testimony on the attached proposed amended permit rule 340-20-155(1) and on VOC rules 340-22-100 to 340-22-220, as amendments to the State Implementation Plan.



Fred Hansen

- Attachments 1. Proposed VOC Rules Revisions:
340-22-100 to 340-22-220, and 340-20-155(1) Table 1
2. Notice of Public Hearing
 3. Rulemaking Statements

Peter B. Bosserman:pl
229-6278
AS1707
September 11, 1985

**Oregon Administrative Rules,
 Chapter 340, Affecting Volatile Organic Compounds (VOC)**

Change Table 1 in 340-20-155(1) which requires permits of sources listed in Table 1:

<u>Air Contaminant Source, SIC</u>	<u>Application Processing Fee</u>	<u>Compliance Determination Fee</u>
Permits are required for sources 64 thru 72 in the Portland and Medford AQMA's and the Salem SATS.		
64. Bulk Gasoline Plants 5100	55	150
65. Bulk Gasoline Terminals 5171	1000	500
66. Liquid Storage, tanks 39,000 gallons or more capacity, <u>regulated</u> <u>by 340-22-160</u> (not elsewhere included) 4200	50 per tank	100 per tank
67. Can Coating <u>a) 50,000 or more units</u> <u>per month</u> <u>b) less than 50,000 units</u> <u>per month</u> 3411	1500 100	900 200
68. Paper Coating 2641 or 3861	1500	900
69. Coating Flat Wood, <u>regulated</u> <u>by 340-22-200</u> 2400	500	300
70. Surface Coating, Manufacturing a) <u>10-40</u> [1-20] tons VOC/yr b) <u>40</u> [20]-100 tons VOC/yr c) over 100 tons VOC/yr 3300, 3400, 3500, 3600, 3700, 3800, 3900	25 100 500	85 200 400
71. Flexographic or Rotogravure Printing, over 60 tons VOC/yr--per plant 2751 or 2754	50 per press	150 per press

General Emission Standards for Volatile Organic Compounds

340-22-100 Introduction

- (1) These rules regulate sources of VOC which contribute to the formation of photochemical oxidant, mainly ozone.
- (2) Since ozone standards are not violated in Oregon from October [November] through April [March] (because of insufficient solar energy), natural gas-fired afterburners may be permitted, on a case-by-case basis, to lay idle during the winter months.
- (3) Sources regulated by these rules are:
 - a. New Sources and all existing sources in the Portland and Medford AQMA's and in the Salem SATS for categories b thru m below.
 - b. Gasoline stations, underground tank filling
 - c. Bulk Gasoline Plants and Delivery Vessels
 - d. Bulk Gasoline Terminal Loading
 - e. Cutback Asphalt
 - f. Petroleum Refineries, Petroleum Refinery Leaks
 - g. VOC Liquid Storage, Secondary Seals
 - h. Coating including paper coating and misc. painting
 - i. Degreasers
 - j. Asphaltic and Coal Tar Pitch in Roofing
 - k. Flat wood coating
 - l. Rotogravure and Flexographic Printing
 - m. Perchloroethylene Dry Cleaning

Definitions

340-22-102: As used in these regulations, unless otherwise required by context:

- (1) "Air dried coating" means coatings which are dried by the use of air at ambient temperature.
- (2) "Bulk gasoline plant" means a gasoline storage and distribution facility which receives gasoline from bulk terminals by railroad car or trailer transport, stores it in tanks, and subsequently dispenses it via account trucks to local farms, businesses, and service stations.
- (3) "Bulk gasoline terminal" means a gasoline storage facility which receives gasoline from refineries primarily by pipeline, ship, or barge, and delivers gasoline to bulk gasoline plants or to commercial or retail accounts primarily by tank truck.
- (4) "Can Coating" means any coating applied by spray, roller, or other means to the inside and/or outside surfaces of metal cans, drums, pails, or lids.
- (5) [(4)] "Carbon Bed Breakthrough" means the initial indication of depleted adsorption capacity characterized by a sudden measureable increase in VOC concentration exiting a carbon adsorption bed or column.
- (6) [(5)] "Certified Underground Storage Device" means vapor recovery equipment for underground storage tanks as certified by the State of California Air Resources Board Executive Orders, copies of which are on file with the Department, or equivalent approval by other air pollution control agencies.
- (7) [(6)] "Class II hardboard paneling finish" means finishes which meet the specifications of Voluntary Product Standard PS-59-73 as approved by the American National Standards Institute.
- (8) [(7)] "Clear coat" means a coating which lacks color and opacity or is transparent and uses the undercoat as a reflectant base or undertone color.
- (9) [(8)] "Coating Line" means one or more apparatus or operations which include a coating applicator, flash-off area, and oven or drying station wherein a surface coating is applied, dried, and/or cured.

- (10) [(9)] "Cutback asphalt" means a mixture of a base asphalt with a solvent such as gasoline, naphtha, or kerosene. Cutback asphalts are rapid, medium, or slow curing (known as RC, MC, SC), as defined in ASTM D2399.
- (11) [(10)] "Day" means a 24-hour period beginning at midnight.
- (12) [(11)] "Delivery vessel" means any tank truck or trailer used for the transport of gasoline from sources of supply to stationary storage tanks.
- (13) [(12)] "Dry cleaning facility" means any facility engaged in the cleaning of fabrics in an essentially nonaqueous solvent by means of one or more washes in solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. The facility includes but is not limited to any washer, dryer, filter and purification systems, waste disposal systems, holding tanks, pumps, and attendant piping and valves.
- (14) [(13)] "Extreme performance coatings" means coatings designed for extreme environmental conditions such as exposure to any one of the following: the weather all of the time, temperatures consistently above 95°C, detergents, abrasive and scouring agents, solvents, corrosive atmosphere, or similar environmental conditions.
- (15) [(14)] "Flexographic Printing" means the application of words, designs and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials.
- (16) [(15)] "Freeboard ratio" means the freeboard height divided by the width (not length) of the degreaser's air/solvent area.
- (17) [(16)] "Forced air dried coating" means a coating which is dried by the use of warm air at temperatures up to 90° C (194° F).
- (18) [(17)] "Gasoline" means any petroleum distillate having a Reid vapor pressure of 27.6 kPa (4.0 psi) or greater which is used to fuel internal combustion engines.
- (19) [(18)] "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle, boat, or airplane gasoline tanks from stationary storage tanks.

(20) [(19)] "Gas service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the gaseous phase.

(21) [(20)] "Hardboard" is a panel manufactured primarily from inter-felted ligno-cellulosic fibers which are consolidated under heat and pressure in a hot press.

(22) [(21)] "Hardwood plywood" is plywood whose surface layer is a veneer of hardwood.

(23) [(22)] "LAER" means the rate of emissions which reflects

(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or not maintainable for the proposed source or

(B) the most stringent emission limitation which is achieved and maintained in practice by such class or category of source, whichever is more stringent.

In no event shall the application of LAER allow a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance (OAR 340-25-535).

(24) [(23)] "Leaking component" means any petroleum refinery source which has a volatile organic compound concentration exceeding 10,000 parts per million (ppm) when tested in the manner described in method 31 and 33 on file with the Department. These sources include, but are not limited to, pumping seals, compressor seals, seal oil degassing vents, pipeline valves, flanges and other connections, pressure relief devices, process drains, and open-ended pipes. Excluded from these sources are valves which are not externally regulated.

(25) [(24)] "Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase.

(26) [(25)] "Modified" means any change in the method of operation of, or addition to, or physical change of a stationary source which increases the allowable emission rate of any VOC regulated (including any not previously emitted and taking into account all accumulated increases in allowable emissions occurring at the source since regulations were adopted under this section, or since the time of the last construction approval was issued for the source pursuant to such regulations approved under this section, whichever time is more recent, regardless of any emission reductions achieved elsewhere in the source).

(a) A physical change shall not include routine maintenance, repair and replacement, unless there is an increase in emission.

(b) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(A) An increase in the production rate, if such does not involve a physical change or exceed permit limits;

(B) An increase in the hours of operation;

(C) Use of an alternative fuel or raw material by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(D) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material; or

(E) Use of an alternative fuel by reason of any order or rule under Section 125 of the Federal Clean Air Act, 1977;

(F) Change in ownership of the source.

(27) [(26)] "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

- (28) [(27)] "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.
- (29) [(28)] "Owner" means any person who has legal or equitable title to the gasoline storage tanks at a facility.
- (30) [(29)] "Packaging rotogravure printing" means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products and labels for articles to be sold.
- (31) [(30)] "Person" means the federal government, any state, individual, public, or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
- (32) [(31)] "Petroleum refinery" means any facility engaged in producing gasoline, aromatics, kerosene, distillate fuel oils, residual fuel oils, lubricants, asphalt, or other products through distillation of petroleum, crude oil, or through redistillation, cracking, or reforming of unfinished petroleum derivatives. "Petroleum refinery" does not mean a re-refinery of used motor oils or other waste chemicals. "Petroleum refinery" does not include asphalt blowing or separation of products shipped together.
- (33) [(32)] "Plant site basis" means all of the sources on the premises (contiguous land) covered in one Air Contaminant Discharge Permit unless another definition is specified in a Permit.
- (34) [(33)] "Printed interior panels" means panels whose grain or natural surface is obscured by fillers and basecoats upon which a simulated grain or decorative pattern is printed.
- (35) [(34)] "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.
- (36) [(35)] "Publication rotogravure printing" means rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, and other types of printed materials.

(37) [(36)] "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(38) "Specialty Printing" means all gravure and flexographic operations which print a design or image, excluding publication gravure and packaging printing. Specialty Printing includes printing on paper plates and cups, patterned gift wrap, wallpaper, and floor coverings.

(39) [(37)] "Stationary Source" means any structure, building, facility, or installation, which emits or may emit any VOC.

(40) [(38)] "Splash filling" means the filling of a delivery vessel or stationary storage tanks through a pipe or hose whose discharge opening is above the surface level of the liquid in the tank being filled.

(41) [(39)] "Structure, building, facility, or installation" means any grouping of pollutant-emitting activities which are located on one or more contiguous or adjacent properties and which are owned or operated by the same person (or by persons under common control).

(42) [(40)] "Submerged fill" means any fill pipe or hose, the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe, the discharge of which is entirely submerged when the liquid level is 18 inches or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank.

(43) [(41)] "Thin particleboard" is a manufactured board 1/4 inch or less in thickness made of individual wood particles which have been coated with a binder and formed into flat sheets by pressure.

(44) [(42)] "Tileboard" means panelling that has a colored waterproof surface coating.

(45) [(43)] "True Vapor Pressure" means the equilibrium pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks, [1962] February 1980.

(46) [(44)] "Vapor balance system" means a combination of pipes or hoses which create a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.

(47) [(45)] "Volatile Organic Compound," (VOC), means any compound of carbon that [has a vapor pressure greater than 0.1 mm of Hg at standard conditions (temperature 20°C, pressure 760 mm of Hg)] is photochemically reactive. Excluded from the category of Volatile Organic Compounds are carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity which are methane, ethane, methyl chloroform, methylene chloride, and trichlorotrifluoroethane.

LIMITATIONS AND REQUIREMENTS

GENERAL REQUIREMENTS FOR NEW AND EXISTING SOURCES

340-22-104

- (1) Notwithstanding the emission limitation in these rules, all new or modified stationary sources, located within the areas cited in (2) below, with allowable VOC emission increases in excess of 90,720 kilograms (100 tons) per year, shall meet the Lowest Achievable Emission Rate (LAER).
- (2) All new and existing sources inside the following areas shall comply with the General Emission Standards for Volatile Organic Compounds:
 - (a) Portland-Vancouver Air Quality Maintenance Area
 - (b) Medford-Ashland Air Quality Maintenance Area
 - (c) Salem Area Transportation Study (SATS) Area
- (3) VOC sources located outside the areas cited in (2) above are exempt from the General Emission Standards for Volatile Organic Compounds.

Exemptions

340-22-106 Natural gas-fired afterburners installed for the purpose of complying with these rules shall be operated during the months of [April,] May, June, July, August, and September[, and October]. During other months, the afterburners may be turned off with prior written Departmental approval, provided that the operation of such devices is not required for purposes

of occupational health or safety, or for the control of toxic substances, malodors, or other regulated pollutants, or for complying with visual air contaminant limitations.

Compliance Determination

340-22-107

- (1) Certification and Test procedures are listed in each specific section and on file with the Department. Applicants are encouraged to submit designs approved by other air pollution control agencies where VOC control equipment has been developed. Construction approvals and proof of compliance will, in most cases, be based on Departmental evaluation of the source and controls.
- (2) The person responsible for an existing emission source shall proceed promptly with a program to comply as soon as practicable with these rules. A proposed program and implementation plan including increments of progress shall be submitted to the Department for review. [no later than May 1, 1979, for each emission source required to comply with VOC rules adopted by the Commission on December 15, 1978. For sources required to comply with the VOC rules amended by the Commission on June 8, 1979, compliance schedules shall be submitted no later than October 1, 1979. See the following table for later compliance dates. Compliance shall be demonstrated no later than the date specified in the individual sections of these rules and as shown below. The Department shall within 45 days of receipt of a complete proposed program and implementation plan, complete an evaluation and advise the applicant of its approval or other findings.]

[(3) The following compliance schedule increments of progress shall be completed:

<u>340-22 Rule Section</u>	<u>Submit Plans to Dept.</u>	<u>Purchase Orders</u>	<u>Begin Construction</u>	<u>Complete Construction</u>	<u>Demonstrate Compliance</u>
-110 Gasoline dispensing (a)	10/01/79	12/31/80	03/15/81	04/01/81	04/01/81
-120 Bulk plants(a)	10/01/79	07/01/80	12/31/80	04/01/81	04/01/81
-130					

<u>340-22 Rule Section</u>	<u>Submit Plans to Dept.</u>	<u>Purchase Orders</u>	<u>Begin Construction</u>	<u>Complete Construction</u>	<u>Demonstrate Compliance</u>
Gasoline terminals (a)-110,-120 vapor balance newly req'd. Sept. 19, 1980 -137	05/01/79	04/01/80	12/01/80	04/01/81	04/01/81
Delivery vessel -140	11/01/80	11/20/80	02/15/81	03/01/81	04/01/81
Cutback asphalt (4) Emulsified specs -150, -153	N/A	N/A	N/A	N/A	04/01/79
Oil refinery -160	N/A	N/A	N/A	N/A	04/01/81
Oil refinery -160	11/01/80	N/A	N/A	N/A	10/01/80
Liquid storage, Secondary seals -170	10/01/79	12/01/80	02/01/81	04/01/81	04/01/81
Surface coating: Can & paper coating, misc products & metal parts -180	11/01/80	01/02/81	07/01/81	12/31/81	12/31/81
Degreasers: Operating procedures, Add-on controls -190	05/01/79	11/01/81	05/01/82	12/01/82	12/31/82
Roofing tar -200	04/01/82	07/01/82	10/01/82	11/01/82	12/31/82
Flatwood coating -210	N/A	N/A	N/A	N/A	04/01/80
Printing roto & flex -220	11/01/80	01/02/81	01/02/82	11/01/82	12/31/82
Perc dry cleaning	11/01/80	04/01/81	09/01/81	04/01/82	07/01/82
	11/01/80	02/01/81	04/01/81	10/01/81	01/01/82]

Small Gasoline Storage

340-22-110

- (1) No person may transfer or cause or allow the transfer of gasoline from any delivery vessel which was filled at a Bulk Gasoline Terminal or nonexempted Bulk Gasoline Plant into any stationary storage tank of less than 40,000 gallon capacity unless:
 - (a) The tank is filled by Submerged Fill, and
 - (b) A vapor recovery system is used which consists of a Certified Underground Storage Tank Device capable of collecting the vapor from volatile organic liquids and gases so as to prevent their emission to the outdoor atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place, or
 - (c) The vapors are processed by a system demonstrated to the satisfaction of the Department to be of equal effectiveness.
 - (d) All equipment associated with the vapor recovery system shall be maintained to be vapor tight and in good working order. No gasoline delivery shall take place unless the vapor return hose is connected by the delivery truck operator, if required by (1)(b) above.
- (2) Exemptions. This section will not apply to:
 - (a) Transfers made to storage tanks of gasoline dispensing facilities equipped with floating roofs or their equivalent.
 - (b) Stationary gasoline storage containers of less than 2,085 liters (550 gallons) capacity [used exclusively for the fueling of implements of farming, provided the containers use submerged fill].
 - (c) Stationary gasoline storage tanks located at a gasoline dispensing facility that are filled by a delivery vessel which was filled at an exempted bulk gasoline plant provided that the storage tanks use submerged fill. However, in the Portland-Vancouver AQMA, no person shall deliver gasoline to a gasoline dispensing facility at a rate exceeding 10,000 gallons per month from a bulk gasoline plant, unless the gasoline vapor is handled as required by rule 340-22-110(1)(a), (b) or (c).

(d) Stationary gasoline storage tanks with offset fill lines, welded-in drop tubes, or fill pipes of less than 3" diameter; if installed before January 1, 1979.

- (3) The owner, operator, or builder of any stationary storage container subject to 340-22-110 shall comply by April 1, 1981, except where added equipment is required by rule changes adopted in 1980, compliance is delayed to April 1, 1983.
- (4) Compliance with 340-22-110(1)(b) shall be determined by verification of use of equipment identical to equipment most recently approved and listed for such use by the Department or by testing in accordance with Method 30 on file with the Department.

Bulk Gasoline Plants and Delivery Vessel(s)

340-22-120

- (1) No person shall transfer or allow the transfer of gasoline to or from a bulk gasoline plant unless:
- (a) Each stationary storage tank and each delivery vessel uses submerged fill when transferring gasoline;
- (b) The displaced vapors from filling each tank and each delivery vessel are prevented from being released to the atmosphere through use of a vapor tight vapor balance system, or equivalent system as approved in writing by the Department. All equipment associated with the vapor balance system shall be maintained to be vapor tight and in good working order. Exceptions and limitations are as follows in (c), (d), and (e).
- (c) If a bulk gasoline plant which is located in the Portland AQMA, transfers less than 4,000 gallons of gasoline per day (annual through-put divided by the days worked), or if each of the dispensing facilities to which the plant delivers receives less than 10,000 gallons per month, then capture of displaced vapors during the filling of delivery vessel(s) from the bulk plant is exempt from 340-22-120(1)(b) and the bulk plant's customers are exempt from 340-22-110(1)(b) and (c). If a bulk gasoline plant is located in the Medford-Ashland AQMA, or in the Salem SATS, capture of displaced vapors during the filling of delivery vessel(s) from the bulk plant is exempt from 340-22-120(1)(b) and the bulk plant's customers are exempt from 340-22-110(1)(b) and (c).

- (d) Each stationary gasoline storage tank may release vapor to the atmosphere through a pressure relief valve set to release at no less than 3.4 kPa (.50 psi) or some other setting approved in writing by the Department.
 - (e) Gasoline is handled in a manner to prevent spillage, discharging into sewers, storage in open containers, or handled in any other manner that would result in evaporation. If more than five gallons are spilled, the operator shall report the spillage in accordance with 340-21-065 to -075.
- (2) The owner(s) or operator(s) of bulk gasoline plants and delivery vessels subject to 340-22-120 shall comply with the provisions of this rule by April 1, 1981, except where added equipment is required by rule changes adopted in 1980, compliance is delayed to April 1, 1983.
 - (3) Compliance with 340-22-120(1)(b) shall be determined by verification of use of equipment approved by the Department and/or by testing and monitoring in accordance with applicable portions of 340-22-137 and/or Method 31 and/or 32 on file with the Department.
 - (4) The owner or operator of a gasoline delivery vessel shall maintain the vessel to be vapor tight at all times, in accordance with 340-22-137(1), if such vessel is part of a vapor balance system required by these rules.
 - (5) Rule 340-22-120 shall not apply to bulk plants which load 600,000 or less gallons of gasoline per year.

Bulk Gasoline Terminals

340-22-130 (1)

After April 1, 1981, no terminal owner or operator, shall allow volatile organic compounds (VOC) to be emitted into the atmosphere in excess of 80 milligrams of VOC per liter of gasoline loaded from the operation of loading truck tanks, and truck trailers at bulk gasoline terminals with daily throughputs of greater than 76,000 liters (20,000 gallons) per day of gasoline. The daily throughputs are the annual throughput divided by 365 days.

- (a) The owner or operator of a gasoline loading terminal shall only allow the transfer of gasoline between the facility and a truck tank or a truck trailer when a current leak test certification for the delivery vessel is on file with the terminal or a valid inspection sticker is displayed on the delivery vessel.

- (b) The owner or operator of a truck tank or a truck trailer shall not make any connection to the terminal's gasoline loading rack unless the gasoline delivery vessel has been tested in accordance with OAR 340-22-137(1).
- (c) The truck driver or other operator who fills a delivery truck tank and/or trailer tank shall not take on a load of gasoline unless the vapor return hose is properly connected.
- (d) All equipment associated with the vapor recovery system shall be maintained to be vapor tight and in good working order.
- (2) Compliance with 340-22-130 shall be determined by testing in accordance with Method 33 on file with the Department.
- (3) Bulk Gasoline terminals shall comply with the following within the limits of 340-22-130(1):
- (a) All displaced vapors and gases during tank truck gasoline loading operations are vented only to the vapor control system, except when gasoline delivery vessels are switched to diesel delivery service or to delivery of other VOC with Reid vapor pressure less than 4.0 psia.
- (b) The loading device must not leak when in use. The loading device shall be designed and operated to allow no more than 10 cubic centimeters drainage per disconnect on the basis of five consecutive disconnects.
- (c) All loading liquid [and vapor] lines [are] shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected.
- All vapor lines shall be equipped with fittings which make vapor-tight connections and which close automatically and immediately when disconnected or which contain vapor-tight unidirectional valves.
- (d) Gasoline is handled in a manner to prevent its being discarded in sewers or stored in open containers or handled in any manner that would result in evaporation. If more than 5 gallons are spilled, the operator shall report the spillage in accordance with 340-21-065 to -075.
- (e) The vapor collection system is operated in a manner to prevent the pressure therein from exceeding the tank truck or trailer pressure relief settings.

TESTING VAPOR TRANSFER AND COLLECTION SYSTEMS

340-22-137

- (1) After April 1, 1981, no person shall allow a vapor-laden delivery vessel subject to 340-22-120(4) to be filled or emptied unless the delivery vessel:
- (a) Is tested annually according to the test method 32 on file with the Department, or with EPA Method 21.
 - (b) Sustains a pressure change of no more than 750 pascals (3 in. of H₂O) in 5 min when pressurized to a gauge pressure of 4,500 pascals (18 in. of H₂O) or evacuated to a gauge pressure of 1,500 pascals (6 in. of H₂O) during the testing required in subsection (1)(a) of this rule; and
 - (c) Displays a sticker near the Department of Transportation [Certification plate] test date markings required by 49 CFR 177.824h [178.340-10b], which:
 - (A) Shows the year and month that the gasoline tank truck last passed the test required in sections (1)(a) and (b) of this rule;
 - (B) Shows the identification of the sticker; and,
 - (C) Expires not more than one year from the date of the leak-test test.
 - (d) Has its vapor return hose connected by the truck operator so that gasoline vapor is not expelled to the atmosphere.
- (2) After April 1, 1981, the owner or operator of a vapor collection system subject to this regulation shall design and operate the vapor collection system and the gasoline loading equipment in a manner that prevents:
- (a) Gauge pressure from exceeding 4,500 pascals (18 in. of H₂O) and vacuum from exceeding 1,500 pascals (6 in. of H₂O) in the gasoline tank truck being loaded;
 - (b) A reading equal to or greater than 100 percent of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters from all points on the perimeter of a potential leak source when measured by the method 31 and 33 on file with the Department, or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals; and
 - (c) Visible liquid leaks during loading or unloading operations at gasoline dispensing facilities, bulk plants and bulk terminals.

- (3) The Department may, at any time, monitor a gasoline tank truck, vapor collection system, or vapor control system, by the methods on file with the Department, to confirm continuing compliance with sections (1) or (2) of this rule.

RECORDKEEPING AND REPORTING

- (4) The owner or operator of a source of volatile organic compounds subject to this regulation shall maintain records of all certification testing and repairs. The records must identify the gasoline tank truck, vapor collection system, or vapor control system; the date of the test or repair; and, if applicable, the type of repair and the date of retest. The records must be maintained in a legible, readily available condition for at least two years after the date of testing or repair was completed.
- (5) Copies of all records and reports under rule 340-22-130(4) and (5) shall immediately be made available to the Department, upon verbal or written request, at any reasonable time.

CUTBACK AND EMULSIFIED ASPHALT

340-22-140

- (1) After April 1, 1979, use of any cutback asphalt for paving roads & parking areas is prohibited during the months of April, May, June, July, August, September, and October, except as provided for in 340-22-140 (2).
- (2) Slow curing (SC) and medium curing (MC) cutback asphalts are allowed during all months for the following uses and applications:
- (a) Solely as a penetrating prime coat for aggregate bases prior to paving;
 - (b) For the manufacture of medium-curing patching mixes to provide long-period storage stockpiles used exclusively for pavement maintenance; or,
 - (c) For all uses when the National Weather Service forecast of the high temperature during the 24-hour period following application is below 10°C (50°F).
- (3) Rapid curing (RC) grades of cutback asphalt are always prohibited.
- (4) Use of emulsified asphalts is unrestricted if solvent content is kept at or less than the limits listed below. If these limits are exceeded, then the asphalt shall be

classified as medium curing (MC) cutback asphalts, and shall be limited to only the uses permitted by 340-22-140(2).

	Grades of Emulsion Per AASHTO Designation M 208-72	Maximum Solvent Content by Weight
(a)	CRS-1	3%
(b)	CRS-2	3%
(c)	CSS-1	3%
(d)	CSS-1h	3%
(e)	CMS-2	8%
(f)	CMS-2h	8%
(g)	CMS-2S	12%

Solvent content is determined by ASTM distillation test D-244.

PETROLEUM REFINERIES

340-22-150

After April 1, 1979, these regulations shall apply to all petroleum refineries.

(1) Vacuum-Producing Systems

- (a) Noncondensable VOC from vacuum-producing systems shall be piped to an appropriate firebox, incinerator, or to a closed refinery system.
- (b) Hot wells associated with contact condensers shall be tightly covered and the collected VOC introduced into a closed refinery system.

(2) Wastewater Separators

- (a) Wastewater separators forebays shall incorporate a floating pontoon or fixed solid cover with all openings sealed totally enclosing the compartmented liquid contents, or a floating pontoon or double deck-type cover equipped with closure seals between the cover edge and compartment wall.
- (b) Accesses for gauging and sampling shall be designed to minimize VOC emissions during actual use. All access points shall be closed with suitable covers when not in use.

(3) Process Unit Turnaround

- (a) The VOC contained in a process unit to be depressurized for turnaround shall be introduced to a closed refinery

system, combusted by a flare, or vented to a disposal system.

- (b) The pressure in a process unit following depressurization for turnaround shall be less than 5 psig before venting to the ambient air.

(4) Maintenance and Operation of Emission Control Equipment

Equipment for the reduction, collection, or disposal of VOC shall be maintained and operated in a manner commensurate with the level of maintenance and housekeeping of the overall plant.

PETROLEUM REFINERY LEAKS

340-22-153

- (1) After October 1, 1980, all persons operating petroleum refineries shall comply with the following rules concerning leaks:

- (a) The owner or operator of a petroleum refinery complex, upon detection of a leaking component, which has a volatile organic compound concentration exceeding 10,000 ppm when tested in the manner described below shall:

- (A) Include the leaking component on a written list of scheduled repairs; and,

- (B) Repair and retest the component within 15 days.

- (b) Except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only when a sample is being taken during maintenance operations.

- (c) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to both refinery personnel performing monitoring and the Department.

(2) TESTING PROCEDURES:

Testing and calibration procedures to determine compliance with this regulation [must be approved by the Department and consistent with Appendix B of "Control of Volatile Organic Compounds Leaks from Petroleum Refinery Equipment," EPA-450/2-78-036.] shall be done in accordance with EPA Method 21.

(3) MONITORING, RECORDKEEPING, REPORTING

(a) The owner or operator of a petroleum refinery shall maintain, as a minimum, records of all testing conducted under this rule; plus records of all monitoring conducted under paragraphs (b) and (c) of this section.

(b) The owner or operator of a petroleum refinery subject to this regulation shall:

(A) Monitor yearly by the methods referenced in 340-22-153 (2) all:

- (i) Pump seals;
- (ii) Pipeline valves in liquid service; and
- (iii) Process drains.

(B) Monitor quarterly by the methods referenced in 340-22-153(2) all:

- (i) Compressor seals,
- (ii) Pipeline valves in gaseous service; and,
- (iii) Pressure relief valves in gaseous service.

(C) Monitor weekly by visual methods all pump seals;

(D) Monitor immediately any pump seal from which liquids are observed dripping;

(E) Monitor any relief valve within 24 hours after it has vented to the atmosphere; and

(F) Monitor immediately after repair of any component that was found leaking.

(c) Pressure relief devices which are connected to an operating flare header, vapor recovery device, inaccessible valves, storage tank valves, or valves that are not externally regulated are exempt from the monitoring requirements in 340-22-153(3)(b).

(d) The owner or operator of a petroleum refinery, upon the detection of a leaking component, shall affix a weatherproof and readily visible tag bearing an identification number and the date the leak is located to the leaking component. This tag shall remain in place until the leaking component is repaired.

(e) The owner or operator of a petroleum refinery, upon the completion of each yearly and/or quarterly monitoring procedure, shall:

- (A) Submit a report to the Department on the 15th day of January, April, July, and September, listing the leaking components that were located but not repaired within the required time limit in 340-22-153(3)(1)(a);
- (B) Submit a signed statement attesting to the fact that, with the exception of those leaking components listed in 340-22-153(3)(e)(A), all monitoring and repairs were performed as stipulated.
- (f) The owner or operator of a petroleum refinery shall maintain a leaking component monitoring log which shall contain, at a minimum, the following data:
 - (A) The name of the process unit where the component is located;
 - (B) The type of component (e.g., valve, seal);
 - (C) The tag number of the component;
 - (D) The date on which a leaking component is discovered;
 - (E) The date on which a leaking component is repaired; and
 - (F) The date and instrument reading of the recheck procedure after a leaking component is repaired.
 - (G) A record of the calibration of the monitoring instrument.
 - (H) Those leaks that cannot be repaired until turnaround, (exceptions to the 15 day requirement of 340-22-153(1)(a) B).
 - (I) The total number of components checked and the total number of components found leaking.
- (g) Copies of all records and reports required by this section shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted.
- (h) Copies of all records and reports required by this section shall immediately be made available to the Department upon verbal or written request at any reasonable time.
- (i) The Department may, upon written notice, modify the monitoring, recordkeeping and reporting requirements.

(4) EXEMPTIONS

Rule 340-22-153 does not apply to components handling liquids with a true vapor pressure of less than 10.5 KPa (1.52 psia),

where the true vapor pressure is determined at the highest temperature at which the liquid is handled or stored.

Liquid Storage

340-22-160(1)

After April 1, 1981, owners or operators which have tanks storing methanol or other volatile organic compound liquids with a true vapor pressure, as stored, greater than 10.5 kPa (kilo Pascals) (1.52 psia), but less than 76.7 kPa (11.1 psia) and having a capacity greater than 150,000 liters (approximately 39,000 gallons) shall comply with one of the following:

- (a) Meet the equipment specifications and maintenance requirements of the federal standards of performance for new stationary sources--Storage Vessels for Petroleum Liquids, 40 CFR 60, Subpart K, and Ka, as amended by Federal Register, April 4, 1980, pages 23379 through 23381.
 - (b) Be retrofitted with a floating roof or internal floating cover using at least a nonmetallic resilient seal as the primary seal meeting the equipment specifications in the federal standards referred to in 340-22-160(a) above, or its equivalent.
 - [(c) Is fitted with a floating roof or internal floating cover meeting the manufacturers equipment specifications in effect when it was installed.]
- (2) All seals used in 340-22-160(1)(b) and (c) above are to be maintained in good operating condition and the seal fabric shall contain no visible holes, tears, or other openings.
 - (3) All openings, except stub drains and those related to safety (such as slotted gage wells), are to be sealed with suitable closures. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place: except for slotted gage wells which must have floating seals with one half inch edge gaps or less.

(4) SECONDARY SEALS

(a) APPLICABILITY

Rule 340-22-160(4)(c) applies to all VOC liquid storage vessels equipped with external floating roofs, having capacities greater than 150,000 liters (39,000 gal).

(b) EXEMPTIONS

Rule 340-22-160(4)(c) does not apply to petroleum liquid storage vessels which:

- (A) Are used to store waxy, heavy pour crude oil;
 - (B) Have capacities less than 1,600,000 liters (420,000 gal) and are used to store produced crude oil and condensate prior to lease custody transfer;
 - (C) Contain a VOC liquid with a true vapor pressure of less than 10.5 kPa (1.5 psia) where the vapor pressure is measured at the storage temperature.
 - (D) Contain a VOC liquid with a true vapor pressure less than 27.6 kPa (4.0 psia); and,
 - (i) Are of welded construction; and,
 - (ii) Presently possess a metallic-type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid filled type seal, or other closure device of demonstrated equivalence approved by the Department; or,
 - (E) Are of welded construction, equipped with a metallic-type shoe primary seal and has a secondary seal from the top of the shoe seal to the tank wall (shoemounted secondary seal).
- (c) After December 31, 1981, no owner of a VOC liquid storage vessel subject to 340-22-160 shall store VOC liquid in that vessel unless:
- (A) The vessel has been fitted with:
 - (i) A continuous secondary seal extending from the floating roof to the tank wall (rim-mounted secondary seal); or
 - (ii) A closure or other device which controls VOC emissions with an effectiveness equal to or greater than a seal required under part (A) (i) of this section as approved in writing by the Department.

- (B) All seal closure devices meet the following requirements:
- (i) There are no visible holes, tears, or other openings in the seal(s) or seal fabric:
 - (ii) The seal(s) are intact and uniformly in place around the circumference of the floating roof between the floating roof and the tank wall; and,
 - (iii) For vapor mounted seals, the accumulated area of gaps exceeding 0.32 cm (1/8 in.) in width between the secondary seal and the tank wall are determined by the method in 340-22-160 (4)(d) and shall not exceed 21.2 cm^2 per meter of tank diameter (1.0 in.^2 per ft. of tank diameter).
- (C) All openings in the external floating roof, except for automatic bleeder vents, rim space vents, and leg sleeves, are:
- (i) equipped with covers, seals, or lids in the closed position except when the openings are in actual use; and,
 - (ii) equipped with projections into the tank which remain below the liquid surface at all times.
- (D) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports;
- (E) Rim vents are set to open only when the roof is being floated off the leg supports or at the manufacturers recommended setting; and,
- (F) Emergency roof drains are provided with slotted membrane fabric covers or equivalent covers which cover at least 90 percent of the area of the opening.
- (G) The owner or operator of a VOC liquid storage vessel with an external floating roof subject to 340-22-160(4)(c) shall:
- (i) perform routine inspections once per year in order to ensure compliance with parts (A)

through (F) of this section and the inspections shall include a visual inspection of the secondary seal gap;

- (ii) measure the secondary seal gap annually in accordance with 340-22-160(4)(d) when the floating roof is equipped with a vapor-mounted primary seal; and,
 - (iii) maintain records of the types of VOC liquids stored.
- (H) The owner or operator of a VOC liquid storage vessel with an external floating roof not subject to this regulation, but containing a VOC liquid with a true vapor pressure greater than 7.00 kPa (1.0 psi), shall maintain records of the average monthly storage temperature, the type of liquid, and the maximum true vapor pressure for all VOC liquids with a true vapor pressure greater than 7.0 kPa.
- (I) The owner or operator of a VOC liquid storage vessel subject to this regulation, shall submit to the Department, as a minimum, annual reports summarizing the inspections.
- (J) Copies of all records and reports under paragraphs (G) (H), and (I) of this section shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report submitted.
- (K) Copies of all records and reports under this section shall immediately be made available to the Department, upon verbal or written request, at any reasonable time.
- (L) The Department may, upon written notice, require more frequent reports or modify the monitoring and recordkeeping requirements, when necessary to accomplish the purposes of this rule.
- (d) SECONDARY SEAL COMPLIANCE DETERMINATION
- (A) The owner or operator of any volatile organic compound source required to comply with 340-22-160(4) shall demonstrate compliance by the methods of this section or an alternative method approved by the Department.

- (B) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by the Department.
- (C) Compliance with 340-22-160(4)(c)(B)(iii) shall be determined by:
- (i) Physically measuring the length and width of all gaps around the entire circumference of the secondary seal in each place where a 0.32 cm (1/8 in.) uniform diameter probe passes freely (without forcing or binding against the seal) between the seal and tank wall; and,
 - (ii) Summing the area of the individual gaps.

SURFACE COATING IN MANUFACTURING

340-22-170

- (1) After December 31, 1982, no person shall operate a coating line which emits into the atmosphere volatile organic compounds greater than the amounts in Table 1 per volume of coating excluding water as delivered to the coating applicators. The limitations shall be based on a daily average except (4)(e) shall be based on a monthly average. Daily monitoring and monthly reporting of emissions are required after July 1, 1980, for sources emitting more than 1,000 tons per year of VOC, unless exempted as unnecessary by the Department in writing.

(2) EXCEPTIONS

- (a) Rule 340-22-170 does not apply to airplanes painted out of doors in open air; automobile and truck refinishing; customized top coating of automobiles and trucks, if production is less than 35 vehicles per day; marine vessels and vessel parts painted out in the open air; flat wood coating; wood furniture and wood cabinets; wooden doors, mouldings, and window frames; machine staining of exterior wood siding; high temperature coatings (for service above 500° F); lumber marking coatings; potable water tank inside coatings; high performance inorganic zinc coatings, air dried, applied to fabricated steel; [traffic markings paint.] paint used to apply markings by stencil.

(b) Rule 340-22-170 does not apply to:

- (1) Sources, regulated by this rule, whose emissions of volatile organic compounds are less than [6.8 kilograms (15 pounds) per day and less than 1.4 kilograms (3 pounds) per hour] 40 tons per year or
- (2) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance (such as research facilities, pilot plant operations, and laboratories) unless;
 - (i) the operation of the source is an integral part of the production process; or,
 - (ii) the emissions from the source exceed 363 kilograms (800 pounds) in any calendar month.

(3) APPLICABILITY

Rule 340-22-170 applies to each coating line, which includes the application area(s), flashoff area(s), air and forced air drier(s), and oven(s) used in the surface coating of the metal parts and products in Table 1.

(4) STRINGENCY

If more than one emission limitation in 340-22-170 applies to a specific coating, then the least stringent emission limitation shall be applied. Process and Limitation:

(a) Can Coating	
(A) Sheet basecoat (exterior and interior) and over-varnish; two-piece can exterior (basecoat and over-varnish)	2.8 lb/gal
(B) Two- and three-piece can interior <u>and exterior</u> body spray, two-piece can exterior end (spray or roll coat)	4.2 lb/gal
(C) Three-piece can side-seam spray	5.5 lb/gal
(D) End sealing compound	3.7 lb/gal
[Coil Coating	2.6 lb/gal]
(b) Fabric Coating	2.9 lb/gal
(c) Vinyl Coating	3.8 lb/gal
(d) Paper Coating	2.9 lb/gal
<u>(e) Precision Coating of Paper and Film</u>	<u>55 lb*</u>

* 55 lb VOC per 1000 sq. yds. of material per pass

(f) Auto & Light Duty Truck Coating	
(A) Prime	1.9 lb/gal
(B) Topcoat	2.8 lb/gal
(C) Repair	4.8 lb/gal
(g) Metal Furniture Coating	3.0 lb/gal
(h) Magnet Wire Coating	1.7 lb/gal
(i) Large Appliance Coating	2.8 lb/gal
(j) Miscellaneous Products and Metal Parts	
(A) Clear Coatings	4.3 lb/gal
(B) Force Air Dried or Air Dried	3.5 lb/gal
(C) Extreme Performance Coatings	3.5 lb/gal
(D) Other Coatings (i.e. powder, oven dried)	3.0 lb/gal
(E) <u>High Performance Architectural Coatings</u> <u>on Aluminum</u>	6.2 lb/gal

(5) COMPLIANCE DETERMINATION

Compliance with 340-22-170 shall be determined by testing in accordance with Method 24, 25, a [or Method 34 () material balance method()] , or an equivalent plant specific method approved by and on file with the Department. [These methods may be revised by the Department for improvement based upon experience and new data. However, no revision shall apply to a compliance test scheduled prior to the making of the revision, unless the owner concurs. Compliance determination of surface coated product(s) pursuant to the requirements of Table 1 may be based upon an equivalency determination (See EPA May 5, 1980 memo "Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating" on file with the Department) of the mass of VOC per volume of solids applied including transfer efficiency as applicable, on a plant site or a process basis.] The limit in 340-22-170(1) of VOC in the coating is based upon an assumed solvent density, and other assumptions unique to a coating line; where conditions differ, such as a different solvent density, a plant specific limit developed pursuant to the applicable Control Technology Guideline document may be submitted to the Department for approval.

(6) REDUCTION METHOD

The emission limits of 340-22-170(1) shall be achieved by:

- (a) The application of low solvent content coating technology (formulations which directly meet the values required);
or,

(b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or.

(c) An equivalent means of VOC removal. The equivalent means must be approved in writing by the Department.

A capture system must be used in conjunction with the emission control systems in 340-22-170(6) (b) and (c). The design and operation of a capture system must be consistent with good engineering practice and shall be required to enable overall emission reduction equivalent to the emission limitations in 340-22-170(1).

DEGREASERS

340-22-180

Cold cleaners, open top vapor degreasers, and conveyORIZED degreasers are exempt from the following rules if they use fluids which are not photochemically reactive. These fluids are:

$C_2Cl_3F_3$ trichlorotrifluorethane, also known as Freon 113 or Freon TF

CH_2Cl_2 methylene chloride

1, 1, 1- $C_2H_3Cl_3$ methyl chloroform, also known as 1-1-1 trichloroethane or Chlorothene VG.

COLD CLEANERS:

- (1) The owner or operator of [all] dip tank cold cleaners shall comply with the following equipment specifications after April 1, 1980:
 - (a) Be equipped with a cover that is readily opened and closed. This is required of all cold cleaners, whether a dip tank or not.
 - (b) Be equipped with a drainrack, suspension basket, or suspension hoist that returns the drained solvent to the solvent bath.
 - (c) Have a freeboard ratio of at least 0.5.
 - (d) Have a visible fill line.

- (2) An owner or operator of a cold cleaner shall be responsible for following the required operating parameters and work practices. The owner shall post and maintain in the work area of each cold cleaner a pictograph or instructions clearly explaining the following work practices:
 - (a) The solvent level shall not be above the fill line
 - (b) The spraying of parts to be cleaned shall be performed only within the confines of the cold cleaner
 - (c) The cover of the cold cleaner shall be closed when not in use or when parts are being soaked or cleaned by solvent agitation
 - (d) Solvent-cleaned parts shall be rotated to drain cavities or blind holes and then set to drain until dripping has stopped.
 - (e) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, in accordance with rules 340-100.

- (3) The owner or operator shall maintain cold cleaners in good working condition and free of solvent leaks.
- (4) If the solvent has a volatility greater than 2.0 kPa (0.3 psi) measured at 38°C (100°F), or if the solvent is agitated or heated, then the cover must be designed so that it can be easily operated with one hand or foot.
- (5) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), then the drainage facility must be internal, so that parts are enclosed under the cover while draining. The drainage facility may be external for applications where an internal type cannot fit unto the cleaning system.
- (6) If the solvent has a volatility greater than 4.3 kPa (0.6 psi) measured at 38°C (100°F), or if the solvent is heated above 50°C (120°F), then one of the following solvent vapor control systems must be used:
 - (a) The freeboard ratio must be equal to or greater than 0.70; or
 - (b) Water must be kept over the solvent, which must be insoluble in and heavier than water; or
 - (c) Other systems of equivalent control, such as a refrigerated chiller.

OPEN TOP VAPOR DEGREASERS

340-22-183

- (1) The owner or operator of all open top vapor degreasers shall comply with the following equipment specifications after April 1, 1980:
 - (a) Be equipped with a cover that may be readily opened and closed. When a degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust. The cover shall move horizontally or slowly so as not to agitate and spill the solvent vapor. The degreaser shall be equipped with at least the following three safety switches:
 - (A) Condenser-flow switch and thermostate--(shuts off sump heat if coolant is either not circulating or too warm).

- (B) Spray safety switch--(shuts off spray pump or conveyor if the vapor level drops excessively, e.g., greater than 10 cm (4 in.)).
 - (C) Vapor level control thermostat--(shuts off sump heat when vapor level rises too high).
- (b) Have the following:
- (A) A closed design such that the cover opens only when the part enters or exits the degreaser (and when the degreaser starts up, forming a vapor layer, the cover may be opened to release the displaced air) and either
 - (B) A freeboard ratio equal to or greater than 0.75, or
 - (C) A freeboard, refrigerated or cold water, chiller.
- (c) Post a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:
- (A) Do not degrease porous or absorbent materials such as cloth, leather, wood, or rope.
 - (B) The cover of the degreaser should be closed at all times except when processing workloads.
 - (C) When the cover is open the lip of the degreaser should not be exposed to steady drafts greater than 15.3 meters per minute (50 feet/min).
 - (D) Rack parts so as to facilitate solvent drainage from the parts.
 - (E) Workloads should not occupy more than one-half of the vapor-air interface area.
 - (F) When using a powered hoist, the vertical speed of parts in and out of the vapor zone should be less than 3.35 meters per minute (11 feet/min.)
 - (G) Degrease the workload in the vapor zone until condensation ceases.
 - (H) Spraying operations should be done within the vapor layer.
 - (I) Hold parts in the degreaser until visually dry.
 - (J) When equipped with a lip exhaust, the fan should be turned off when the cover is closed.

- (K) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.
 - (L) Water shall not be visible in the solvent stream from the water separator.
- (2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
 - (3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.
 - (4) Still and sump bottoms shall be kept in closed containers.
 - (5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, in accordance with rules 340-100.
 - (6) Exhaust ventilation shall not exceed $20^3\text{m} / \text{min per m}^2$ (65 cfm per ft^2) of degreaser open area, unless necessary to meet OSHA requirements. Ventilation fans shall not be used near the degreaser opening.

CONVEYORIZED DEGREASERS

340-22-186

- (1) The owner or operator of conveyORIZED cold cleaners and conveyORIZED vapor degreasers shall comply with the following operating requirements after April 1, 1980:
 - (a) Exhaust ventilation should not exceed 20 cubic meters per minute of square meter (65 cfm per ft^2) of degreaser opening, unless necessary to meet OSHA requirements. Work place fans should not be used near the degreaser opening.
 - (b) Post in the immediate work area a permanent and conspicuous pictograph or instructions clearly explaining the following work practices:

- (A) Rack parts for best drainage.
 - (B) Maintain vertical speed of conveyed parts to less than 3.35 meters per minute (11 feet/min.)
 - (C) The condenser water shall be turned on before the sump heater when starting up a cold vapor degreaser. The sump heater shall be turned off and the solvent vapor layer allowed to collapse before closing the condenser water when shutting down a hot vapor degreaser.
- (2) A routine inspection and maintenance program shall be implemented for the purpose of preventing and correcting solvent losses, as for example, from dripping drain taps, cracked gaskets, and malfunctioning equipment. Leaks must be repaired immediately.
 - (3) Sump drainage and transfer of hot or warm solvent shall be carried out using threaded or other leakproof couplings.
 - (4) Still and sump bottoms shall be kept in closed containers.
 - (5) Waste solvent shall be stored in covered containers and returned to the supplier or a disposal firm handling solvents for final disposal, in accordance with rules 340-100.
 - (6) All conveyORIZED cold cleaners and conveyORIZED vapor degreasers with air/vapor interfaces of 2.0 m² or greater shall have one of the following major control devices installed and operating after April 1, 1982:
 - (a) Carbon adsorption system, exhausting less than 25 ppm of solvent averaged over a complete adsorption cycle (based on exhaust ventilation of 15 m²/min per m² of air/vapor area, when down-time covers are open), or
 - (b) Refrigerated chiller with control effectiveness equal to or better than (a) above, or
 - (c) A system with control effectiveness equal to or better than (a) above.

Asphaltic and Coal Tar Pitch Used for Roofing Coating

340-22-190(1)

A person shall not operate or use equipment after April 1, 1980, for melting, heating, or holding asphalt or coal tar pitch for the on-site construction, installation, or repair of roofs

unless the gas-entrained effluents from such equipment are contained by close fitting covers.

(2) A person operating equipment subject to this rule shall maintain the temperature of the asphaltic or coal tar pitch below 285 degrees Centigrade (550 degrees Fahrenheit), or 17 degrees Centigrade (30 degrees Fahrenheit) below the flashpoint whichever is the lower temperature, as indicated by a continuous reading thermometer.

(3) The provisions of this rule shall not apply to equipment having a capacity of 100 liters (26 gallons) or less; or to equipment having a capacity of 600 liters (159 gallons) or less provided it is equipped with a tightly fitted lid or cover.

FLAT WOOD COATING

340-22-200

(1) This rule applies to all flat wood manufacturing and surface finishing facilities, that manufacture the following products:

- (a) Printed interior panels made of hardwood plywood and thin particle board;
- (b) Natural finish hardwood plywood panels; or,
- (c) Hardboard paneling with Class II finishes.

(2) This rule does not apply to the manufacture of exterior siding, tileboard, particleboard used as a furniture component, or paper or plastic laminates on wood or wood-derived substrates.

(3) After December 31, 1982, no owner or operator of a flat wood manufacturing facility subject to this regulation shall emit volatile organic compounds from a coating application system in excess of:

- (a) 2.9 kg per 100 square meters of coated finished product (6.0 lb/1,000 square feet) from printed interior panels, regardless of the number of coats applied;
- (b) 5.8 kg per 100 square meters of coated finished product (12.0 lb/1,000 square feet) from natural finish hardwood plywood panels, regardless of the number of coats applied; and,

- (c) 4.8 kg per 100 square meters of coated finished product (10.0 lb/1,000 square feet) from Class II finishes on hardboard panels, regardless of the number of coats applied.
- (4) The emission limits 340-22-200(3) shall be achieved by:
 - (a) The application of low solvent content coating technology; or,
 - (b) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds entering the incinerator (VOC measured as total combustible carbon) to carbon dioxide and water; or,
 - (c) An equivalent means of VOC removal. The equivalent means must be approved in writing by the Department.
- (5) A capture system must be used in conjunction with the emission control systems in 340-22-200(4)(b) and (c). The design and operation of a capture system must be consistent with good engineering practice and shall be required to provide for an overall emission reduction sufficient to meet the emission limitations in 340-22-200(3).

COMPLIANCE DEMONSTRATION

- (6) The owner or operator of a volatile organic compound source required to comply with this rule shall demonstrate compliance by the methods of 340-22-200(8), or an alternative method approved by the Department.
- (7) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test.
- (8) (a) Test procedures to determine compliance with 340-22-200(3) must be approved by the Department and be consistent with:
 - (A) EPA Guideline Series document, "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; and,
 - (B) Appendix A of "Control of Volatile Organic Emissions from Existing Stationary Sources - Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobile, and Ligh-Duty Trucks," EPA-450/-77-008.

- (b) The Department may accept, instead of the coating analysis required by 340-22-200(8)(a)(B), a certification by the coating manufacturer of the composition of the coating, if supported by actual batch formulation records.
- (9) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:
 - (a) exhaust gas temperature of all incinerators;
 - (b) temperature rise across a catalytic incinerator bed; and
 - (c) breakthrough of VOC on a carbon absorption unit.

ROTOGRAVURE AND FLEXOGRAPHIC PRINTING

340-22-210

- (1) After July 1, 1982, no owner or operator of a packaging rotogravure, publication rotogravure, [or] flexographic or specialty printing facility, emitting more than 90 Mg/year (100 ton/year), employing ink containing solvent may operate, cause, allow or permit the operation of the press unless:
 - (a) The volatile fraction of ink, as it is applied to the substrate, contains 25.0 percent by volume or less of organic solvent and 75 percent by volume or more of water; or,
 - (b) The ink as it is applied to the substitute, less water, contains 60.0 percent by volume or more nonvolatile material; or,
 - (c) The owner or operator installs and operates:
 - (A) A carbon adsorption system which reduces the volatile organic emissions from the capture system by at least 90.0 percent by weight;
 - (B) An incineration system which oxidizes at least 90.0 percent of the nonmethane volatile organic compounds (VOC measured as total combustible carbon) to carbon dioxide and water; or,

(C) An alternative volatile organic compound emissions reduction system demonstrated to have at least a 90.0 percent reduction efficiency, measured across the control system, and has been approved by the Department.

(2) A capture system must be used in conjunction with the emission control systems in subsection (1)(c). The design and operation of a capture system must be consistent with good engineering practice, and shall be required to provide for an overall reduction in volatile organic compound emissions of at least:

(a) 75.0 percent where a publication rotogravure process is employed;

(b) 65.0 percent where a packaging rotogravure process is employed; or,

(c) 60.0 percent where a flexographic printing process is employed.

(3) COMPLIANCE DEMONSTRATION:

(a) Upon request of the Department, the owner or operator of a volatile organic compound source shall demonstrate compliance by the methods of this section or an alternative method approved by the Department. All tests shall be made by, or under the direction of, a person qualified by training and/or experience in the field of air pollution testing.

(b) A person proposing to conduct a volatile organic compound emissions test shall notify the Department of the intent to test not less than 30 days before the proposed initiation of the tests so the Department may observe the test. The notification shall contain the information required by, and be in a format approved by, the Department.

(c) Test procedures to determine compliance with 340-22-210 must be approved by the Department and consistent with:

(i) EPA Guideline Series document, "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; and

(ii) Appendix A of "Control Volatile Organic Emissions from Existing Stationary Sources Volume II: Surface Coating of Cans, Coils,

Paper, Fabrics, Automobiles, and Light-Duty Trucks," EPA-450/2-77-008.

- (iii) The Department may accept, instead of ink-solvent analysis, a certification by the ink manufacturer of the composition of the ink solvent, if supported by actual batch formulation records.
- (d) If add-on control equipment is used, continuous monitors of the following parameters shall be installed, periodically calibrated, and operated at all times that the associated control equipment is operating:
 - (A) Exhaust gas temperature of all incinerators; [and]
 - (B) Breakthrough of VOC on a carbon adsorption unit; and
 - (C) Temperature rise across a catalytic incinerator bed.

PERCHLOROETHYLENE DRY CLEANING

340-22-220

- (1) After January 1, 1982, the owner or operator of a perchloroethylene dry cleaning facility shall;
 - (a) Vent the entire dryer exhaust through a properly functioning carbon adsorption system or equally effective control device;
 - (b) Emit no more than 100 ppmv of volatile organic compounds from the dryer control device before dilution;
 - (c) Immediately repair all components found to be leaking liquid volatile organic compounds.
 - (d) Cook or treat all diatomaceous earth filters so that the residue contains 25 kg or less of volatile organic compounds per 100 kg of wet waste material;
 - (e) Reduce the volatile organic compounds from all solvent stills to 60 kg or less per 100 kg of wet waste material;
 - (f) Drain all filtration cartridges, in the filter housing, for at least 24 hours before discarding the cartridges; and

- (g) When possible, dry all drained cartridges without emitting volatile organic compounds to the atmosphere.
- (h) for dry-to-dry configuration units, the following shall apply in lieu of (a) and (b) above:
 - (i) The dryer/condenser system must be closed to the atmosphere at all times except when articles are being loaded or unloaded through the door of the machine.
 - (ii) The dryer/condenser system must not vent to the atmosphere until the air-vapor stream temperature on the outlet side of the refrigerated condenser is equal to or less than 45°F.

EXEMPTIONS

- (2) The requirements of 340-22-220(1)(a) and (b) are not applicable to:
 - (a) coin-operated facilities,
 - (b) facilities where an adsorber or other necessary control equipment cannot be accommodated because of inadequate space, or
 - (c) facilities with insufficient steam capacity to desorb adsorbers, or
 - (d) small facilities which consume less than 320 gallons of perchloroethylene per year.

COMPLIANCE DEMONSTRATION

- (3) Compliance to this rule shall be demonstrated as follows:
 - (a) Compliance with 340-22-220(1)(a),(f), and (g) shall be determined by means of a visual inspection.
 - (b) Compliance with 340-22-220(1)(c) shall be determined by means of a visual inspection of the following components:
 - (1) Hose connections, unions, couplings and valves;
 - (2) Machine door gaskets and seatings;
 - (3) Filter head gasket and seating;
 - (4) Pumps;
 - (5) Base tanks and storage containers;
 - (6) Water separators;

- (7) Filter sludge recovery;
 - (8) Distillation unit;
 - (9) Diverter valves;
 - (10) Saturated lint from lint basket; and
 - (11) Cartridge filters.
- (c) Compliance with 340-22-220-(1)(b) shall be determined by:
- (1) A test consistent with EPA Guideline Series document, "Measurement of Volatile Organic Compounds," EPA-450/2-78-041; or
 - (2) The proper installation, operation, and maintenance of equipment which has been demonstrated to be adequate to meet the emission limits of 100 ppmv.
- (d) Compliance with 340-22-220(1)(d) and (e) shall be determined by means of the procedure in the "Standard Test Method for Gasoline Diluent in Used Gasoline Engine Oils By Distillation," ANSI/ASTM D 322.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

PROPOSED CHANGES TO VOLATILE ORGANIC COMPOUND RULES

Date Prepared: September 3, 1985
Hearing Date: November 19, 1985
Comments Due: November 20, 1985

**WHO IS
AFFECTED:**

Facilities working with volatile organic compounds covered by these rules; i.e., painting in manufacturing.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340-22-170(2)(b)(A) which would allow small sources of VOC emissions to be exempt from the painting rule, shorten the ozone season to May through September, during which time afterburners are required to be used, and make 25 other minor changes to the administrative rules which generally improves the enforceability of the rules. The one major change would use up 380 kg/day of the VOC growth cushion of 6,000 kg/day.

One of the minor rule changes would allow emission of an additional estimated 5.6 kg/day. Other proposed minor changes have similar, negligible impacts.

**WHAT ARE THE
HIGHLIGHTS:**

The Department is holding a hearing on proposed changes to rules concerning Volatile Organic Compounds. These changes will address four areas of concern raised by EPA in their approval of these rules and about twenty-five other improvements considered desirable by the Department. The one major rule change has an insignificant impact on Portland's ozone attainment strategy.

**HOW TO
COMMENT:**

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (522 S.W. Fifth Avenue) or the regional office nearest you. For further information contact Peter B. Bosserman at (503) 229-6278.

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

10:00 a.m.
Tuesday, November 19, 1985
Room 1400, 14th Floor
Yeon Building, 522 S.W. Fifth Ave.
Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Air Quality Division, P.O. Box 1760, Portland, OR 97207, but must be received by no later than November 20, 1985 at 5 p.m.



P.O. Box 1760
Portland, OR 97207

8/10/82

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call ~~1-800-452-7813~~ and ask for the Department of Environmental Quality. **1-800-452-4011**



**WHAT IS THE
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in January 1986, 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.

AS1707.B

RULEMAKING STATEMENTS

for

PROPOSED CHANGES TO VOLATILE ORGANIC COMPOUND RULES

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

STATEMENT OF NEED:

Legal Authority

This proposal amends 340-20-155(1) Table 1, 340-22-100 to 220.

It is proposed under authority of ORS 468.295(3).

Need for the Rule:

The Federal Environmental Protection Agency has requested four areas of changes in the VOC rules. The Department has twenty-five changes to make as a result of field experience over the last five years. Also, variances expire for several paint coaters in January 1986 and many changes are needed to improve enforceability of the rules.

Principal Documents Relied Upon

1. Federal Register March 11, 1982 (47FR10534) final rule. Approval and Promulgation of Implementation Plan Revision; Oregon, Approving Group II VOC rules.
2. DEQ May 23, 1985 letter to 3M Co. regarding 3M plant compliance, AQ File No. 15-0029, carbon copy to EPA Region X.
3. EQC Agenda Item H, June 7, 1985 Meeting, Request for Extension of a Variance for the Miscellaneous Products and Metal Parts Industry from OAR 340-22-170(4)(j) Which Limits Solvent Content of Coatings.
4. EPA October 30, 1979 letter to DEQ concerning expanding wintertime exemption.
5. Record of EPA phone call March 25, 1982, Mark Hooper, Region X (Seattle) to Tom Williams, OAQPS (North Carolina) concerning proposed Oregon VOC rule changes.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The regulated sources will not incur further capital or operating costs as a result of the amended rules. The proposed rule changes are mostly clarifications and only one would significantly impact businesses now operating. It would exempt about fifteen small businesses from having their coating operations regulated.

LAND USE CONSISTENCY STATEMENT:

The proposed rule changes are considered minimal, therefore, there are minimal land use compatibility effects from the proposed changes.

Goal 11 (public facilities and services) is deemed unaffected by the rule. The rule does not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this notice.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state, or federal authorities.

AS1707.C
PBB:pl
9/5/85

CORRECTED

LAND USE CONSISTENCY STATEMENT:

The proposed rule changes are considered minimal, therefore, there are minimal land use compatibility effects from the proposed changes.

With regard to Goal 6 (air, water, and land resources quality), the rules are designed to enhance and preserve air quality in the affected area and are considered consistent with the goal.

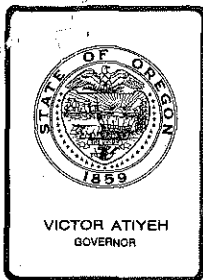
Goal 11 (public facilities and services) is deemed unaffected by the rule. The rule does not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this notice.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state, or federal authorities.

AS1707.C
PBB:pl
9/23/85



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. H, September 27, 1985, EQC Meeting

Proposed Adoption of Rules Modifying a Special Groundwater Quality Protection Rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580 for the LaPine Shallow Aquifer.

Background

In the early 1980s, Deschutes County conducted a comprehensive groundwater study in the LaPine area. The study found nitrate levels in the shallow groundwater in the LaPine core area exceeding federal drinking water standards. This shallow groundwater is the primary source of domestic water supply for the core area.

Concurrently and independently, the Department also developed a statewide groundwater quality protection policy in the early 1980s. This policy was adopted in rule form (OAR 340-41-029) by the Environmental Quality Commission in September 1981, and directs the Department, among other things, to identify and resolve groundwater quality problems. Consistent with this protection policy, on May 20, 1983, the Commission adopted a special groundwater quality protection policy for the LaPine shallow aquifer. This policy was placed in a section of the Deschutes Basin Water Quality Management Plan called "Special Policies and Guidelines" (OAR 340-41-580). Among other things, the special policies state that all wastewater generated within the core area of the community of LaPine shall be collected, treated and disposed of in a manner which prevents future pollution of the groundwater after January 1, 1987. The rule states that the core area shall be that described within the LaPine Aquifer Management Plan. (The LaPine Aquifer Management Plan documents groundwater contamination in the LaPine shallow aquifer and was the basis for the existing special groundwater protection policy.)

Unfortunately, the LaPine Aquifer Management Plan only refers to the core area in very general terms. The management plan did not attempt to establish a precise boundary. Consequently, the specific area to be

sewered is not established in the rule. The LaPine Facilities Plan, completed in June 1985, does contain a boundary for the core area and documents the rationale for establishing areas for initial sewer service and for future service.

The LaPine Special Sewer District is a legally formed sanitary district located in the LaPine core area. Its boundaries only encompass those properties whose owners volunteered to participate in the District's formation. In the Department's judgment and based upon information in the LaPine Facilities Plan, there are areas outside the sanitary district that should eliminate discharges of inadequately treated sewage and be served by sewers.

Apparently, the sanitary district will attempt to annex those areas shown in the facilities plan that need initial sewer service. However, it seems likely that at least some of those properties that should be sewerred and are outside the sanitary district may resist annexation. Without annexation, the district cannot require connection.

Pursuant to authorization granted by the Environmental Quality Commission at its July 19, 1985 meeting, the Department held a hearing in LaPine on August 20, 1985. The hearing concerned proposed changes to the Special Groundwater Quality Protection Rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580 for the LaPine Shallow Aquifer. In summary, the proposed changes were as follows:

1. Added a finding that existing on-site sewage disposal systems in the LaPine core area are causing water pollution.
2. Described a precise boundary for the LaPine core area as that defined as "Proposed Sewer Service Area," Figure 4.3 "LaPine Facilities Plan for the LaPine Special Sewer District, LaPine, Oregon, June, 1985."
3. Required all buildings with plumbing fixtures in the LaPine core area to connect to sewer and abandon existing on-site sewage system when sewer service becomes available.

The summary of hearing testimony and the Department's response to the testimony is included as Attachment II. Based upon the hearing documents, the Department would propose to adopt the rule (Attachment I) which includes the following changes:

1. Define the sewer boundary by legal description as opposed to a figure cited in the LaPine Facilities Plan Report. The Department believes a legal description is a more reliable definition and should cause less confusion.

2. Describe the sewer boundary as shown in the LaPine Facilities Plan. The Department believes that the area inside this boundary includes the largest sources of sewage and those denser areas of development that contribute to the nitrate problem. Those areas outside the boundary have relatively scattered development and current zoning restrictions should preclude creation of future nitrate problems.
3. Revise the wording in the rule to reflect that the manner in which future groundwater pollution can be prevented in the core area is by connection to a regional sewerage facility and abandonment of existing on-site sewage disposal systems in accordance with a regional sewerage plan approved by the Department. Deletion of specific reference to LaPine Sewer District will eliminate future problems should LaPine incorporate and dissolve the sanitary district. The proposed language also acknowledges that availability of sewer service will be in accordance with an approved sewerage plan.

Alternatives

The Department believes the Commission has three alternatives:

1. Adopt the rule with changes as proposed. The advantages of this alternative are:
 - a) People will know the precise boundary of the LaPine core area and will know if they are expected to connect their properties to sewer when it becomes available.
 - b) By establishing the boundary specifically in the rules at this time, more of the project may be grant-eligible and would reduce the local share of construction costs. (The LaPine core area is currently positioned on the FY85 Federal Sewerage Works Construction Priority List such that funding is available this year. The proposed FY86 priority list also shows LaPine in a fundable position.) Obviously, other considerations are important when determining grant eligibility, but a precise boundary could help for those areas currently outside the sanitary district boundaries.
 - c) A precise legally established boundary is essential if, once the sewerage system is available, the Department needs to force properties to eliminate the discharge of inadequately treated sewage and abandon existing on-site sewage disposal systems.
 - d) The proposed rule reflects that the availability of sewers to serve the core area will be in accordance with an approved sewerage plan.

2. Refuse to adopt the proposed rule. With this approach, only those areas within the sanitary district would have to eliminate discharges of inadequately treated sewage, abandon existing on-site sewage systems and connect to sewer. Larger sources of sewage, notably the schools, would not be sewered and their contribution to the nitrate problem would continue. Sewers could be extended to areas outside the district, but it would be difficult, if not impossible, should some property owners not wish to be annexed or contract for sewerage service. Further, construction of sewers would probably not be grant-eligible and would require 100 percent local financing. This would increase the financial burden of those within the district.
3. Adopt the proposed rule with other changes. The staff believes it has accurately and conscientiously reviewed the testimony. It also believes it has responsibly responded to the points generated by the testimony. We do not believe these are changes that could be made to the proposed rule without seriously affecting its ability to resolve the current problem.

Summation

1. In May 1983, the Commission adopted, by administrative rule, a special groundwater quality protection policy (OAR 340-41-580) that requires a sewerage facility for the LaPine core area by January 1, 1987.
2. The special groundwater protection policy defined the core area as that described in the LaPine Aquifer Management Plan.
3. The LaPine Management Plan only refers to the core area in very general terms.
4. The EQC authorized a hearing on a proposed rule change to OAR 340-41-580 at its July 19, 1985 meeting.
5. A hearing was held in LaPine on August 20, 1985 to consider a proposed boundary for the LaPine core area.
6. Following the hearing, the Department changed the proposed rule so that the proposed core area boundary is defined by a legal description. The proposed rule was also changed to refer to a regional sewerage facility instead of the LaPine Special Sewer District and to a regional sewerage plan to reflect the means by which wastewater shall be collected, treated and disposed to prevent future pollution of the groundwater.
7. The Department believes a specific boundary for the core area should be adopted as a rule under the Special Policies and Guidelines section of the Deschutes Basin Water Quality Management Plan. A boundary established by rule would apprise people of future sewage requirements

for their property, assist the determination of grant eligibility and identify those properties which must abandon existing on-site disposal systems and connect to the sewer.

8. Definition of the area requiring sewers is required by the statewide groundwater quality protection policy (OAR 340-41-029).

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed amendments to the Special Groundwater Quality Protection Rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580 for the LaPine Shallow Aquifer as presented in Attachment I.



Fred Hansen

- Attachments:
- I. Proposed Rule OAR 340-41-580
 - II. Hearing Summary and Response
 - III. July 19, 1985 EQC Report on LaPine
 - IV. Map of Proposed Sewer Boundary

Richard J. Nichols:b
388-6146 (Bend)
August 29, 1985
GB5021

PROPOSED RULE MODIFICATION

Change a section of OAR Chapter 340, Division 41, as follows:

SPECIAL POLICIES AND GUIDELINES

340-41-580 (1) In order to protect the shallow aquifer located in the vicinity of the community of LaPine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the LaPine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(a) The Environmental Quality Commission finds that existing on-site sewage disposal systems inside the core area of the community of LaPine are causing groundwater pollution. By January 1, 1987, [T]the wastewater generated within [the] this core area [of the community of LaPine as described within the management plan] shall be collected, treated and disposed [of in a manner which prevents future pollution of the groundwater by not later than January 1, 1987.] according to the regional sewerage plan approved by the Department.

(i) The core area of the community of LaPine shall be that area defined as follows:

Located in Sections 10, 11, 14, and 15, Township 22 South, Range 10 East, Willamette Meridian, as follows:

Beginning at a point at the northwest corner of the intersection of U.S. Highway 97 and First Street (aka Reed Road); thence in a northeasterly direction along the westerly right-of-way line of said U.S. Highway 97 a

distance of 1,480 feet, more or less, to the intersection of said U.S. Highway 97 and the northerly line of the south one-half of the southwest one-quarter of said Section 11; thence in a westerly direction along the northerly line of the south one-half of the southwest one-quarter of said Section 11 a distance of 1,950 feet, more or less, to the south one-sixteenth corner between said Sections 10 and 11; thence in a northerly direction along the section line between Sections 10 and 11, 330 feet, more or less, to the northeast corner of the Bend-LaPine School District property; thence in a westerly direction along the northerly line of the said Bend-LaPine School District property 1,320 feet, more or less, to a point on the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10, said point further being the northwest corner of the Bend-LaPine School District property; thence in a southerly direction along the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10, 2,310 feet, more or less, to a point at the intersection of the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10 and the northerly right-of-way line of said First Street, said point further being the southwest corner of the Bend-LaPine School District property; thence in an easterly direction along the northerly right-of-way line of said First Street, 350 feet, more or less, to a point on the northerly right-of-way line of said First Street due north of the northwest corner of the alley in Block 16 of the Plat of LaPine Subdivision; thence in a southerly direction along the westerly side of said alley 550 feet, more or less, to a point along the southerly right-of-way of 2nd Street due south of the southwest corner of the alley in Block 16 of the Plat of LaPine Subdivision; thence in an easterly direction along the southerly right-of-way of 2nd Street, 185 feet, more or less, to the southwest corner of the intersection of

Underlined portion is NEW
[Bracketed] portion is DELETED

Stillwell Street and 2nd Street; thence in a southerly direction along the westerly right-of-way line of said Stillwell Street, 950 feet, more or less, to the northwest corner of the intersection of said Stillwell Street and 4th Street; thence in a southerly direction along the west right-of-way line of Stillwell Street approximately 1,186 feet to the northwest corner of the intersection of Stillwell Street and Hill Street; thence in a southwesterly direction along the west right-of-way line of Hill Street approximately 960 feet to the southeast corner of the intersection of Hill Street and Stearns Street; thence in a southerly direction along the east right-of-way line of Stearns Street approximately 326 feet to the northeast corner of the intersection of Stearns Street and 9th Street; thence in an easterly direction along the north right-of-way line of 9th Street and the easterly extension of the north line of said 9th Street, 1,093 feet to its intersection with the east right-of-way line of Pengra Huntington Road; thence in a northerly direction along the east right-of-way line of Pengra Huntington Road approximately 1,166 feet to the southwest corner of Lot 31, Government Homesite Tracts; thence in an easterly direction along the south boundary of said Lot 31 approximately 263 feet to the southeast corner of said Lot 31; thence in a northerly direction along the east boundary of said Lot 31 approximately 200 feet to the south right-of-way line of Finley Butte Road; thence in an easterly direction along the south right-of-way line of Finley Butte Road approximately 675 feet to the southeast corner of the intersection of Finley Butte Road and Bonnie Road; thence in a northerly direction along the east right-of-way line of Bonnie Road approximately 1,075 feet to the southeast corner of the intersection of Bonnie Road and William Foss Road; thence in an easterly direction along the southerly right-of-way line of said William Foss Road, 1,640 feet, more or less, to the north-south center section line of said Section 14 thence

Underlined portion is NEW

[Bracketed] portion is DELETED

in a northerly direction along the north-south center line of said Section 14, 1,635 feet, more or less, to the north right-of-way line of said First Street (aka Reed Road); thence in a westerly direction along the north right-of-way line of said First Street, 1,432 feet, more or less, to the point of beginning.

(ii) All dwellings and buildings that contain plumbing fixtures inside this core area boundary shall eliminate the discharge of inadequately treated sewage, abandon existing on-site sewage disposal systems and connect to the regional sewerage facility. This shall be done within 90 days following notification by the approved regional sewerage agency that sewer service is available.

(b) The wastewater generated outside the core area of the community of LaPine but within the study area described in the LaPine Aquifer Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR Chapter 340, Division 71).

(c) Waste disposal systems for new developments within the LaPine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day shall only be approved if a study is conducted by the applicant which convinces the Department that the aquifer will not be unreasonably degraded.

(2) In addition to the requirements set forth in section (1) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the LaPine core area of the

need to develop a safe drinking water supply for the community as soon as possible.

(b) Residents of the LaPine area are encouraged to test their drinking water frequently.

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks.

(d) Data on the quality of the shallow aquifer in and around LaPine should be obtained on a periodic basis to assess the effect of the above wastewater management decisions on the quality of the groundwater.

GB5021.I

Underlined portion is NEW
[Bracketed] portion is DELETED

PROPOSED RULE MODIFICATION

Change a section of OAR Chapter 340, Division 41, as follows:

SPECIAL POLICIES AND GUIDELINES

340-41-580 (1) In order to protect the shallow aquifer located in the vicinity of the community of LaPine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the LaPine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(a) The Environmental Quality Commission finds that existing on-site sewage disposal systems inside the core area of the community of LaPine are causing groundwater pollution. By January 1, 1987. [T]he wastewater generated within [the] this core area [of the community of LaPine as described within the management plan] shall be collected, treated and disposed [of in a manner which prevents future pollution of the groundwater by not later than January 1, 1987.] according to the regional sewerage plan approved by the Department.

(i) The core area of the community of LaPine shall be that area defined as follows:

Located in a portion of Sections 10, 11, 14, and 15, Township 22 South, Range 10 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Beginning at the northwest corner of the intersection of U.S. Highway 97 and First Street (aka Reed Road); thence in a northeasterly direction along the westerly right-of-way line of said U.S. Highway 97 a distance of

Underlined portion is NEW
[Bracketed] portion is DELETED

1,480 feet, more or less, to the intersection of said U.S. Highway 97 and the northerly line of the south one-half of the southwest one-quarter of said Section 11; thence in a westerly direction along the northerly line of the south one-half of the southwest one-quarter of said Section 11 a distance of 1,950 feet, more or less, to the south one-sixteenth corner between said Sections 10 and 11; thence in a northerly direction along the section line between Sections 10 and 11, 990 feet, more or less, to the northeast corner of the south one-half of the north one-half of the northeast one-quarter of the southeast one-quarter of said Section 10 being the northeast corner of the Bend-LaPine School District property; thence in a westerly direction along the north line of the said south one-half of the north one-half of the northeast one-quarter of the southeast one-quarter, being the north line of the said Bend-LaPine School District property, 1,320 feet, more or less, to the northwest corner of the south one-half of the north one-half of the southeast one-quarter of the southeast one-quarter of said Section 10, said point further being the northwest corner of the Bend-LaPine School District property; thence in a southerly direction along the westerly line of the east one-half of the southeast one-quarter of said Section 10, 2,310 feet, more or less, to a point at the intersection of the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10 and the northerly right-of-way line of said First Street, said point further being the southwest corner of the Bend-LaPine School District property; thence in an easterly direction along the northerly right-of-way line of said First Street, 350 feet, more or less, to a point on the northerly right-of-way line of said First Street due north of the northwest corner of the alley in Block 16 of the Plat of LaPine Subdivision; thence in a southerly direction along the westerly side of said alley 550 feet, more or less, to a point along the southerly right-

Underlined portion is NEW
[Bracketed] portion is DELETED

of-way of 2nd Street due south of the southwest corner of the alley in Block 16 of the Plat of LaPine Subdivision; thence in an easterly direction along the southerly right-of-way of 2nd Street, 390 feet, more or less, to the southwest corner of the intersection of Stillwell Street and 2nd Street; thence in a southerly direction along the westerly right-of-way line of said Stillwell Street, 950 feet, more or less, to the northwest corner of the intersection of said Stillwell Street and 4th Street; thence in a southerly direction along the west right-of-way line of Stillwell Street approximately 1,186 feet to the northwest corner of the intersection of Stillwell Street and Hill Street; thence in a southwesterly direction along the west right-of-way line of Hill Street approximately 340 feet to the intersection of the west line of Hill Street with the north line of 8th Street; thence westerly along the north line of 8th Street, 41 feet, more or less to the northeast corner of the intersection of 8th Street and Stearns Street; thence in a southerly direction along the east right-of-way line of Stearns Street approximately 387 feet to the northeast corner of the intersection of Stearns Street and 9th Street; thence in an easterly direction along the north right-of-way line of 9th Street and the easterly extension of the north line of said 9th Street, 1,093 feet to its intersection with the east right-of-way line of Pengra Huntington Road; thence in a northerly direction along the east right-of-way line of Pengra Huntington Road approximately 1,166 feet to the southwest corner of Lot 31, Government Homesite Tracts; thence in an easterly direction along the south boundary of said Lot 31 approximately 263 feet to the southeast corner of said Lot 31; thence in a northerly direction along the east boundary of said Lot 31 approximately 200 feet to the south right-of-way line of Finley Butte Road; thence in an easterly direction along the south right-of-way line of Finley Butte Road approximately 675 feet to the southeast corner of

Underlined portion is NEW
[Bracketed] portion is DELETED

the intersection of Finley Butte Road and Bonnie Road; thence in a northerly direction along the east right-of-way line of Bonnie Road approximately 1,075 feet to the southeast corner of the intersection of Bonnie Road and William Foss Road; thence in an easterly direction along the southerly right-of-way line of said William Foss Road, 1,640 feet, more or less, to the north-south center section line of said Section 14 thence in a northerly direction along the north-south center line of said Section 14, 1,635 feet, more or less, to the north right-of-way line of said First Street (aka Reed Road); thence in a westerly direction along the north right-of-way line of said First Street, 1,432 feet, more or less, to the point of beginning.

(ii) All dwellings and buildings that contain plumbing fixtures inside this core area boundary shall eliminate the discharge of inadequately treated sewage, abandon existing on-site sewage disposal systems and connect to the regional sewerage facility. This shall be done within 90 days following notification by the approved regional sewerage agency that sewer service is available.

(b) The wastewater generated outside the core area of the community of LaPine but within the study area described in the LaPine Aquifer Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR Chapter 340, Division 71).

(c) Waste disposal systems for new developments within the LaPine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day shall only be approved if a study is conducted by the applicant which convinces the Department that the aquifer will not be unreasonably degraded.

Underlined portion is NEW
[Bracketed] portion is DELETED

(2) In addition to the requirements set forth in section (1) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the LaPine core area of the need to develop a safe drinking water supply for the community as soon as possible.

(b) Residents of the LaPine area are encouraged to test their drinking water frequently.

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks.

(d) Data on the quality of the shallow aquifer in and around LaPine should be obtained on a periodic basis to assess the effect of the above wastewater management decisions on the quality of the groundwater.

GB5021.I

HEARING SUMMARY AND DEPARTMENT RESPONSE

Public Rulemaking Hearing for Considering Modifications to a
Special Groundwater Quality Protection Rule in the Deschutes
Basin Water Quality Management Plan, OAR 340-41-580 for the
LaPine Shallow Aquifer

Date: August 20, 1985
Place: LaPine Fire Hall, LaPine, Oregon
Hearings Officer: Linda Zucker

First Testifier: Mr. A.E. Stafford

Mr. Stafford stated he did not reside in the LaPine Special Sewer District. He stated that the proposed sewage collection system was not a bonafide sewer system because the septic tanks would leak. He also believed that the individual property owners would be responsible for putting in a new septic tank when they connected to sewer. Mr. Stafford believes the slough running south of the core area was polluting the groundwater. He also believes a water system will be required in three years and that the proposed sewer system will not work.

Department's Response:

The sewage collection system, as recommended in the facilities plan and chosen by the LaPine Special Sewer District, is a small diameter pipe gravity system. Such systems include a septic tank at each property. At this time the District intends to put new tanks in at each property. New tanks should not leak for a long time because steel tanks are coated to reduce corrosion and concrete tanks are constructed watertight. The Department does not believe septic tank leakage will be significant over the life of the system.

The facilities plan states that the District would install the new septic tanks as part of the project. The cost of the new tank would be financed by the District and would not be an up-front cost to be borne by each property owner.

The Department does not believe the slough is a contributor to groundwater pollution in LaPine. The LaPine groundwater study found no evidence of contamination from the slough. The nitrate problem in LaPine is caused by a high density of on-site sewage disposal systems.

The Department cannot require that a water system be installed. The Health Division could order a water system if bacterial pollution of the groundwater could be found. The groundwater study did not find any bacterial contamination in the LaPine groundwater.

While the sewage system proposed in the facilities plan is unconventional, it has been shown to work at other locations.

Second Testifier: Mr. Orris H. Lunda

Mr. Lunda asked that his house located at 16560 Foss Road and a building on an adjacent lot be excluded from the LaPine core area boundary. He claims that his house is isolated from the main part of town and there is no reason to extend the sewer to his property. His two lots cover three acres and he has a new drainfield system which was installed in 1983. He has tested his well water and the nitrate level was only 1.5 mg/l. Based upon this, he does not believe he needs to be sewerred. Mr. and Mrs. Lunda followed the oral testimony with written comments which are attached as Attachment A.

Department's Response

Mr. Lunda's property is relatively large and somewhat remote from the rest of the development in the District. Nevertheless, this property is already in the LaPine Special Sewer District. The Department feels that excluding Mr. Lunda's property from the boundary even though it remains in the sanitary district could cause future administrative problems. If, in the future, sewer design shows that it is not cost-effective to extend sewers to the Lunda property, actual construction could be delayed until the situation is more favorable.

Third Testifier: Mr. Orval D. Boyle representing the Bend LaPine Public School District

The School's testimony was submitted in writing and is attached as Attachment B.

Department's Response

In its written testimony, the School District incorrectly quotes the proposed rule. The proposed rule states that the Commission finds that existing on-site sewage disposal systems inside the core area of LaPine are causing water pollution. The proposed rule does not refer to the School's system specifically. The LaPine groundwater study determined that pollution was occurring in the core area. This was the basis for requiring a sewer system for LaPine. Neither the groundwater study or the facilities plan tried to determine the specific sources of nitrate contamination. This would have been impossible.

The School District's claim that the school is not discharging nitrate to the aquifer is not defensible. In the first place, the lab analyses did not include Kjeldahl nitrogen. Ignoring this parameter would exclude a major component of the nitrogen found in septic tank effluent. Admittedly, the ammonia levels are surprisingly low. However, the sample was collected in late July when school had been out for almost two months. We do not believe the sample represents effluent during normal school use. Quite frankly, sewage is sewage. It is difficult to understand why the School District would believe its sewage is different than other sewage.

The general groundwater gradient in LaPine is to the northeast. However, the local groundwater direction of flow could vary depending on site specific conditions. Further, the well data provided by the school cannot be realistically used to determine the school's contribution to local nitrate pollution. In the first place, nitrate data is not provided. Secondly, the well may not be located in the plume of the drainfield. If it is not, one may not expect to find contamination but that would not mean contamination was not occurring.

The Department does not know specifically who or what on-site systems are contributing to the nitrate problem in the LaPine core area. It would be impossible to find and sewer the guilty and leave the rest alone. We believe the sewer system must serve the community as a whole in order to resolve the nitrate problem. We believe the school is a large source of sewage in the core area and, as such, is a major contributor of nitrate into the shallow aquifer.

In its letter, the School District cites a number of questions relating to financing and user fees that are the jurisdiction of the LaPine Special Sewer District. While the questions are important, the Department is not the appropriate entity to answer them, with the exception of No. 11. The Department only intends to require sewers in the core area initially. Quite frankly, we believe the core area should include all sources of sewage, particularly the larger sources, that are within a practical distance to a central sewer system. This includes the LaPine schools.

Fourth, Fifth and Seventh Testifiers: Mr. Dennis Carter, Mr. Marvin Russell and Mr. James Newton

These gentlemen stated that a sewer was needed and that the school should be in the sewer boundary. Mr. Russell followed his testimony with written comments which are attached as Attachment C.

Department's Response

None required.

Written testimony from Ms. Nancy L. Carter and Mr. Ken Travis (Testimony is attached as Attachments D and E.) These folks stated that the school should be included in the sewer system boundary.

Department's Response

The Department agrees.

The following testimony, both oral and written, were requests for property to be included in the proposed sewer boundary. The following is a list of testifiers and the subject properties. The Department will respond to the testimony as a group.

<u>Testifier</u>	<u>Owner</u>	<u>Property Address</u>
Ms. Mary Bartles	Richard & Sherie James	51372 Preble Way
Mr. Russ Hickey	Mr. Prather	SW corner of Preble & Finley Butte Road
Mr. Charles N. Bird	Same	51326 Huntington Road
Ms. Elaine Seed	Same	51317 & 51321 Preble Way
Mr. R.W. Stadther	Same	16455 & 16467 Finley Butte Road

Department's Response

These properties are all located south of Finley Butte Road and east of Huntington Road. In general this area is composed of approximately one-acre lots. There are some exceptions: Mr. Bird's lot is 0.66 acre and R.W. Stadther's lots are each 0.73 acre. In any case, the desire to be included in the sewer boundary is sporadic as is the existing development. None of the testifiers indicated why they wanted to be included in the

sewer boundary. The Department is not aware of any specific pollution or health hazard problems in this area and we would not expect problems with the relatively sparse development. The LaPine Groundwater Study indicated that nitrate problems, in general, should not occur with one-acre development.

Sewering a development with one-acre lots would probably be relatively expensive. Consequently, the staff would prefer not to require this area to be sewerred at this time, particularly when the Department is unaware of any specific problems.

We believe the decision to extend sewers into this area should be made by the LaPine Special Sewer District. The District board can make this decision based upon its financial needs and capabilities. It is inappropriate and illogical for the Department to consider local funding issues in such a decision. The Department's decision should be based exclusively on groundwater pollution.

While we do not believe these properties, by rule, should be located inside the sewer boundary, we certainly would not object to these property owners voluntarily annexing their property to the District. In fact, particularly for these properties contiguous to the District, we encourage such annexations if the District feels it can provide service in a cost-effective manner.

The written testimony submitted by these folks are attached as Attachment F, G, and H.

This concludes the testimony.

Respectfully submitted,

Richard J. Nichols

Attachment A

Subject: Input regarding LaPine Aquifer Management Plan
and request for removal of property from the Plan

To: Department of Environmental Quality

Date: August 21, 1985

Gentlemen:

We were present and gave testimony at the meeting August 20, 1985 in LaPine. We have a small one-bedroom house at 16560 Foss Rd. where my wife and I live. I am 80 and my wife is 74 years old and we live on a low Social Security income. We got our property by land grant from the Government in 1959. The old house on the lot east of us is not liveable so is assessed for taxes as storage. The lot to the west of us is BLM land. Also the land to the east of our property is BLM land. We got a permit and had a new drain field put in in 1983. So with one septic tank and one well on three acres of ground we do have good water which was proved by water ~~xxxxx~~ tests. I hope your committee will remove us from the sewer district. As it stands now, we feel we are being discriminated against by making the sewer district boundary this far out of the way just to include our one-bedroom house. We were excluded from the LaPine ~~IX~~ Incorporation Plan because of our distance from the core of LaPine. Please see the two attached maps. We would appreciate it very much if you would remove our two lots from the LaPine Sewer District and the LaPine Aquifer Management Plan zone.

Very truly yours,

Orris H. Lunda
Orris H. Lunda
Velda M. Lunda
Velda M. Lunda
P.O. Box 755
LaPine, Oregon 97739

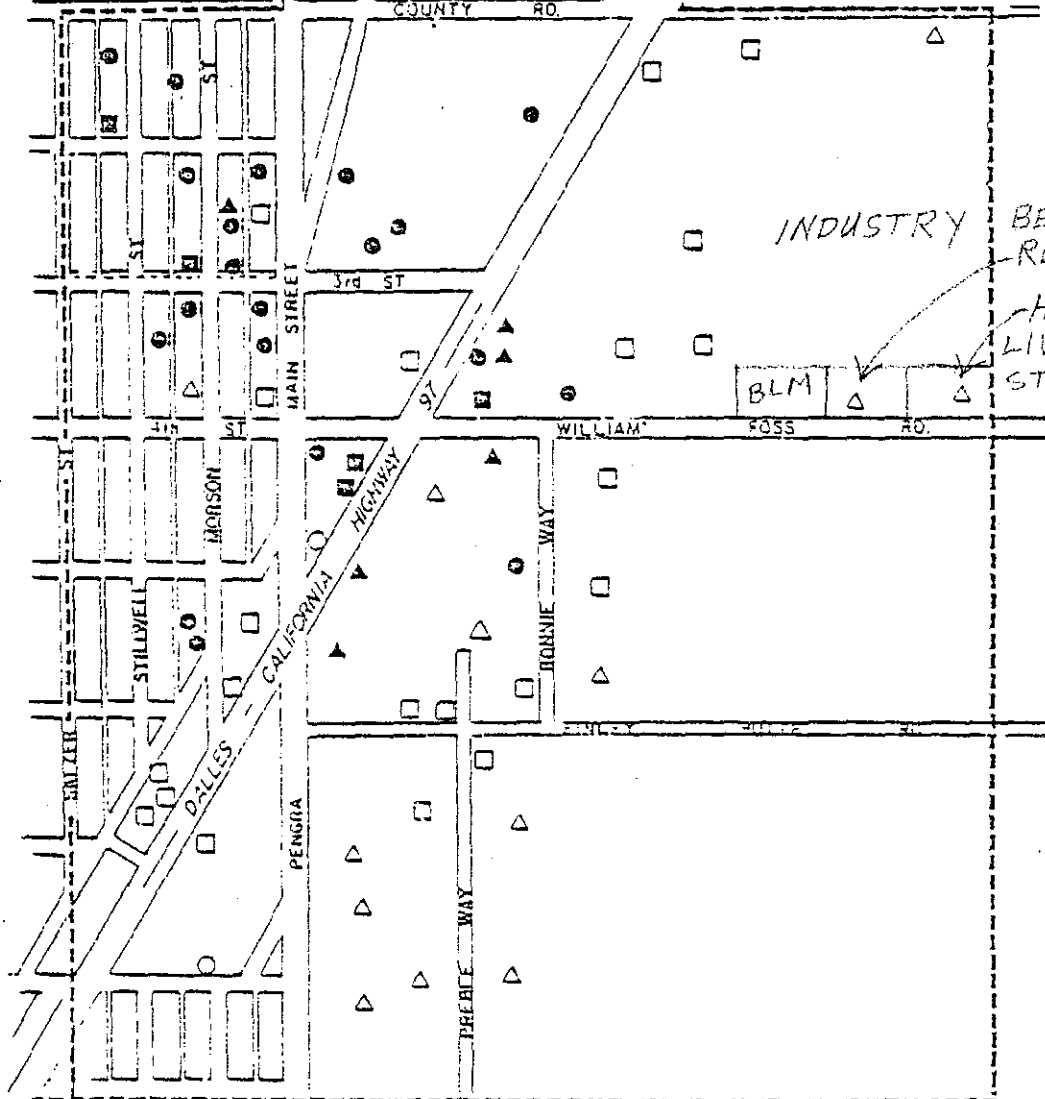
State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 22 1985
BEAD DISTRICT OFFICE

LAPINE CORE AREA

NITRATE-NITROGEN
CONCENTRATION

FALL 1981

SYMBOL	CONCENTRATION
○	LESS THAN 1 mg/L
△	1-5 mg/L
□	5-10 mg/L
⊙	11-20 mg/L
▲	21-30 mg/L
■	GREATER THAN 30 mg/L



INDUSTRY ONE BEDROOM RESIDENCE
HOUSE NOT LIVEABLE, STORAGE ONLY

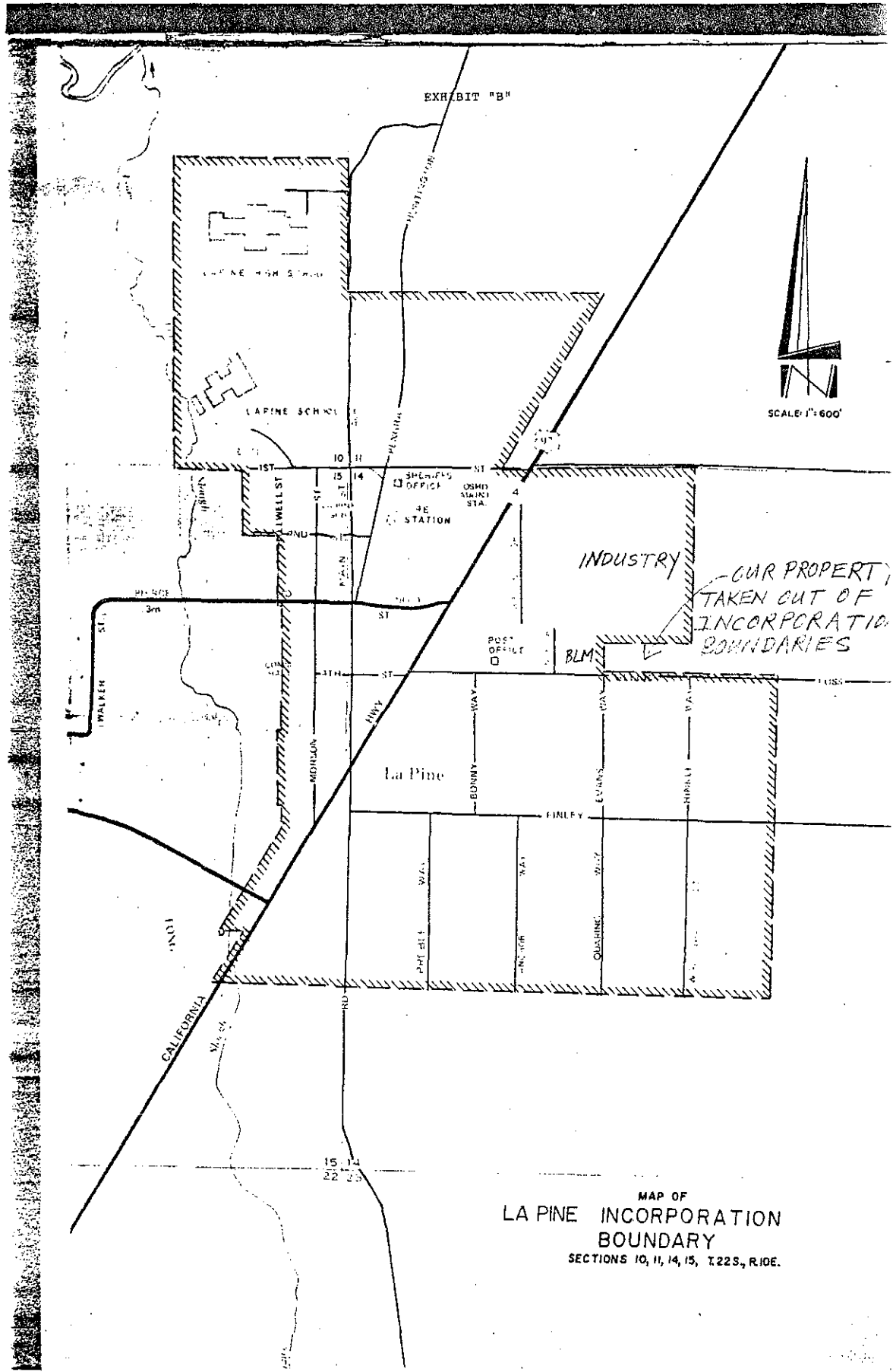


EXHIBIT "B"



SCALE 1" = 600'

INDUSTRY
 OUR PROPERTY
 TAKEN OUT OF
 INCORPORATION
 BOUNDARIES

MAP OF
 LA PINE INCORPORATION
 BOUNDARY
 SECTIONS 10, 11, 14, 15, T.22S., R.10E.



"Accent on Excellence"

August 20, 1985

Department of Environmental Quality
2150 N. E. Studio Road
Bend, Oregon 97701

Attention: Mr. Dick Nichols

Gentlemen:

Subject: LaPine Sewer System

The proposed rule change for OAR 340-41-580 achieves a firm participation definition. The property inside the proposed sewer service area shall connect to the sewers while those outside will fall under OAR 340 when the development density exceeds two single family equivalent dwelling units per acre.

The Bend-LaPine School Board however, takes exception to the other proposed change which states, "The Environmental Quality Commission finds that existing on-site sewage disposal systems inside the core area or the community of LaPine school wastewater disposal system are causing water pollution." There has never been any evidence supporting the fact that the LaPine school wastewater disposal system is contributing pollution to the shallow water aquifer in the LaPine core area. If anything, the evidence supports the position that the school's system is not adding any additional recharge to the core area aquifer. Attached are copies of recent septic tank effluent tests. These tests indicate very little nitrogen is passing through the treatment system.

The Facility Plan demonstrates the ground water movement in the LaPine area on Figure 7-16. This figure clearly shows the ground water flow direction from the school to be away from the core area. Therefore, the schools can not be polluting the core area ground water.

Also, the LaPine schools have several water supply wells, which account for all the potable and irrigation water used at the facilities. Some of the wells have been tested and none of those tests indicate any local well contamination from compounds which are associated with septic tank and drain field operation. Attached are copies of those tests. We therefore feel the reasoning used to include the school property in the core area is faulty and should be revised.

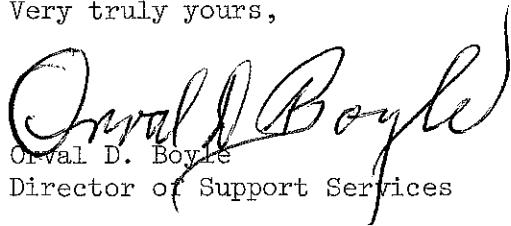
August 20, 1985

The Bend-LaPine School Board is aware of their responsibility to the community and it is certainly in the best interest of the local core area property owners to be successful in the development of this sewerage system. However, before the school district can agree to voluntarily participate in this utility development several issues must be resolved. These issues include, but are not necessarily limited to the following:

1. Assurance of equitable fees to all customers.
2. An opportunity to participate in developing the rate structure.
3. A commitment by the sewerage district to buy the existing wastewater disposal equipment at a fairly negotiated price.
4. Assurance that all charges will be made based on actual flow quantities measured at the schools connection point to the system.
5. Assurance the Single Family Equivalent (SFE) will be recalculated after one year of operation based on actual flows and connections.
6. Delineate what connection fees the school district will incur.
7. Describe how the development charges have been assessed and how they are equitable for all users.
8. Describe the plan of action that has been considered if the bond election does not pass.
9. Fully explain the current overall funding level anticipated.
10. Discuss whether the school will be credited with a reduced O&M charge if they pretreat using the existing system. If so, how much? If not, why?
11. Explain why the sewerage system can not be phased with only the actual core area sewered now and let future growth take care of itself.

The school district will be pleased to provide any information possible to assist in answering the questions. If that is necessary let me know.

Very truly yours,



Orval D. Boyle
Director of Support Services

ODB:cp

Enclosures:

Lab analysis: effluent junior high
effluent senior high

Well analysis: numbers 5608, 5609, 5610



RECEIVED
AUG 2 1985
MAINTENANCE

LABORATORY ANALYSIS

Bend School District
502 NW Bond Street
Bend, OR 97701

DATE: 7/31/85

DATE RECEIVED: 7/25/85


ATTN: Paul Eggleston

LAB NO. 3597

ANALYSIS OF: Effluent Jr. High

BOD ₅	204	mg/l
Nitrate Nitrogen	0.34	mg/l
Ammonia Nitrogen	0.30	mg/l
Phosphorus Total	10.3	mg/l
Solids Total	994	mg/l
Cadmium	0.02	mg/l

CENTURY TESTING LABORATORIES, INC.


Mel Lindbeck

ML/pb



LABORATORY ANALYSIS

Bend School District
501 NW Bond Street
Bend, OR 97701

DATE: 7/31/85

DATE RECEIVED: 7/25/85


ATTN: Paul Eggleston

LAB NO: 3598

ANALYSIS OF: Effluent Sr. High

BOD ₅	90	mg/l
Nitrate Nitrogen	0.23	mg/l
Ammonia Nitrogen	0.38	mg/l
Phosphorus Total	2.2	mg/l
Solids Total	490	mg/l
Cadmium	0.02	mg/l

CENTURY TESTING LABORATORIES, INC.


Mei Lindbeck

ML/pb

Client file
 Yes No

Century Testing Laboratories, Incorporated

Client # *LA PINE SCHOOL DISTRICT* Bend, Oregon 97701

Date *Oct 13, 1982*

Name _____ Billing Address _____
 Address _____

City _____
 Phone _____
 Priority: (circle one) **1.** 2. 3.

Sample Description: *LA PINE SCHOOL well water Deep well 640-700*

1-WATER 2-SOIL 3-FEEDS 4-BACTERIA OTHER

TEST	TEST RESULT	TEST	TEST RESULT	TEST	TEST RESULT
Acid Detergent Fiber		31 Field Moisture Capacity		60 Selenium	
Acidity as CaCO ₃		32 <input checked="" type="checkbox"/> Fluoride	<i>0.28</i>	61 Silica	
<input checked="" type="checkbox"/> Alkalinity as CaCO ₃	<i>335</i>	33 Hardness as CaCO ₃		62 <input checked="" type="checkbox"/> Sodium	<i>75</i>
Arsenic		34 <input checked="" type="checkbox"/> Iron	<i>1.6</i>	63 Sodium (Exchangeable)	
Ash		35 Lead		64 Sodium (Total Na)	
BODs		36 Lignin		65 Solids Total Suspended	
BOD Ultimate		37 MBAS		66 <input checked="" type="checkbox"/> Solids Total Dissolved	<i>382</i>
Boron		38 Magnesium		67 Solids Volatile Susp.	
Calcium		39 <input checked="" type="checkbox"/> Manganese	<i>0.13</i>	68 Solids Volatile Dis.	
Cation Exchange Cap.		40 Moisture		69 Solids Settleable	
Cellulose		41 Molasses (Brix)		70 Sugars (as invert)	
<input checked="" type="checkbox"/> Chloride	<i>5.0</i>	42 Molybdenum		71 <input checked="" type="checkbox"/> Sulfate	<i>4.5</i>
Chlorine		43 <input checked="" type="checkbox"/> Nitrate Nitrogen		72 Sulfate Sulfur	
Chlorine Demand		44 Nitrite Nitrogen		73 <input checked="" type="checkbox"/> Sulfide	
Chlorine Residual		45 Nitrogen Ammonia		74 Sulfite	
Chromium Hexa.		46 Nitrogen Kjeldahl		75 Sulfur	
Chromium Total		47 Nitrogen (Total)		76 Turbidity	
Cobalt		48 Neutral Detergent Fiber		77 Zinc	
COD		49 Oil & Grease			
Coliform Fecal MPN		50 Organic Matter			
Coliform Total MPN		51 Orthophosphate			
Color		52 pH Value			
<input checked="" type="checkbox"/> Conductance	<i>616</i>	53 Phenols			
Copper		54 Phosphorus			
Cyanide		55 Phosphorus Total			
Dissolved Oxygen		56 Plate Count			
Exchangeable Hydrogen		57 Potassium			
Energy		58 Protein (Nx6.25)			
Fat		59 Salts (Soluble Chloride)			
Fiber					

REMARKS: *GIVE RESULTS TO R. PATT*

0.05 max

Completed by _____ Billed: Yes No

Date Sample Completed _____

No **5608**
 SAMPLE NUMBER

Print on the
Yes No

Century Testing Laboratories, Incorporated
Bend, Oregon 97701

Date OCT 13, 1988

Client # Bend School

Name _____ Billing Address _____

Address _____

City _____

Phone _____ PRIORITY: (circle one) 1 2. 3.

Sample Description: Well water (IRRIGATION well) 485' deep

1-WATER 2-SOIL 3-FEEDS 4-BACTERIA OTHER

TEST	TEST RESULT	TEST	TEST RESULT	TEST	TEST RESULT
Acid Detergent Fiber		Field Moisture Capacity		Selenium	
Acidity as CaCO ₃		Fluoride	0.16	Silica	
Alkalinity as CaCO ₃	795	Hardness as CaCO ₃		Sodium	110
Arsenic		Iron	5.3	Sodium (Exchangeable)	
Ash		Lead		Sodium (Total Na)	
BODs		Lignin		Solids Total Suspended	
BOD Ultimate		MBAS		Solids Total Dissolved	869
Boron		Magnesium		Solids Volatile Susp.	
Calcium		Manganese	0.17	Solids Volatile Dis.	
Cation Exchange Cap.		Moisture		Solids Settleable	
Cellulose		Molasses (Brix)		Sugars (as invert)	
Chloride	5.3	Molybdenum		Sulfate	9.3
Chlorine		Nitrate Nitrogen		Sulfate Sulfur	
Chlorine Demand		Nitrite Nitrogen		Sulfide	
Chlorine Residual		Nitrogen Ammonia		Sulfite	
Chromium Hexa.		Nitrogen Kjeldahl		Sulfur	
Chromium Total		Nitrogen (Total)		Turbidity	
Cobalt		Neutral Detergent Fiber		Zinc	
COD		Oil & Grease			
Coliform Fecal MPN		Organic Matter			
Coliform Total MPN		Orthophosphate			
Color		pH Value			
Conductance	1290	Phenols			
Copper		Phosphorus			
Cyanide		Phosphorus Total			
Dissolved Oxygen		Plate Count			
Exchangeable Hydrogen		Potassium			
Energy		Protein (Nx6.25)			
Fat		Salts (Soluble Chloride)			
Fiber					

REMARKS _____

Completed by _____ Billed: Yes No

Date Sample Completed _____

No 5609
SAMPLE NUMBER

on file
No

Century Testing Laboratories, Incorporated
Bend, Oregon 97701

Date Oct 13, 1995

Bend Schools

Billing Address

PRIORITY: (circle one) 1. 2. 3.

Description: SHALLOW Well (CORE FACILITY)

WATER 2-SOIL 3-FEEDS 4-BACTERIA OTHER

TEST	TEST RESULT	TEST	TEST RESULT	TEST	TEST RESULT
Acid Detergent Fiber		31	Field Moisture Capacity	60	Selenium
Acidity as CaCO ₃		32	✓ Fluoride X 0.06	61	Silica
✓ Alkalinity as CaCO ₃ X 46		33	Hardness as CaCO ₃	62	✓ Sodium X 7.1
Arsenic		34	✓ Iron 1.0	63	Sodium (Exchangeable)
Ash		35	Lead	64	Sodium (Total Na)
BODs		36	Lignin	65	Solids Total Suspended
BOD Ultimate		37	MBAS	66	✓ Solids Total Dissolved X 161
Boron		38	Magnesium	67	Solids Volatile Susp.
Calcium		39	✓ Manganese 0.04	68	Solids Volatile Dis.
Cation Exchange Cap.		40	Moisture	69	Solids Settleable
Cellulose		41	Molasses (Brix)	70	Sugars (as invert)
✓ Chloride X 87		42	Molybdenum	71	✓ Sulfate X 9.5
Chlorine		43	✓ Nitrate Nitrogen	72	Sulfate Sulfur
Chlorine Demand		44	Nitrite Nitrogen	73	Sulfide
Chlorine Residual		45	Nitrogen Ammonia	74	Sulfite
Chromium Hexa.		46	Nitrogen Kjeldahl	75	Sulfur
Chromium Total		47	Nitrogen (Total)	76	Turbidity
Cobalt		48	Neutral Detergent Fiber	77	Zinc
COD		49	Oil & Grease	78	
Coliform Fecal MPN		50	Organic Matter	79	
Coliform Total MPN		51	Orthophosphate	80	
Color		52	pH Value	81	
✓ Conductance 132		53	Phenols	82	
Copper		54	Phosphorus	83	
Cyanide		55	Phosphorus Total	84	
Dissolved Oxygen		56	Plate Count	85	
Exchangeable Hydrogen		57	Potassium	86	
Energy		58	Protein (Nx6.25)	87	
Fat		59	Salts (Soluble Chloride)	88	
Fiber					

MENTS

Completed by Billed: Yes No

Date Sample Completed

MAILED
105
103 MAX

No 5610
SAMPLE NUMBER

Russell Industries, Inc.
The Original Home of Forest Furniture
LaPine, Oregon

P.O. Box 323 • 51636 Pengra-Huntington Road • LaPine, Oregon 97739
Phones: 536-2229 or 389-2289

August 21, 1985

Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Dear Sirs:

RE: THE FUTURE LAPINE SEWER DISTRICT

I have lived in LaPine for 46 years, and know the ground needs protection from contamination.

I ask you to include the LaPine Schools in the LaPine Sewer District. The LaPine schools are the largest gathering of people for nine months each year that exists anywhere in this mountain valley, approximately 765 students.

It does not seem possible to me that the Bend-LaPine School Board would ask to be left out of this sewer district.

I have seen the schools new system overflow and stink up the whole area.

If the school board members had any consideration for LaPine or the future of this area they would not hesitate for one minute to hook up to this new disposal system.

Sincerely,

Marvin Russell
Marvin Russell, Pres.
RUSSELL INDUSTRIES, INC.

cc: Dick Nichols
DEQ
Bend, Oregon

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

R E C E I V E D
AUG 22 1985

BEND DISTRICT OFFICE

8/21/85

Nancy L. Carter
51457 MORON ST. (PO Box 184)
LAPINE, OR 97739

I AM IN the proposal for a Sewer Dist.
AND I certainly have no objections,
Rather I do not understand anyone
that does. I feel it is very necessary
for the school and for anyone else
within reach of the system to be
hooked up.

Nancy L. Carter

8-20-85

Attachment E

KEN TRAVIS
PO BOX 35
LAPINE ORE 97739

I FEEL THAT the high school should be included
AS THEY contribute AS MUCH AS A GOOD PORTION OF THE
REST OF THE AREA AND THEIR SYSTEM MAINTAINED THIS
YEAR AND PUT RAW SEWAGE ON THE GROUND.

RES 16595 REED RD LAPINE ORE 97739

OFFICE 51500 HWY 97 LAPINE ORE 97739



8-20-85
Attachment F

Elaine Seed

Lot 331 - 51317 & 51321 Greble Way

La Pine, Ore. 97739

I would like to be included in the low area.
Also I think the school district should be included

Elaine Seed - widow

We wish to be included
for sewer service.

Charles N. Bird
51326 Huntington Rd
La Pine, Oregon 97739
mailing address P.O. Box 224

Dear Sirs,

I would like to have two of my properties included in the
Proposed Sewer Service Area.

Property Addressess: 16467 Finley Butte Road, LaPine, Oregon 97739

16455 Finely Butte Road, LaPine, Oregon 97739



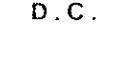

Thank You,

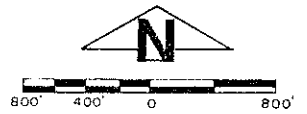
R.W. Stadther

R.W. Stadther

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 22 1998
SEND DISTRICT OFFICE



-  **PROPOSED SEWER SERVICE AREA**
-  **FUTURE SEWER SERVICE AREA**
-  **D.C. DESCHUTES COUNTY LAND**
-  **UNITED STATES GOVERNMENT (BLM) LAND**



LAPINE FACILITIES PLAN
PROPOSED
SEWER SERVICE AREA
ALL RIGHTS RESERVED



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, July 19, 1985, EQC Meeting

Request for Authorization to Conduct a Public Rulemaking Hearing for Modifying a Special Groundwater Quality Protection Rule in the Deschutes Basin Water Quality Management Plan, OAR 340-41-580 for the LaPine Shallow Aquifer

Background

In the early 1980s, Deschutes County conducted a comprehensive groundwater study in the LaPine area. The study found nitrite levels in the shallow groundwater in the LaPine core area exceeding federal drinking water standards. This shallow groundwater is the primary source of domestic water supply for the core area.

Concurrently and independently, the Department also developed a statewide groundwater quality protection policy in the early 1980s. This policy was adopted in rule form (OAR 340-41-029) by the Environmental Quality Commission in September 1981, and directs the Department, among other things, to identify and resolve groundwater quality problems. Consistent with this protection policy, on May 20, 1983, the Commission adopted a special groundwater quality protection policy for the LaPine shallow aquifer. This policy was placed in a section of the Deschutes Basin Water Quality Management Plan called "Special Policies and Guidelines" (OAR 340-41-580). Among other things, the special policies state that all wastewater generated within the core area of the community of LaPine shall be collected, treated and disposed of in a manner which prevents future pollution of the groundwater after January 1, 1987. The rule states that the core area shall be that described within the LaPine Aquifer Management Plan. (The LaPine Aquifer Management Plan documents groundwater contamination in the LaPine shallow aquifer and was the basis for the existing special groundwater protection policy.)

Unfortunately, the LaPine Aquifer Management Plan only refers to the core area in very general terms. The management plan did not attempt to establish a precise boundary. Consequently, the specific area to be sewered is not established in the rule. The LaPine Facilities Plan, completed in June 1985, does contain a boundary for the core area and

documents the rationale for establishing areas for initial sewer service and for future service.

The LaPine Special Sewer District is a legally formed sanitary district located in the LaPine core area. Its boundaries only encompass those properties which owners volunteered to participate in the District's formation. In the Department's judgment and based upon information in the LaPine Facilities Plan, there are areas outside the sanitary district that should be served by sewers. The district, however, has no authority to force property outside its boundaries to connect to sewer. Without an amended rule that clearly defines the core area boundary, the Department probably cannot force connection either.

Apparently, the sanitary district will attempt to annex those areas shown in the facilities plan that need initial sewer service. If this process goes as hoped, this would resolve the problem. However, it seems likely that at least some of those outside the sanitary district will resist annexation. Without annexation, the district cannot require connection.

Department staff believes a precise definition of the LaPine core area should be established for the following reasons:

1. People need to know whether or not they will be expected to connect their properties to the LaPine sewerage system when it becomes available. With the boundary established by rule, there should be no question.
2. By establishing the boundary specifically in the rules at this time, more of the project may be grant-eligible and would reduce the local share of construction costs. (The LaPine core area is currently positioned on the FY85 Federal Sewerage Works Construction Priority List such that funding is available this year. The proposed FY86 priority list also shows LaPine in a fundable position.) Obviously, other considerations are important when determining grant eligibility, but a precise boundary could help for those areas currently outside the sanitary district boundaries.
3. A precise legally established boundary is essential if, once the sewerage facility is operational, the Department needs to force properties to connect to sewer.

The staff believes that a specific boundary, legally established in an administrative rule, creates a legal obligation to connect to sewer. Nevertheless, in addition to a specific boundary, the Department would also propose specific language that would require connection to sewer when it becomes available. ORS 454.675 states that on-site sewage disposal systems constructed before January 1, 1974, shall not be required to conform to rules adopted subsequent to their initial construction unless the systems are creating a public health hazard or are causing water pollution. Obviously, the existing on-site sewage disposal systems in the core area are causing water pollution. This is the basis for requiring a sewerage

facility. Nevertheless, the Department would also propose to add a finding to the rule that states that water pollution is being caused by the existing on-site sewage systems in the core area.

Alternatives

The Department believes the Commission has three alternatives:

1. Deny authorization to hold a public rulemaking hearing.

With this approach, only those areas within the sanitary district would be forced to connect to sewer. Sewer could be extended to areas outside the district, but it would be difficult, if not impossible, to force connection. Further, extension of sewers would probably not be grant-eligible and would require 100 percent local financing. This would increase the financial burden of those within the district.

2. Grant authorization to hold a public rulemaking hearing.

It only seems logical, after adopting a rule that requires sewers, that rules be considered that establish a specific boundary. This approach also puts the issue before the local citizens. The boundary established in the facilities plan appears to be reasonable. Nevertheless, a public hearing could provide information that would justify some changes in the proposed boundary. Finally, this approach is consistent with the statewide groundwater quality protection policy (OAR 340-41-029(3)(c)(B)) which requires the area needing corrective action to be defined.

3. Delay authorization until a later date.

The staff see no advantage to this alternative. A delay would extend the confusion over the actual core area boundary. It could also jeopardize grant-eligibility for those areas outside the sanitary district should the Commission later determine sewers are needed.

Based upon the above discussion of alternatives, the Department concludes that the second alternative is most desirable.

The Commission has statutory authority to act on rules under the provisions of ORS 468.020 and 468.735. These statutes authorize the Commission to enact such rules as are necessary to perform the functions vested by law to them.

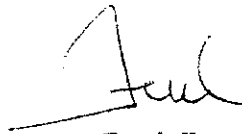
Summation

1. In May 1983, the Commission adopted, by administrative rule, a special groundwater quality protection policy (OAR 340-41-580) that requires a sewerage facility for the LaPine core area by January 1, 1987.
2. The special groundwater protection policy defined the core area as that described in the LaPine Aquifer Management Plan.

2. The special groundwater protection policy defined the core area as that described in the LaPine Aquifer Management Plan.
3. The LaPine Management Plan only refers to the core area in very general terms.
4. The sewerage facilities plan report for the LaPine core area has been completed. This report contains a precise boundary of those areas that should be sewered initially and the rationale for establishing the boundary.
5. The Department believes a specific boundary for the core area should be adopted as a rule under the Special Policies and Guidelines section of the Deschutes Basin Water Quality Management Plan. A boundary established by rule would apprise people of future sewage requirements for their property, assist the determination of grant eligibility and provide a legal basis for the Department to force connection to sewer if property owners resist.
6. Definition of the area requiring sewers is required by the statewide groundwater quality protection policy (OAR 340-41-029).

Director's Recommendation

Based upon the Summation, it is recommended that the Commission authorize the Department to conduct a public rulemaking hearing. The hearing will consider if the Special Policies and Guidelines (OAR 340-41-580) in the Deschutes Basin Water Quality Management Plan should be amended to include a specific boundary for the LaPine core area.



Fred Hansen

- Attachments
- A. Proposed Rule OAR 340-41-580
 - B. Draft Statements of Need, Land Use Consistency, and Fiscal and Economic Impact
 - C. Draft Hearing Notice - Proposed Water Quality Management Plan Rule OAR 340-41-580

Richard J. Nichols:c
388-6146 (Bend)
June 24, 1985
GC2299

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

The Boundaries for the LaPine Sewer System

Date Prepared: July 3, 1985
Hearing Date: August 19, 1985
Comments Due: August 23, 1985

**WHO IS
AFFECTED:**

People who reside, own property or businesses, or operate businesses in the unincorporated core area of LaPine.

**WHAT IS
PROPOSED:**

The Department proposes an administrative rule (OAR 340-41-580(1)(a)) to more specifically define the LaPine core area boundary that will be sewered by January 1, 1987. A map of the proposed boundary and a copy of the proposed rule change are attached. The Department also hopes to post copies of the proposed rule and map at the LaPine Post Office, library, and other public buildings.

**WHAT ARE THE
HIGHLIGHTS:**

If the proposed rule is adopted, a specific boundary in the core area of LaPine will be established. Inside this boundary, the LaPine Special Sewer District shall construct a sewage collection system by January 1, 1987. All buildings and dwellings with plumbing fixtures inside this boundary would be required to connect to sewer within 90 days of written notification from the LaPine Special Sewer District.

**HOW TO
COMMENT:**

Public Hearing

August 19, 1985 - 7:00 p.m.
LaPine Fire Hall

Changed to 8-20

Written comments should be sent to Dick Nichols, Department of Environmental Quality, 2150 NE Studio Rd., Bend, OR 97701 by August 23, 1985.

**WHAT IS THE
NEXT STEP:**

All comments will be considered and the proposed rule may or may not be changed. The Environmental Quality Commission will consider adoption of the rule at a regularly scheduled meeting in Bend on September 27, 1985.

GC2299.C



P.O. Box 1760
Portland, OR 97207

8/15/84

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 1-800-452-4011.

STATEMENT OF NEED FOR RULEMAKING

1. Citation of Statutory Authority: ORS 468.020 and 468.735, which authorize the Environmental Quality Commission to adopt rules as necessary to perform the functions vested by law to the Commission.
2. In May 1983, the Environmental Quality Commission adopted rules amending the Deschutes Basin Water Quality Management Plan. The amended rules required the LaPine core area to be sewered by January 1, 1987. These rules refer to the core area boundary as that specified in the LaPine Aquifer Management Plan. Actually, the aquifer management plan has no precise boundary. In June 1985, a sewerage facilities plan report for the LaPine core area was completed. This report contains a precisely defined boundary for the LaPine core area. The Department proposes to modify the basin management plan to define the core area as that specified in the facilities plan report. A specifically defined boundary will accurately show people if they will be required to connect to sewer when it becomes available. Also, by establishing the core area boundary rule, the Department will have the legal ability to force people to connect to sewer.
3. Documents relied upon in proposal of this rule:
 - a. LaPine Facilities Plan for the LaPine Special Sewer District, LaPine, Oregon, June 1985.
 - b. LaPine Aquifer Management Plan, August 1982.
 - c. Deschutes County Planning Commission Recommendation.
 - d. Deschutes County Board of Commissioners Action, September 28, 1982.
 - e. Statewide Groundwater Protection Policy, OAR 340-41-029, July 1984.

STATEMENT OF LAND USE CONSISTENCY

The Department has concluded that the proposal conforms to the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain groundwater quality in the LaPine core area by eliminating the discharge of nitrate-bearing sewage wastes into the ground. The LaPine Aquifer Management Plan documented nitrate contamination in the groundwater in the core area. The proposed sewerage facility will eliminate the source of nitrate contamination. Goal 6 requires protection of groundwater quality and, consequently, this proposal is consistent with that goal.

Goal 11 (Public Facilities and Services): This proposal is designed to assure the timely provisions of sewage disposal facilities and is consistent with Goal 11. This is because the proposed rule will precisely define those areas in the core area needing sewers now. The core area definition is based on documentation provided in the LaPine Sewerage Facilities Plan report (June 1985) which delineates current sewerage needs and future needs.

The rules do not appear to conflict with other Goals.

Public comment on any land use issue involved is welcome and may be submitted in the same manner as indicated for testimony in this notice. It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with statewide planning goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state or federal agencies.

STATEMENT OF FISCAL AND ECONOMIC IMPACT

Implementation of this proposed amended rule should result in both positive and negative impacts.

Positive Impacts

1. Establishing sewerage facilities and careful implementation of on-site waste disposal rules will protect and improve the groundwater. This removes uncertainty regarding quality of the water and should allow for full residential development. In turn, this will allow for continued development and extension of commercial facilities, particularly small businesses prevalent in the LaPine area.
2. There will be a substantial increase in the protection of public health. This will also enhance the ability of the existing commercial facilities to fully serve the public.
3. The rule does not conflict with established zoning and land use policies; in fact, it complements them.
4. The rule protects the water for the prime beneficial use of drinking water. Adequate and reasonable drinking water supplies are essential to future economic development of the LaPine area.
5. A precisely defined boundary will end the current level of uncertainty as to the area to be served by sewers. This uncertainty may have inhibited development because of the unknown costs and obligations.

6. The proposed core area boundary is larger than the existing sanitary district. This will allow the cost of the sewerage facility to be spread over more people and property and should reduce individual costs. It also should allow more of the project to be grant-eligible which will reduce the local share and again reduce individual costs.

Negative Impacts

The cost of sewerage the LaPine core area will be borne by the benefitted property owners, both residential and small business. The fiscal impact on small businesses would be based on daily water usage and relates to an equivalency per unit charge. Under a recent study, this is proposed at \$17 per month costs for a single family dwelling (approximately 160 gallons per day). (EXAMPLE: Daily water use = 1600 gallons -- Costs: \$170/month).

GC2299.B

Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR Chapter 340, Division 71).

(c) Waste disposal systems for new developments within the LaPine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day shall only be approved if a study is conducted by the applicant which convinces the department that the aquifer will not be unreasonably degraded.

(2) In addition to the requirements set forth in section (1) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the LaPine core area of the need to develop a safe drinking water supply for the community as soon as possible.

(b) Residents of the LaPine area are encouraged to test their drinking water frequently.

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks.

(d) Data on the quality of the shallow aquifer in and around LaPine should be obtained on a periodic basis to assess the effect of the above waste water management decisions on the quality of the groundwater.

GC2299.A

Underlined portion is NEW
[Bracketed] portion is DELETED

PROPOSED RULE MODIFICATION

Change a section of OAR Chapter 340, Division 41, as follows:

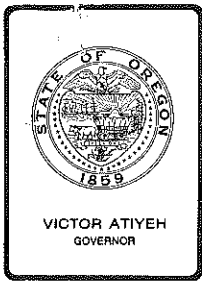
SPECIAL POLICIES AND GUIDELINES

340-41-580 (1) In order to protect the shallow aquifer located in the vicinity of the community of LaPine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the LaPine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(a) The Environmental Quality Commission finds that existing on-site sewage disposal systems inside the core area or the community of LaPine are causing water pollution. The wastewater generated within [the] this core area [of the community of LaPine as described within the management plan] shall be collected, treated and disposed of in a manner which prevents future pollution of the groundwater by not later than January 1, 1987. The core area of the community of LaPine shall be that area defined as "Proposed Sewer Service Area." Figure 4.3 "LaPine Facilities Plan for the LaPine Special Sewer District, LaPine, Oregon, June 1985." All dwellings and buildings that contain plumbing fixtures inside this boundary shall connect to sewers and abandon existing sewage disposal systems within 90 days following written notification by the LaPine Special Sewer District that sewer service is available.

(b) The waste water generated outside the core area of the community of LaPine but within the study area described in the LaPine Aquifer

Underlined portion is NEW
[Bracketed] portion is DELETED



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. I, September 27, 1985, EQC Meeting

Proposed Adoption of Amendments to Establish Boundaries and Implement a Motor Vehicle Emission Inspection/Maintenance Program in the Medford/Ashland AQMA as a Revision to the State Implementation Plan

Background and Problem Statement

The Environmental Quality Commission at its meeting of July 19, 1985 authorized a series of public hearings on proposed rule amendments that would implement an inspection/maintenance (I/M) program in the Jackson County area. These amendments, included as Attachments A & B, implement provisions of Chapter 222, Oregon laws 1985 (HB 2845). Three categories of rules were proposed for hearing.

1. A new rule, OAR 340-24-301. This rule would define the Medford-Ashland AQMA as the inspection program zone. Commencing on January 1, 1986, the provisions of ORS 41.190 requiring a certificate of compliance would apply to motor vehicles registered within that zone (Attachment A).
2. Amendments to OAR 340-24-320 and 325. These amendments would change the test procedure for 1974 and earlier model year motor vehicles. The change would eliminate the requirement for an underhood inspection of emission control equipment. This provision would apply to all vehicles throughout Oregon's I/M program areas (Attachment A). This does not eliminate the requirement for these vehicles to meet the emission standards.

3. An amendment to OAR 340-20-047, the Oregon State Clean Air Act Implementation Plan. This provides an addendum to the Medford CO attainment plan in section 4.9. This addendum updates air quality information, outlines the proposed I/M plan, and demonstrates the adequacy of the proposed I/M plan in conjunction with other control measures to meet the CO standards by December 31, 1987, as required by federal law (Attachment B).

The public notice and statement of need are attached as Attachment C. A series of six hearings was held August 1, 2, 8 and 9, 1985. The hearing officer's report is included as Attachment D. The July 19 staff report is included as Appendix E. That report contains the detailed discussion on the problem background.

Alternatives and Evaluations

The hearing officer's report summarizes the individual oral testimony and contains the written testimony received. The following are the major issues raised at the hearings:

- 1) The government is implementing an I/M program in the Jackson County area, in spite of the 1984 election which rejected a county ordinance providing for a county operated I/M program.
- 2) There were comments on the boundaries proposed for the inspection zone (OAR 340-24-301).
- 3) There were positive comments on the proposed rule affecting the emission equipment inspection (underhood) portion of the test (OAR 340-24-320 and 325).
- 4) There were requests for consideration for a "cost of repair" cap or waiver system for those vehicles which initially fail the I/M test.
- 5) There was a concern expressed that the Department is not being as stringent with industrial sources as is being proposed for individual car and truck owners.
- 6) There were comments and suggestions on program operational details, such as the proper station location, hours of operation, etc.

Issue No. 1. As discussed in the Department's hearing authorization request, there is a severe carbon monoxide (CO) problem identified within Jackson County. The CO problem area does not cover all of Jackson County, but is caused by traffic from Jackson County vehicles concentrating in portions of Medford, the commercial and governmental center of the county. Federal law (the Clean Air Act) requires that all areas in the United States comply with ambient air health standards for CO by December 31, 1987.

The 1983 Legislature authorized Jackson County rather than the State, to implement its own I/M program. The Jackson County Board of Commissioners chose to provide for voter ratification of its I/M ordinance. The voters did not ratify the ordinance. The fact that the voters chose not to ratify the County I/M ordinance did not relieve the Jackson County area's obligation to comply with the federal and state ambient air quality standard for CO. In response to that obligation, the 1985 Legislature passed HB 2845, which directs this Commission to designate by rule the boundaries of areas needing a motor vehicle inspection program as identified in the State Implementation Plan (SIP).

Issue No. 2. The Department has proposed that the Medford-Ashland Air Quality Maintenance Area (AQMA) be the I/M zone. The Department's SIP addendum shows that this reduced area rather than all of Jackson County, would be adequate to meet the ambient CO health standard by the deadline date. In the testimony received there was support for the program area as proposed. On the other hand, some people said that all of Jackson County should be included. Much of that comment was based upon that the premise "if I'm going to do it, I want everybody to participate."

From an administrative view there are advantages and disadvantages to an entire county-wide inspection area. The main advantage would be the simplicity of determining who is "in" and who is "out." There would be increased operating costs because of the larger geographic area covered.

The Medford-Ashland AQMA area was proposed, not for administrative ease, but to lessen the regulatory burden on Jackson County residents. As stated in the report on the hearing request:

- 1) The Medford-Ashland AQMA is the designated air quality maintenance area in the SIP.
- 2) The 1982 SIP identified the need for a county-wide I/M program. The proposed SIP addendum is based on the AQMA-wide I/M program that, with other measures projects attainment with the CO standard by the 1987 deadline.
- 3) Jackson County officials estimate that only 15 percent of the total county population lives outside the AQMA area. Previous traffic studies indicate that this 15 percent of the population contributes only about four percent of the vehicle miles travelled in the Medford CO problem areas.
- 4) The Medford-Ashland AQMA boundary minimizes the number of vehicles subject to the I/M program. It achieves the necessary reductions in CO to achieve attainment with the Clean Air Act by the compliance date of December 31, 1987.

It is recommended that the Medford-Ashland AQMA be designated as the vehicle inspection program area.

Issue No. 3. Testimony was received in support of proposed amendments to OAR 340-24-320 and 325. This would eliminate the underhood inspection portion of the test for 1974 and earlier model year vehicles throughout Oregon's I/M program. Additional editorial changes have been proposed in these rules so that wording in all sections of these rules is consistent with the 1974 date.

Issue No. 4. There was a request for a cost of repair cap or waiver program. A cost of repair cap or waiver program allows a motorist who has spent a specified minimum on vehicular repairs to be waived from compliance with the test standard. It is the staff's position that the statutes do not provide specific legal authority, nor is there legislative direction for a cost of repair cap or waiver program. Informal discussions with legal counsel support this view.

The Oregon I/M program has not had a cost of repair limit, but has relied instead on market forces to control repair costs. It is the staff's opinion that this system is preferred. The purpose of the I/M program is to reduce the impact of vehicle-caused air pollution. It does this by identifying high emitting cars and trucks for remedial maintenance. The cost of repair limit dilutes the program's effectiveness by allowing cars and trucks that are identified as high emitters to continue polluting at high levels.

The U.S. General Accounting Office (GAO) report on I/M programs issued this year discussed a variety of cost waiver programs. The report stated that "for equity reasons, Oregon requires all motorists to pay whatever it costs to get a vehicle in the condition necessary to pass the emissions test" and (the program) "is viewed by the public as being more equitable since no exceptions are made."

The GAO report cited other states that had strict waiver programs. The report indicated that New Jersey, with a statewide I/M program testing over 4 million vehicles per year grants about 10 waivers a year. Rhode Island in 1981 had 50 motorists request a waiver; in all but two cases these requests were denied. For all practical purposes these states do not have waiver programs.

Other I/M programs have some very lenient waiver programs with a variety of cost caps. In Colorado the dollar figure to trigger a waiver is \$15. Across the board cost waivers do not treat people equally. The same cost limit applies to the owner of a 1968 Chevrolet as to the owner of a 1985 Cadillac. In California, which has a waiver program, inspection program personnel note that many consumer complaints arise because of their cost cap/waiver program. Prime among those is "if you are going to pass the vehicle anyway, why do I have to spend the money on ineffective repairs?" and "It appears that you are in collusion with the auto mechanics."

Testimony received at the hearing from a number of individuals requested that the Commission consider a cost of repair cap. Other testimony indicated that there should not be a cost of repair waiver. It is the staff's opinion that much of the concern on this subject is based upon two factors--a general fear or uncertainty of the unknown and a concern about the cost of repairing or replacing tampered emission control equipment.

The general uncertainty should ease as the program is implemented. Motorists will discover that, in general, the cost of proper emission control maintenance is included in the cost of general maintenance, and is not excessive.

The cost of repairing tampered emission control equipment, on the other hand, may be a serious concern for some individuals. ORS 483.825 provides that "no person shall disconnect, render ineffective or allow to become or remain inoperative factory installed pollution control equipment." Penalties are provided by statute. The Department, in its inspection operation, will not be citing individual motorists, but rather bringing the defects to their attention for maintenance. Jackson County's proposed I/M ordinance did not waive compliance for costs based on replacing missing emission control equipment. Where cost caps or waiver systems have been implemented, they normally do not apply to tampered emission control equipment.

The Department empathizes with Rogue Valley area residents. A program phase-in period could deal with many of their concerns. Unfortunately, the closeness of the compliance deadline does not allow the staff to recommend an phase-in. A phase-in would have provided an opportunity for area residents to become familiar with the program operations. That opportunity would have eased concern regarding repair costs. The Department has proposed easing the emission control equipment inspection for 1974 and older vehicles, which should allay the concerns of some motorists. The emission equipment inspection requirement will be maintained for all vehicles 1975 and newer. This includes all catalyst-controlled cars and unleaded fueled vehicles, which were introduced since 1975.

It is the opinion of the staff that a cost cap and associated waiver system not be implemented. As discussed, a cost cap is inequitable and dilutes the air pollution control benefits of the I/M process.

Issue No. 5. The perception by individuals who testified that the DEQ was lax on industry while being tough on individual motorists--"the little guy"--is a disturbing perception because it is not supported by the facts. Industrial sources of air pollution have been and continue to be regulated under DEQ permits. The major industrial sources of air pollution have greatly reduced their emissions. The problem being addressed by the I/M program is one of carbon monoxide emission control. Motor vehicles are the predominate source of this serious pollutant. Industrial contributions to

this particular pollutant are minimal when compared to the motor vehicle population as a whole. However, it is necessary for the Department to increase the awareness of Jackson County residents of the local industry's compliance with the industrial air and water pollution control regulations.

SIP Addendum No oral testimony was received on the SIP addendum. However, the Oregon Department of Transportation submitted written comments. The addendum (Attachment B) contains a minor change clarifying the presentation of traffic growth trends. The overall conclusions remain the same.

Other suggestions by the public as to station location, operating hours, and inspection testing availability in the Ashland area are being considered by the staff. The staff will continue to operate the inspection facilities in a courteous and convenient manner. Operating hours will be convenient and can be adjusted to meet local needs.

Summation

1. A series of six public hearings was held August 1, 2, 8 and 9, 1985.
2. Public comment was received on the following subjects:
 - a. The implementation of an I/M program in Jackson County;
 - b. Comments on the proposed boundaries for the inspection zone;
 - c. Comments on the proposed rules affecting emission equipment inspection;
 - d. A request for consideration of a cost of repair cap or waiver system; and
 - e. Concern by the general public that the Department was not being as stringent in its industrial source control as it was proposing to be for motorists.
3. Some of the testimony stated that the inspection zone should be expanded to cover the entire county. The Medford-Ashland AQMA boundaries are still the least burdensome on the public, though this zone will provide more of an administrative headache in its implementation. It is recommended that OAR 340-24-301, designating the Medford-Ashland AQMA as the inspection zone, be adopted.
4. Comments supporting the proposed amendment to OAR 340-24-320 and 325 which eliminates the underhood inspection for 1974 and earlier model year vehicle was received. It is recommended that this rule modification be adopted.
5. A comment on the SIP addendum was received. A clarification of the SIP addendum was made. It is recommended that the SIP addendum be adopted.
6. Comments requesting a cost of repair cap or waiver program were received. Based on the issues of equity, fairness, air pollution control, legislative history, and specific legislative authority, no

cost of repair cap or waiver program is proposed. The Department believes that without a repair cap, the resulting competitive market place will provide lower repair costs.

7. Comments on the Department's enforcement of industrial sources was received. It is recommended that the Department increase the awareness of the citizens of Jackson County of the Department's industrial regulations and compliance with those regulations.

Director's Recommendation

Based upon the Summation, it is recommended that OAR 340-24-301, the amendments to OAR 340-24-320 and 325, and the SIP addendum OAR 340-20-047 (section 4.9) be adopted. The effective date of OAR 340-24-301 would be January 1, 1986. The effective date of the remaining actions would be October 1, 1985.


Fred Hansen

- Attachments:
- A. Rule Proposed OAR 340-24-301, 24-320, 24-325
 - B. SIP Addendum
 - C. Rulemaking Statements
 - D. Hearing Officer Report
 - E. Hearing Authorization Record, EQC Agenda Item E, July 19, 1985

William Jasper:s
229-5081
September 3, 1985

VS1642

PROPOSED RULES FOR IMPLEMENTATION OF I/M PROGRAM
FOR JACKSON COUNTY AREA

BOUNDARY DESIGNATIONS

340-24-301

(1) In addition to the area specified in ORS 481.190, pursuant to Chapter 222, Oregon Laws 1985, the following geographical area, referred to as the Medford-Ashland AQMA, is designated as an area, within which motor vehicles are subject to the requirement under ORS 481.190 to have a Certificate of Compliance issued pursuant to ORS 468.390 to be registered or have the registration of the vehicle renewed.

(2) As used in this paragraph, "Medford-Ashland Air Quality Maintenance Area" means the area of the state beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon, at the northeast corner of section 36, T35S. R1W; thence south along the Willamette Meridian to the southeast corner of section 25, T37S. R1W; thence southeast along a line to the southeast corner of section 9, T39S. R2E; thence south-southeast to the corner of section 22, T39S. R2E; thence south to the southeast corner of section 27, T39S. R2E; thence southwest to the southeast corner of section 33, T39S. R2E; thence west to the southwest corner of section 31, T39S. R2E; thence northwest to the northwest corner of section 36, T39S. R1E; thence west to the southwest corner of section 26, T29S. R1E; thence northwest along a line to the southeast corner of section 7, T39S. R1E; thence west to the southwest corner of section 12, T39S. R1W; thence northwest along a line to the southwest corner of section 20, T39S. R1W; thence west to the southwest corner of section 24, T38S. R2W; thence northwest along a line to the southwest corner of section 4, T38S. R2W; thence west to the southwest corner of section 5, T38S. R2W; thence northwest along a line to the southwest corner of section 31, T37S. R2W; thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of section 32, T35S. R1W; thence east along a line to the point of beginning.

(3) The above area is shown in Exhibit 1 of this section.

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 (PVC) 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 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 (PCS);
- (v) Throttle solenoid control (TSC);
- (vi) Fuel filler inlet restrictors;
- (vii) Oxygen Sensor;
- (ix) Emission Control Computer.

(b) [(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 197[0] 5 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 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] 1975 through 1979 motor vehicles. When a motor vehicle is equipped with other than the original engine and the 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 non-original engine is older than the motor vehicle any requirement for evaporative control system and fuel filler inlet restrictor and catalytic converter 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 year's equivalent or better factory pollution control system, including, but not limited to, catalytic converters, 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 providing the equivalent factory-installed pollution control system is maintained.

Heavy Duty 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, 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.

(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 1,000 RPM for any age model vehicle.

(3)

(a) [No vehicle emission control test for a 1970 or newer model year vehicle shall be considered valid if any 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):

- (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 converter 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 (PCS);
 - (v) Throttle solenoid control (TSC);
 - (vi) Fuel filler inlet restrictor;

(b) [(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 [1970] 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 a part or system is listed on the exemption list maintained by the Department. air pollution.

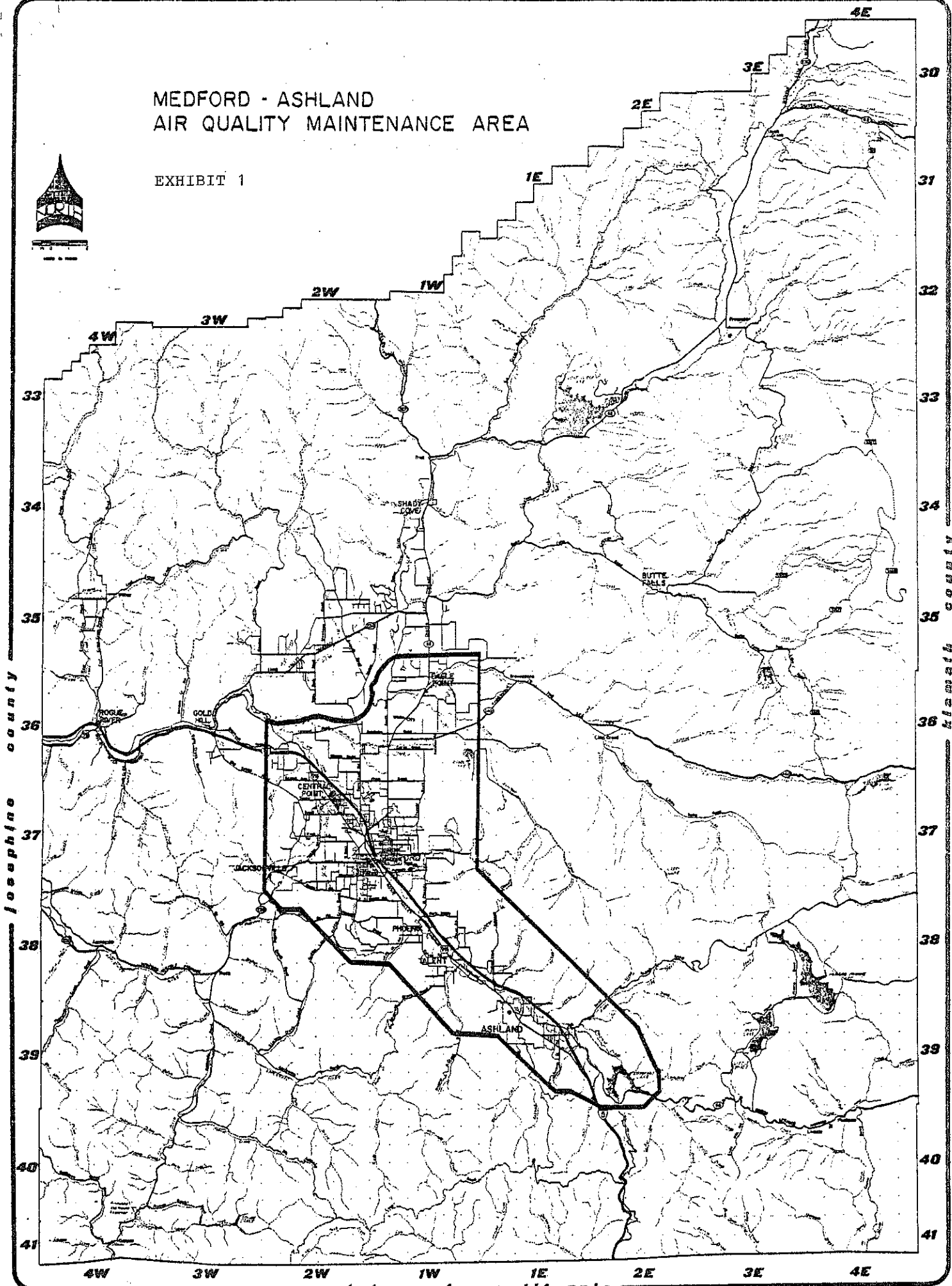
(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 483.825(2).

(5) A [1970] 1975 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 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 1975 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.

MEDFORD - ASHLAND AIR QUALITY MAINTENANCE AREA

EXHIBIT 1



Josephine county

Grant county

state of california

ADDENDUM TO SECTION 4.9

STATE OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN
MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA
CARBON MONOXIDE ATTAINMENT PLAN

Addendum Purposes:

- o Update of Traffic and Air Quality Analyses
- o Description of Motor Vehicle I/M Program
- o Demonstration of Attainment

June 1985

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE OF CONTENTS

<u>Section</u>	<u>Description</u>	<u>Page</u>
4.9.9	PURPOSES OF ADDENDUM	
	4.9.9.1 Overview of Addendum Content	1
	4.9.9.2 Chronology Since Preparation of 1982 Plan	1
4.9.10	AMBIENT AIR QUALITY UPDATE	
	4.9.10.1 Monitoring Data	2
	4.9.10.2 Design Concentration for 1982	2
4.9.11	HIGHWAY EMISSION INVENTORY UPDATE	
	4.9.11.1 Traffic and Population Growth Rate	3
	4.9.11.2 Highway Emission Inventory	4
4.9.12	CARBON MONOXIDE MODELING	
	4.9.12.1 Emissions Modeling	5
	4.9.12.2 Concentration Modeling	5
	4.9.12.3 Further Reduction Needed	6
4.9.13	MOTOR VEHICLE INSPECTION-MAINTENANCE PROGRAM	
	4.9.13.1 Program Authorization	7
	4.9.13.2 Program Boundaries	7
	4.9.13.3 Program Operation	8
4.9.14	DEMONSTRATION OF ATTAINMENT	8
4.9.15	DETERMINATION OF REASONABLE FURTHER PROGRESS	8
4.9.16	PUBLIC NOTICE AND HEARINGS ON ADDENDUM	8

LIST OF TABLES

<u>Section</u>	<u>Description</u>	<u>Page</u>
4.9.10-1	Summary of Ambient CO Levels (8-hour Average) in Medford from 1977 to 1984 at Central Monitor	2
4.9.11-1	Traffic Data Summary from East Main Street Recorder Operated by Oregon Department of Transportation	3
4.9.11-2	Carbon Monoxide Emission Inventories for Highway Motor Vehicles in the Medford CO Nonattainment Area	5
4.9.12-1	Projected Carbon Monoxide Emissions in the Medford Nonattainment Area Under Various Development Scenarios	5
4.9.12-2	Projected 1987 Carbon Monoxide Concentrations at Various Medford Locations	6
4.9.12-3	Required Reduction in Carbon Monoxide Emissions to Attain CO Standard at Various Medford Locations by 1987	6

LIST OF FIGURES

<u>Section</u>	<u>Description</u>	<u>Page</u>
4.9.11-1	Medford Traffic Trend	4
4.9.15-1	Reasonable Further Progress Medford CO Nonattainment Area	9

APPENDICES

<u>Section</u>	<u>Description</u>
4.9-13	1982 CO Design Value Calculation
4.9-14	1984 Projection of Population and Employment Growth
4.9-15	Traffic Analysis
4.9-16	CO Emissions and Concentrations
4.9-17	1985 Public Involvement/Comments

MEDFORD CARBON MONOXIDE PLAN ADDENDUM

4.9.9 - PURPOSES OF ADDENDUM

4.9.9.1 - Overview of Addendum Content

This addendum includes updated traffic and air quality information, a description of the motor vehicle inspection-maintenance (I/M) program, and a demonstration that the plan is adequate to attain the ambient carbon monoxide standard in the Medford-Ashland Air Quality Maintenance Area (AQMA) by the December 31, 1987 deadline.

Population and traffic growth rates have been lower than projected in the 1982 plan. There have been some changes in the rate and pattern of commercial development. These changes have been incorporated into the traffic and air quality analyses that are part of this addendum.

The 1982 plan used a 1979 baseline year to describe existing traffic and air quality conditions. This addendum uses a 1982 baseline year. Traffic speeds and volumes, motor vehicle age distribution, and ambient air quality are identified in this addendum for the 1982 baseline year.

The emission inventories in the 1982 plan were based on the EPA Mobile 2.5 emission factor program. The baseline and future year emission inventories in this addendum are based on the EPA Mobile 3.0 program released in July 1984.

The 1982 plan anticipated that a biennial county-wide inspection-maintenance program would be implemented beginning in January 1984. This addendum describes the biennial AQMA-wide program that will begin in November 1985.

4.9.9.2 - Chronology Since Preparation of 1982 Plan

The Jackson County Board of Commissioners adopted the carbon monoxide (CO) attainment plan for the Medford-Ashland Air Quality Maintenance Area (AQMA) in August 1982. This attainment plan identified the need for an I/M program and included a commitment to seek authorization from the Oregon Legislature to implement a biennial county-wide I/M program beginning January 1984. The Environmental Quality Commission adopted the attainment plan as a part of the SIP in October 1982.

In February 1983, the Environmental Protection Agency (EPA) proposed to approve the Medford CO plan upon county or state adoption of a specific I/M program. The 1983 Oregon Legislature authorized Jackson County to implement a local I/M program. The Jackson County Board of Commissioners adopted an I/M ordinance in January 1984 subject to voter approval. In March 1984, the residents of Jackson County voted against the establishment of an I/M program.

In March 1984, EPA proposed to disapprove the Medford CO plan and initiate a construction moratorium on major stationary sources of CO because the plan did not contain an enforceable commitment to I/M. In September 1984, EPA finalized the disapproval of the plan, specifically the I/M program and attainment demonstration portions of the plan, and finalized the construction moratorium.

In September 1984, EPA also proposed sanctions on federal funding for transportation projects, sewage treatment, and air programs in Jackson County. The federal funding sanctions took effect in May 1985.

The 1985 Oregon Legislature authorized and directed the Environmental Quality Commission to designate the boundaries of areas needing a motor vehicle inspection program as identified in the SIP.

4.9.10 - AMBIENT AIR QUALITY UPDATE

4.9.10.1 - Monitoring Data

Ambient carbon monoxide levels in central Medford from 1977 to 1984 are summarized in Table 4.9.10-1. A second continuous monitor was installed in North Medford in July 1984. Carbon monoxide concentrations and the frequency of standard violations at the North Medford monitor were similar to those recorded at the Central Medford monitor from July 1984 to June 1985. The central monitor is located near the intersection of Central and Main Streets; the north monitor is located near the intersection of Riverside Avenue and McAndrews Road.

Table 4.9.10-1. Summary of Ambient CO Levels (8-Hour Average) in Medford from 1977 to 1984 at Central Monitor.

Year	Carbon Monoxide Levels (mg/m ³)		Number of Days Over Standard
	Maximum	Second Highest	
1977	21.8	19.8	176
1978	22.1	20.9	184
1979	17.0	15.8	121
1980	22.1	18.0	68
1981	17.2	16.6	53
1982	16.4	15.2	33
1983	18.2	14.5	34
1984	14.1	13.3	23

4.9.10.2 - Design Concentration For 1982 Base Year

The design value for the previously used 1979 base year was 19.1 mg/m³. The methodology for the calculation is outlined in Appendix 4.9-2. The same methodology was used to calculate a design value of 15.8 mg/m³ for the 1982 base year. The 1982 design value calculation is outlined in Appendix 4.9-13.

4.9.11 - HIGHWAY EMISSION INVENTORY UPDATE

4.9.11.1 - Traffic and Population Growth Rate

There has been an overall decrease in traffic volumes in the Medford area from 1978 to 1985 due to the economic recession. Traffic data recorded by the Oregon Department of Transportation on East Main Street in Medford are outlined in Table 4.9.11-1. Traffic volumes increased by 4-6% per year from 1975-77, decreased by 1-3% from 1979-82, and increased by 2.5% in 1983. Areawide traffic counts by the City of Medford indicate a similar trend.

Table 4.9.11-1. Traffic Data Summary from East Main Street Recorder Operated by Oregon Department of Transportation in Medford.

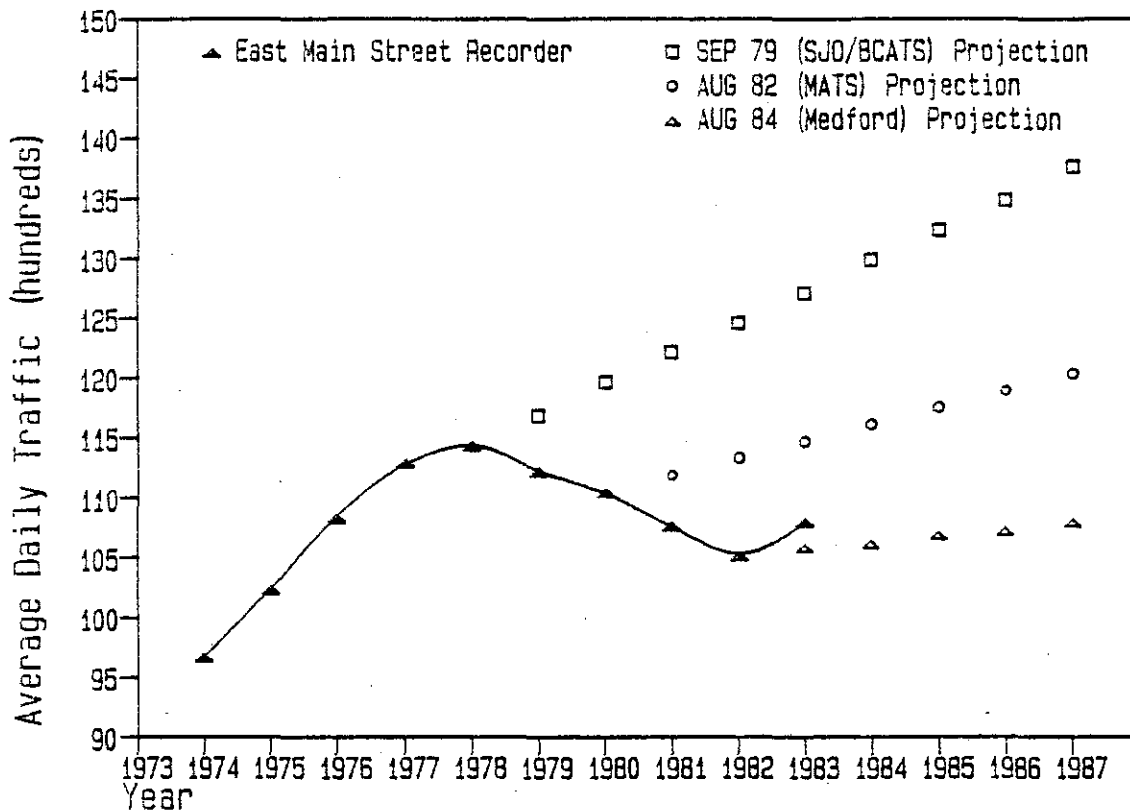
Year	Average Daily Traffic (ADT)	Annual Change in Traffic Volume
1974	9,669	----
1975	10,237	+5.9%
1976	10,848	+6.0%
1977	11,280	+4.0%
1978	11,436	+1.4%
1979	11,223	-1.9%
1980	11,031	-1.7%
1981	10,756	-2.5%
1982	10,531	-2.1%
1983	10,797	+2.5%
1984	10,600*	

* Preliminary (Source: Oregon State Highway Division, Traffic Engineering Section)

The Bear Creek Area Transportation Study (BCATS) was completed in December 1967 and projected that traffic growth in the Medford-Ashland area would average 2.2% per year over a 20-year period. The Medford Area Transportation Study (MATS) completed in March 1981 projected that traffic growth in Medford would average 1.3% per year. In May 1984, the City of Medford projected a traffic growth rate of 0.5% per year from 1982-87 and a year 2000 population of 52,000 (compared to 60,420 in the City of Medford Comprehensive Land Use Plan). For illustrative purposes, the various traffic growth forecasts have been superimposed on a plot of actual traffic volumes from the East Main Recorder (Figure 4.9.11-1). The downturn in population and employment growth is detailed in Appendix 4.9-14.

FIGURE 4.9.11-1

MEDFORD TRAFFIC TREND



The City of Medford currently projects a 1982-87 underlying traffic growth rate (without major developments) of 0.5% per year on arterials and collectors. The Oregon Department of Transportation projects an underlying traffic growth rate of 3.0% per year on freeways. The Oregon Department of Transportation analyzed the effects of the proposed Rogue Valley Mall and Medford Shopping Center Expansion. The overall projected traffic growth rate for the entire Medford roadway network (arterials, collectors, and freeways) ranged from 1.2% per year (without major developments) to 2.0% per year (with both major developments).

The traffic analysis projects that speeds on roadway links will generally be maintained or improved from 1982 to 1987 as a result of the proposed Medford Parking and Traffic Circulation Plan. The results of the traffic analysis are included in Appendix 4.9-15.

4.9.11.2 - Highway Emission Inventory

Carbon monoxide emission inventories for highway vehicles are summarized in Table 4.9.11-2. These emission inventories are based on the EPA Mobile 3.0 program.

Table 4.9.11-2 Carbon Monoxide Emission Inventories for Highway Motor Vehicles in the Medford CO Nonattainment Area.

Source Category	Carbon Monoxide Emissions (Kg/Day)		
	1982	1983	1984
Highway Motor Vehicles	11,728	11,688	11,675

4.9.12 - CARBON MONOXIDE MODELING

4.9.12.1 - Emissions Modeling

The EPA Mobile 3.0 emission factor program was used to calculate carbon monoxide emissions in 1982 and 1987. The 1982 and 1987 traffic volumes and speeds were taken from the traffic analysis performed by the Oregon Department of Transportation. The results of the emissions modeling are included in Appendix 4.9-16.

Carbon monoxide emissions were projected for four 1987 development scenarios as outlined in Table 4.9.12-1. The most likely development scenario is 1987D, as both the Rogue Valley Mall and the Medford Shopping Center Expansion started construction in 1984. Site-specific roadway improvement projects are required as part of the Rogue Valley Mall (RVM) and the Medford Shopping Center Expansion (MSCE). These roadway improvement projects would largely offset the carbon monoxide impact caused by increased traffic to these proposed facilities.

Table 4.9.12-1. Projected Carbon Monoxide Emissions in the Medford Nonattainment Area under Various Development Scenarios.

Scenario	Description	Carbon Monoxide Emissions (Kg/day)
1982	Base Year	11,728
1987A	No Major Developments	7,434
1987B	RVM Only	7,522
1987C	MSCE Only	7,459
1987D	Both RVM and MSCE	7,552

4.9.12.2 - Concentration Modeling

The Department used the carbon monoxide emission modeling results to project carbon monoxide concentrations at various Medford locations. The analytical methodology consisted of applying emission ratios to the 1982 design concentration of 15.8 mg/m³, 8-hour average. The methodology was similar to the methodology documented in Appendix 4.9-9. The projected carbon monoxide concentrations at five critical intersections are outlined in Table 4.9.12-2. The concentration results are graphically displayed in Appendix 4.9-16.

Table 4.9.12-2. Projected 1987 Carbon Monoxide (CO) Concentrations at Various Medford Locations.

Location	Projected CO Concentration (mg/m ³) 8-hour			
	1987A	1987B	1987C	1987D
McAndrews/Riverside	11.4	11.2	11.6	11.4
Biddle/McAndrews	10.4	11.2	10.5	11.3
Biddle/Jackson	9.5	9.5	10.0	9.9
Riverside/Fourth	9.7	9.8	9.9	9.9
Central/Main	9.5	9.1	9.3	8.9

4.9.12.3 - Further Reduction Needed

The Department compared the projected carbon monoxide concentrations to the ambient air quality standard of 10 milligrams per cubic meter (mg/m³), 8-hour average and calculated the emission reduction required to attain the standard. The emission reduction calculation methodology is shown in Appendix 4.9-2. The required emission reductions are outlined in Table 4.9.12-3.

Table 4.9.12-3. Required Reductions in Carbon Monoxide (CO) Emissions to Attain CO Standard at Various Medford Locations by 1987.

Location	Projected CO Reduction Required (%)			
	1987A	1987B	1987C	1987D
McAndrews/Riverside	15	13	17	15
Biddle/McAndrews	5	13	6	14
Biddle/Jackson	0	0	0	0
Riverside/Fourth	0	0	0	0
Central/Main	0	0	0	0

Under the 1987D most likely development scenario, a 15% reduction in motor vehicle carbon monoxide emissions would be required to meet the ambient carbon monoxide standard. A reduction range of 13-17% is required if all four of the scenarios are considered.

(The 1982 plan projected a peak carbon monoxide concentration of 12.9 mg/m³(8-hour average). This projected concentration was 29% above the ambient standard and would have required about a 27% reduction in motor vehicle emissions in order to meet the ambient standard by 1987. The higher traffic growth rate anticipated in the 1982 plan has not materialized).

Two major categories of additional carbon monoxide control measures have been evaluated in previous studies in Medford: first, traffic improvements either to increase traffic speeds or to reduce traffic volumes on the problem roadways; and second, area-wide measures such as anti-tampering or inspection-maintenance programs to reduce emissions from individual automobiles. The City of Medford, its consultants, Jackson County, and the Department of Environmental Quality have been unable to identify reasonable additional traffic improvements, other than those incorporated into the Medford Parking and Traffic Circulation Plan, that would significantly reduce carbon monoxide concentrations in the problem area. Therefore, the Department evaluated various types of anti-tampering and inspection-maintenance programs in considerable detail.

Anti-tampering programs could reduce carbon monoxide emissions by 1-10% from 1985 to 1987, depending on the type of program implemented. An anti-tampering program would be a useful interim measure to further reduce carbon monoxide emissions, but it alone would not provide attainment with the ambient carbon monoxide standard in North Medford. Inspection-maintenance programs could reduce carbon monoxide emissions by about 10-30% from 1985 to 1987, depending on the type of program and the start-up date. An inspection-maintenance program, with anti-tampering and mechanic training provisions, was selected to provide at least an additional 15% reduction in motor vehicle carbon monoxide emissions.

4.9.13 - MOTOR VEHICLE INSPECTION-MAINTENANCE PROGRAM

4.9.13.1 - Program Authorization

The 1985 Oregon Legislature adopted House Bill 2845 which authorized the Oregon Environmental Quality Commission to adopt an inspection-maintenance program for the Medford-Jackson County area. House Bill 2845 provides that if the need for an inspection-maintenance program is identified in the State Implementation Plan, then the Environmental Quality Commission shall designate by rule the boundaries where such a program will be required. The need for an inspection-maintenance program in the Medford-Jackson County area was identified in the 1982 plan and is confirmed in this 1985 addendum.

4.9.13.2 - Program Boundaries

Motor vehicles registered within the Medford-Ashland AQMA will be subject to the inspection-maintenance program. Approximately 85% of the motor vehicles in Jackson County are registered within the Medford-Ashland AQMA. The AQMA-registered vehicles account for about 88% of the vehicle-miles-traveled (VMT) in the Medford Carbon Monoxide Nonattainment area. (County-registered vehicles account for about 92% of the VMT in the nonattainment area.) The inspection-maintenance program boundaries are described in OAR 340-24-301.

4.9.13.3 - Program Operation

The Medford-Jackson County inspection-maintenance program will be a biennial program operated very similarly to the Portland program. The most recent 21 model years of motor vehicles will be inspected. A two-speed test will be conducted. Motor vehicles (1975 and newer) with removed or inoperative pollution control equipment will be failed. The emission standards are equivalent to at least 35% stringency.

A series of mechanic training programs will be provided during the first year of the inspection-maintenance program.

The operating rules for the Oregon inspection-maintenance program are described in OAR 340-24-300 to 350.

4.9.14 - DEMONSTRATION OF ATTAINMENT

The Medford-Jackson County inspection-maintenance program is expected to reduce carbon monoxide emissions from motor vehicles by a net 24% by December 31, 1987. The 24% net emissions reduction accounts for an estimated 12% of the VMT that is from vehicles outside the AQMA (refer to 4.9.13.2). The inspection-maintenance credit is based on EPA Mobile 3.0. The emission factor printouts and a summary of the net emissions reduction achieved by the inspection-maintenance program are included in Appendix 4.9-16.

The expected emission reduction (24%) due to an inspection-maintenance program is greater than the additional reduction needed to attain the ambient carbon monoxide standard by December 31, 1987 (15% reduction needed).

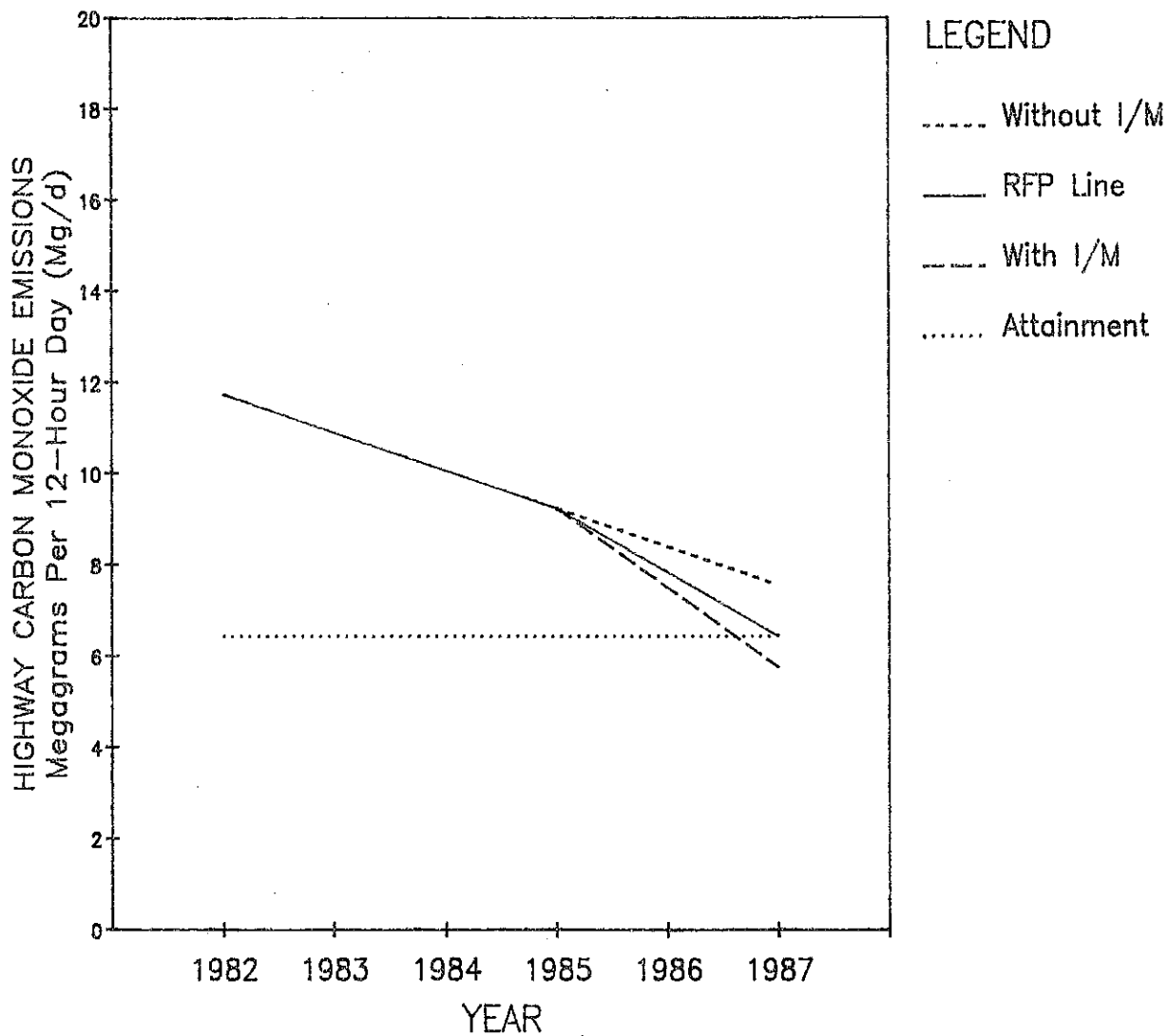
4.9.15 - DETERMINATION OF REASONABLE FURTHER PROGRESS

An evaluation of carbon monoxide reductions in the Medford area will be included in the Department's annual report to EPA on reasonable further progress (RFP). A revised RFP graph is included as Figure 4.9.15-1. Carbon monoxide emissions from highway vehicles must be reduced from 11,728 kilograms per day (kg/day) in 1982 down to 6,420 kg/day in 1987 in order to attain the ambient carbon monoxide standard by December 31, 1987.

4.9.16 - PUBLIC NOTICE AND HEARINGS ON ADDENDUM

A series of public hearings on this addendum to the Medford Carbon Monoxide Attainment Plan was held in the Medford-Ashland area during August 1985. The public hearing notice was issued at least 30 days prior to the hearings. The plan was distributed for local and state agency review by the A-95 State Clearinghouse at least 45 days prior to adoption of this addendum by the Environmental Quality Commission. A summary of testimony received is included in Appendix 4.9-17.

Figure 4.9.15-1
 REASONABLE FURTHER PROGRESS
 Medford CO Nonattainment Area



NOTE: YEAR TICK MARK IS FOR DECEMBER 31ST

HOW TO COMMENT: Copies of the complete proposed rule package and SIP addendum may be obtained from the Department of Environmental Quality at either:

Vehicle Inspection Program (or) Southwest Region Office
522 S.W. 5th 201 W. Main Street, Suite 2-D
Portland, Oregon Medford, Oregon 97501

For further information contact William Jasper at 229-6235 (1-800-452-4011) or Gary Grimes at 776-6010.

Public hearings will be held before a hearings officer at:

- | | |
|--|--|
| 1. 2:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon | 4. 2:00 P.M.
August 8, 1985
Medford City Council Chambers
411 W. Eighth Street
Medford, Oregon |
| 2. 7:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon | 5. 7:00 P.M.
August 8, 1985
Central Point City Council Chambers
City Hall
155 South Second Street
Central Point, Oregon |
| 3. 10:00 A.M.
August 2, 1985
Eagle Point City Council Chambers
City Hall
136 Main St. W
Eagle Point, Oregon | 6. 10:00 A.M.
August 9, 1985
Ashland Civic Center
Council Chambers
1175 E. Main
Ashland, Oregon |

Oral and written comments will be accepted at the public hearings.
Written comments may be sent to either:

Department of Environmental Quality (or) Southwest Region Office
Vehicle Inspection Program 201 W. Main Street, Suite 2-D
P.O. Box 1760 Medford, Oregon 97501
Portland, OR 97207

and must be received by no later than the close of the business day 5:00 P.M., August 12, 1985.

WHAT IS THE NEXT STEP:

After the public hearings 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 and the addendum 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 on September 27, 1985 as part of the agenda of a regularly scheduled Commission meeting to be held in Bend.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

HOW TO
COMMENT:

Copies of the complete proposed rule package and SIP addendum may be obtained from the Department of Environmental Quality at either:

Vehicle Inspection Program
522 S.W. 5th
Portland, Oregon

(or)

Southwest Region Office
201 W. Main Street, Suite 2-D
Medford, Oregon 97501

For further information contact William Jasper at 229-6235 (1-800-452-4011) or Gary Grimes at 776-6010.

Public hearings will be held before a hearings officer at:

- | | |
|--|--|
| 1. 2:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon | 4. 2:00 P.M.
August 8, 1985
Medford City Council Chambers
411 W. Eighth Street
Medford, Oregon |
| 2. 7:00 P.M.
August 1, 1985
Jackson County Courthouse Auditorium
10 South Oakdale
Medford, Oregon | 5. 7:00 P.M.
August 8, 1985
Central Point City Council Chambers
City Hall
155 South Second Street
Central Point, Oregon |
| 3. 10:00 A.M.
August 2, 1985
Eagle Point City Council Chambers
City Hall
136 Main St. W
Eagle Point, Oregon | 6. 10:00 A.M.
August 9, 1985
Ashland Civic Center
Council Chambers
1175 E. Main
Ashland, Oregon |

Oral and written comments will be accepted at the public hearings.
Written comments may be sent to either:

Department of Environmental Quality
Vehicle Inspection Program
P.O. Box 1760
Portland, OR 97207

(or) Southwest Region Office
201 W. Main Street, Suite 2-D
Medford, Oregon 97501

and must be received by no later than the close of the business day 5:00 P.M., August 12, 1985.

WHAT IS
THE NEXT
STEP:

After the public hearings 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 and the addendum 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 on September 27, 1985 as part of the agenda of a regularly scheduled Commission meeting to be held in Bend.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

**BOUNDARIES, INSPECTION PROGRAM OPERATING RULES, AND CARBON MONOXIDE
STATE IMPLEMENTATION PLAN REVISION FOR THE MEDFORD-JACKSON COUNTY AREA
RULEMAKING STATEMENTS**

Pursuant to ORS 183.335, these statements provide information on the intended action to amend and adopt rules.

STATEMENT OF NEED:

Legal Authority

This proposal amends OAR 340-24-300 through 24-395, and Section 4.9 of the State of Oregon Clean Air Act Implementation Plan, OAR 340-20-047. It is proposed under the authority of ORS 468.370 and HB 2845, 1985 Oregon Legislative Session.

Need For The Rule

The proposed amendments and additions are needed to establish and designate boundaries where an inspection/maintenance program will be required to operate as required by ORS 481.190 and HB 2845 1985 Oregon Legislative Session. Rules are proposed to provide for operation of the inspection program in the designated test area. The amendment to the State Implementation Plan updates the air quality information, outlines the proposed I/M program and demonstrates the adequacy of the proposed I/M program to meet the national ambient carbon monoxide (CO) health standard by December 31, 1987. The implementation of an inspection/maintenance program will allow the lifting of all federally imposed economic sanctions.

Principal Documents Relied Upon

1. Clean Air Act Amendments of 1977 (P.L. 95-95)
2. Oregon State Clean Air Act Implementation Plan (OAR 340-20-047), Medford Carbon Monoxide Attainment Plan (Section 4.9), October 15, 1982.
3. Environmental Protection Agency (EPA) rulemaking actions on the Medford Carbon Monoxide Attainment Plan: 45 FR 42278 (June 24, 1980), 48 FR 5131 (February 3, 1983), 49 FR 9582 (March 14, 1984), 49 FR 35662 and 49 FR 35631 (September 11, 1984), and 50 FR 8614 (March 4, 1985).
4. EPA MOBILE 3 computer program emission projections
5. House Bill 2845, 1985 Oregon Legislature
6. Jackson County Inspection/Maintenance Ordinance #84-3, January 18, 1984
7. Report on the Vehicle Inspection Program, 1983-1984

FISCAL AND ECONOMIC IMPACT STATEMENT:

If the Jackson County/Medford-Ashland AQMA is designated as an inspection area, the community as a whole would economically benefit from the lifting of federal economic sanctions. This proposal provides the framework to allow for increased economic expansion and provides opportunity for additional jobs by providing decreases in carbon monoxide necessary to achieve Federal standards and allow for further economic growth and expansion. Vehicle owners will pay a fee of \$7, generally every two years, to cover program operational expenses. The Department estimates that about 35% of the vehicles tested will be identified as requiring remedial maintenance or as having disconnected or tampered emission control equipment in violation of State law. Experience from operating the inspection program in the Portland area indicates that the average costs of repair for failing only the emissions standard is moderate. More than half of the vehicle owners surveyed reported repairs under \$20. Prices to repair disconnected or tampered emission control equipment are generally higher. Overall some individual motorists will experience savings (from increased gas mileage resulting from better maintained vehicles) while other motorists will experience increased operational costs. There should be no significant adverse impact on small businesses. Some small businesses will economically benefit from the Department's operation of the inspection program.

LAND USE CONSISTENCY STATEMENT:

The Department has concluded that the proposal appears to affect land use and appears to be consistent with the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain air quality in the affected area and is consistent with the goal.

Goal 9 (Economy of the State): This proposal would allow further economic growth and development in the affected area by allowing the lifting of federal economic sanctions and is consistent with the goal.

Goal 11 (Public Facilities and Services): This proposal does not impact this goal.

The proposed rule does not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this NOTICE OF PUBLIC HEARING.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT:

If the Jackson County/Medford-Ashland AQMA is designated as an inspection area, the community as a whole would economically benefit from the lifting of federal economic sanctions. This proposal provides the framework to allow for increased economic expansion and provides opportunity for additional jobs by providing decreases in carbon monoxide necessary to achieve Federal standards and allow for further economic growth and expansion. Vehicle owners will pay a fee of \$7, generally every two years, to cover program operational expenses. The Department estimates that about 35% of the vehicles tested will be identified as requiring remedial maintenance or as having disconnected or tampered emission control equipment in violation of State law. Experience from operating the inspection program in the Portland area indicates that the average costs of repair for failing only the emissions standard is moderate. More than half of the vehicle owners surveyed reported repairs under \$20. Prices to repair disconnected or tampered emission control equipment are generally higher. Overall some individual motorists will experience savings (from increased gas mileage resulting from better maintained vehicles) while other motorists will experience increased operational costs. There should be no significant adverse impact on small businesses. Some small businesses will economically benefit from the Department's operation of the inspection program.

LAND USE CONSISTENCY STATEMENT:

The Department has concluded that the proposal appears to affect land use and appears to be consistent with the Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): This proposal is designed to improve and maintain air quality in the affected area and is consistent with the goal.

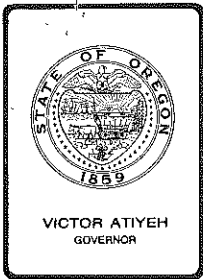
Goal 9 (Economy of the State): This proposal would allow further economic growth and development in the affected area by allowing the lifting of federal economic sanctions and is consistent with the goal.

Goal 11 (Public Facilities and Services): This proposal does not impact this goal.

The proposed rule does not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this NOTICE OF PUBLIC HEARING.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction. The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state or federal authorities.



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Hearings Officer

Subject: Motor Vehicle Inspection Public Hearings August 1, 2, 8, and 9, 1985, Jackson County, Oregon

Background

As authorized by the Environmental Quality Commission on July 19, 1985, a series of six public hearings was conducted in Jackson County, Oregon, on proposed implementation of an inspection/maintenance (I/M) program for that area.

Hearing testimony was lively and centered around several major themes:

1. Several people opposed the program on the grounds that the Jackson County residents had defeated, or failed to ratify, a Jackson I/M ordinance in a 1984 special election. They consider the legislative passage of HB 2845 to be an attempt by the government to ram through an unpopular pollution control program.
2. Several residents felt that the AQMA boundaries proposed were too small. The logic expressed was that if some people had to participate, fairness required that all Jackson County residents should be included in the inspection program area.
3. Support for the amendment eliminating tampering inspection for 1974 and older vehicles.
4. Many people support some kind of cost of repair cap and waiver system.
5. Many people said traffic signals in Medford and inadequate industrial pollution control of the mills in the area should be addressed before I/M is required.

Summary of Testimony

First Hearing: August 1, 2 PM, Jackson County Council Chambers:

Representative Peter Tarzian called upon the EQC to be sensitive in its approach to implementing inspection maintenance in the Jackson County area. He supports the need to maintain equity between a program operating in the Jackson County area and the program operating in the Portland area. However, the needs of the community should also be taken into consideration.

Jim Sevick said that in other states a cost of repair limit ranging between \$50-\$100 was common. He proposed that a cost of repair cap be considered but that no cap be required for 1986 or newer cars. He asked that the Department evaluate the program after five years to determine the program effectiveness.

Gary Springer said that he was familiar with emission testing after living and working in Arizona. He indicated that tampering with emission equipment on newer cars is dangerous because it increases the amount of pollution from the cars. He said that the program should be operated by the Health Department rather than the DEQ. He supports the general program concepts. He said that there should be some sort of an exemption system.

Kathy Gordon representing the League of Women Voters read a prepared statement supporting the program proposed. The League does not support a cost of repair ceiling because all of the citizens need to share in the cost of clean air.

Second Hearing: August 1, 7 PM, Jackson County Auditorium

Gus Goldenpenny believes that there has been a lot growth and that Medford is a regional center. He feels that it is not fair that folks from outside the area come into this area and not be tested. He believes that this program is unnecessary regulation. He suggested that the state put big fans on the tops of the hills and blow the pollution out.

Duane Johnson said that the program would be a rip-off. He believes government-owned vehicles will not be regulated.

Ellen James thinks that there should be an emission equipment inspection only, and that the tailpipe measurements should be dropped.

Ray Driskell suggested that the location for the inspection station be near Representative Peterson's home. Mr. Driskell disagrees with the program concepts.

Charles Bennett said that the inspection station should be placed on the freeway at the county line and inspect all cars entering the county.

Jim Sevick restated his support for a cost of repair ceiling for pre-1986 cars. He supported the easing of the tampering requirement on older cars as proposed in the Department's rule package. Mr. Sevick believes that only cars ten years old or newer should be tested. He also urged Medford officials to make needed traffic improvements.

Homer A. Conger believes farming is good for controlling air pollution. His farm is included in the proposed boundaries and he wants it excluded. He believes that carbon monoxide is a Medford problem and that Medford should clean up its own problem. He proposed that the boundaries should be changed to exclude farm and agricultural lands.

Phillip DeCosta wants to know who is behind the rule proposed. He said that the program reminded him of Hitler and was not fair.

Joe Dobson believes that the traffic signal control system in central Medford is the problem. Mr. Dobson believes that carbon monoxide violations are a county problem and that the entire county should be included in the inspection program. He also suggests that the inspection hours should be convenient.

William Robertson spoke at length on a range of subjects, including the social, political, and philosophical problems associated with air pollution control.

Barbara Owen Burnett stated that she has lung problems. She believes that much of her health problems are due to lack of regulation of the lumber industry.

Third Hearing: August 2, 10:00 AM, Eagle Point City Council Chambers

Everett Goettsch does not want Eagle Point included in the program area. He believes that there should be a cost cap on repairs when a car fails. He said the program boundaries should be limited to the basic Medford area.

Jim Sykes wanted reassurance that government cars would not be exempt. He raised questions regarding traffic studies and the ambient monitoring criteria. He stated that much of the weekend traffic was due to young people cruising the streets at night.

Marilyn Jacobsen thinks that the problem is due to traffic in Medford including poor signals and lack of parking control. She believes that all of Jackson County should be included.

Edward Burleigh says that the carbon monoxide problem in Medford is caused by industrial sources. He believes it is unfair to have an inspection program after the people voted against it.

Raymond Jacobsen says that the program should be state-wide. He believes that the regional concept is stupid.

Thomas Tibbetts agreed with Mr. Jacobsen.

Penny Kielman wanted to know if testing would apply to motorcycles and how the Department was dealing with woodstove certification and use.

Paul Clement thinks that the outlying areas are being penalized for Medford's problem and Medford's bad planning. Mr. Clement believes DEQ should control industrial sources. He believes that there should be a cost of repair limit.

Jody Walch said that she never goes to Medford unless forced to. She stated that it is the buses and trucks that should be controlled. She is against the program.

Laree Linder believes old government vehicles that will have to be repaired to fix their emission problems will become a burden on the local taxpayers.

Fourth Hearing: August 8, 2 PM, Medford City Council Chambers

Gus Goldenpenny stated that he is not sure that DEQ will be reliable when it starts testing cars. He indicated that the ordinary layman does not know what is happening. He felt that traffic in Medford should be improved.

Fifth Hearing: August 8, 7 PM, Central Point City Council Chambers

Ray Driskell is against the concept. He would exempt people over 62 years of age. He wants O&C funds used to pay for the program.

Charles Bennett does not like the program but wants the entire county included rather than just the proposed area because people through the county go into Medford.

LaRue Morris owns Hidden Valley Ranch. He believes the DEQ should do more air testing especially in the rural areas. He believes that diesel buses are the major air pollution problem from motor vehicles.

Frank Carter, Mayor of Jacksonville, say Jacksonville has clean air. He is against the program because he believes carbon monoxide violations are Medford's problem.

Sixth Hearing: August 9, 10:00 AM, Ashland City Council Chambers

Eleanor Bradley stated that she has long been involved as a citizen in clean air planning efforts. She supports the I/M program concepts. She feels the proposed AQMA boundary weakens the program and wants it extended. She urged DEQ to stress the voluntary aspects as well as the mandatory aspects of the I/M program. She urges DEQ to study the effects of the program after it has been operating.

Edward Pentkowski opposes the program. He said that since there was a county-wide vote against the program, it should not be implemented. He believes that there are too many exemptions in the program. He believes the program will not solve the CO problem but will just cause economic hardship.

Steven Schneider opposes the program.

Randy Voris said that the vote against the program should have been respected. He does not believe the program will work. He believes that Medford, not Ashland, causes the problem. He indicated that out-of-area vehicles is the major component of traffic. He believes the program will not reduce pollution in the valley. He noted that the I/M program does not address industrial sources of air and water pollution.

Fred Binnewies supports the I/M program. He believes there should be inspection stations located in the Ashland area, the Medford area, and other areas to provide better service. Mr. Binnewies expressed concern about the details of the program budget. He stated that some people would connect emission control equipment for the test and disconnect them afterwards. Mr. Binnewies asks that new cars be included and that there be a \$50 cost of repair limit.

Mike Kloor suggests that a private fund be established for those people who can not afford to pay for the repairs. He believes that the mills continue to violate emission standards. He believes that sufficient civil penalties should be assessed against industrial sources, especially since the state is now going to make individual motorists comply with emission standards.

Lillian Ward noted that some vehicles winter out of the area but would pay a full fee. She wants some kind of a system to identify those vehicles which do not go to Medford and exempt them from the program. She believes that Medford has poor traffic signals. She wants police to ticket smokey cars. She fears that it will be expensive to repair cars to meet program requirements. She believes that the Department does not adequately control industrial sources. In her view, voter rejection of the program should prevent its use.

Glenn Ward indicated that while there are some air quality problems in the Rogue Valley, the approach taken to solve this problem is wrong. Mr. Ward questioned some of the statistics the Department used. He cited high repair costs associated with repairing tampered emission control equipment. He believes that the emission inspection program should be operated nationwide. In his view, a single inspection station for Jackson County would be inconvenient.

Russell Rowe said that the worst air quality day in Medford is better than the best day in Denver, Colorado. He felt that the two-year frequency on inspections was too long a period. He indicated that Emigrant Lake should be excluded from program operation because Gold Hill and Rogue River are also excluded, and because the air flow in the Bear Creek Valley has a generally westerly flow.

Tim Kelly concurs with Mr. Binnewies. He indicated that the inspection needs to be as painless as possible. He believed that equity was not as important as reducing the program boundary area. He suggested using some kind of window sticker system to identify cars that were inspected. He

suggested the inspection station should be located outside of the central area. He urged a repair cost limit of \$75 to \$175. He believed that the Department should take enforcement action against those repair shops which adjust cars and then readjust the cars after they have been repaired.

Ilse Nicholson indicated that people need to take civic responsibility by accepting programs like I/M which are for the general good. She felt that the inspection station should be located outside of the Medford core area. Everett Elerath does not support the inspection program. He opposes the bureaucracy of the system and not the concept. He believes that the data should better define the problem. He stated that Ashland residents need more convincing on the value of the program.

Robert Ziehl related his grim experiences in buying a used car from a local auto dealer. All the emission control equipment had been removed and Mr. Ziehl faces great expense repairing the car to meet program standards. Mr. Ziehl wants dealer sales included in the inspection requirements so that any used car purchase would have to pass the inspection prior to the completion of the transaction.

Alfred Wilstatter said that the I/M program is a band-aid approach to the pollution problem. He urged an outright ban on vehicle travel on air stagnation days and the use of the regional transit buses.

Phillip Jager had questions about the engine change policy and talked about the cost of replacing catalytic converters. He said there was a need to better evaluate public opinion and to be aware of the special needs of the community.

Pat Ackland, Ashland City Council, said that if only one inspection station were established, it would place a hardship on the Ashland community. She suggested DEQ provide a mobile unit to serve outlying communities. She spoke of a non-profit organization to help those people who can not afford to have their cars fixed. She concurred with a cost ceiling but suggested that a higher dollar level be established for those cars which had been failed for having tampered emission control equipment.

In written testimony Hank Henry, Jackson County Commission, called upon the Department and Commission to establish a cost of repair procedure.

The League of Women Voters urged that the AQMA area not be reduced any further and that the program as proposed be adopted.

Mr. Piete indicated that it may be difficult to have cars in the Applegate area differentiated from the Jacksonville area and felt that voting precincts should be used to determine who was in and who was out of the boundaries. He felt that pre-1976 cars were the least offenders and that 1976 and newer cars, especially those who had their catalytic converters removed, were the worst offenders. He felt that there should be a strong public awareness program including the fact that car dealers are required by law to keep the smog control equipment on cars functioning.

The Oregon Lung Association's response supports the adoption of the rules as proposed. They do not support a waiver program or cost of repair limit; however, they feel that additional public awareness efforts both to the general community and the automotive repair industry needs to be aggressively pursued.

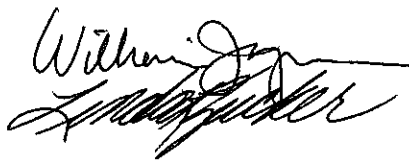
Gary Springer submitted written testimony which he said was the consensus of numerous people. He indicated that Gold Hill and Sams Valley area should be included. He wrote that the tampering with emission control equipment would prove difficult. He outlined a proposed a waiver system and restructuring of the fee system so that the person up front would pay a fee with one free retest. He indicated the state should license repair facilities to do clean air tune-ups as part of the fee waiver system. He indicated that we should license used car lots and require them to issue a Certificate of Compliance prior to selling a used car.

The Medford Chamber of Commerce supported a program review after three years of operation and a fleet licensing system. The Chamber recommended that the parking lot rules adopted last year be repeated.

The Oregon Department of Transportation commented on specifics of the traffic volume projections.

The Economic Development Department indicated that the I/M program was crucial to further economic development in Jackson County.

The above summarizes the testimony received at the six public hearings authorized by the Commission.



William Jasper
Linda Zucker

- Attachments: Letter from Hank Henry, Chairman, Jackson County Commission
Statement of League of Women Voters
Letter from H. W. Piets
Letter from Oregon Lung Association
Statement from Gary Springer
Letter of Medford Chamber of Commerce
Clearinghouse Comments from Oregon Dept. of Transportation
Clearinghouse Comments from Economic Development Dept.



Jackson County Oregon

COUNTY COURTHOUSE / MEDFORD, OREGON 97501

BOARD OF
COUNTY COMMISSIONERS
Commissioners Office 776-7231

July 31, 1985

Mr. Fred Hansen, Director
Oregon Department of Environmental Quality
522 S. W. Fifth Avenue, P. O. Box 1760
Portland, OR 97207

Dear Fred:

In the vehicle inspection ordinance we proposed to the people of Jackson County in 1984, there were certain exemptions which we felt would provide a measure of equity to the program without jeopardizing the purpose and intent of the I/M process. We recall that your department did not take serious issue with our exemptions, one of which included the following language:

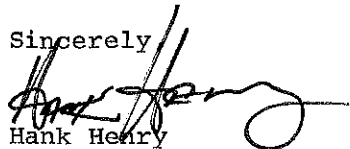
"Vehicles exceeding seven years of age which fail the exhaust emissions test, and for which the owner has incurred cost of repairs in excess of \$75.00, shall be issued certification. Written proof of such cost must be provided to the vehicle emission inspector, and must have been incurred after the date of the biennial inspection. Such expenditures must be for repairs which were relevant to improving exhaust emissions, and submitted proof documents must be itemized so as to clearly indicate the type of repairs made. The restoration of factory installed pollution control systems shall not be considered a part of the \$75.00 expenditure."

It is now our understanding that the I/M program soon to be established in Jackson County by DEQ will not include an exemption similar to the one above. We urge that you reconsider the matter.

It was our understanding that relatively few vehicles would have been issued certification under the above exemption. We believe that for the most part, owners of such vehicles cannot afford unlimited and expensive repairs or replacement of the vehicles. However they do need some form of transportation in order to meet the daily necessities of life. This group would include students, the elderly, working single mothers, and folks who are unemployed or otherwise short of income.

We urge that you consider very carefully the personal economic impact of the I/M program on the people we have identified. We hope that you will agree with us that a limit on repair expenditures would strike an acceptable balance between the environmental and sociological needs of our community.

Sincerely


Hank Henry
Chairman

HH:cf

STATE OF OREGON
RECEIVED

AUG 1 1985

Dept. of Environmental Quality
Vehicle Inspection Division

LEAGUE OF WOMEN VOTERS OF THE ROGUE VALLEY
TESTIMONY BEFORE THE DEQ HEARINGS OFFICER, AUGUST 1, 1985
SUBJECT: I&M PROGRAM

We, the League of Women Voters of the Rogue Valley, present this testimony with great hope that the forthcoming I&M program will ensure cleaner, healthier air for all of us to breathe. Local carbon monoxide pollution control has been a long time coming. Our League has been involved in clean air efforts since the very beginning.

First, we support the proposed Medford-Ashland air quality maintenance area boundaries. We urge the DEQ not to be persuaded to reduce the boundaries by critics who say, "The carbon monoxide pollution is only Medford's problem." Medford is a service area for the entire county, and we feel the proposed boundary is absolutely necessary to bring about effective results!

Second, the governing rules as proposed by the DEQ seem acceptable to us. We understand these rules are based on the Portland I&M program which has brought about a successful reduction in carbon monoxide pollution.

We feel a great "sigh of relief" to at last visualize a plan to control carbon monoxide here. We urge the DEQ to adopt the proposed I&M program.

*Testimony given by Kathy Gordon, air
quality chairman*

7/28/85

Hearings Chairman
D.E.Q. 201 W. Main St. Suite 2D
Medford, Oregon 97501

Comments for the record at
the 1+M hearing: August 1, 1985

When including Jacksonville
in the testing area please note
that the Jacksonville mailing
address includes much of the
Applegate Valley. Possibly voting
precinct numbers could
determine who is subject to
1+M tests.

Pre 1976 cars are largely
owned by older - lower income
people who drive less and
are less able to afford repair
bills at \$20.00 to 40.00 per
hour - plus parts, with no
lid on the total. These

cars really had little effective smog control when new. The worst offenders are 1976 and newer models which have catalytic converters inoperative or removed.

Publicity should be given to the fact that car dealers are required by law to keep smog control equipment working for five years or 50,000 miles.

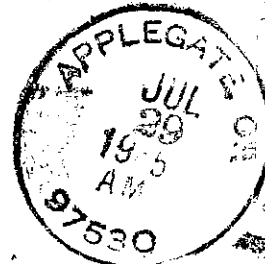
Yours Truly,
H. W. Piete

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
JUL 30 1985

SOUTHWEST REGION OFFICE

H. W. PIETE
3125 THOMPSON CREEK ROAD
APPLEGATE, ORE. 97530



Hearings Chairman
D.E.Q. 201 W. Main St. Suite 211
Medford, Oregon
97501



Oregon Lung Association Southern Region

August 8, 1985

Oregon Environmental
Quality Commission
Department of Environmental
Quality
Vehicle Inspection Program
P. O. Box 1760
Portland OR 97207

STATE OF OREGON
RECEIVED

AUG 8 1985

Dept. of Environmental Quality
Vehicle Inspection Division

RE: Proposed Rules for Implementation of Motor Vehicle
Inspection and Maintenance Program to Achieve
Compliance With CO Health Standard in the Medford
Non-Attainment Area

The Commission has requested public testimony on three
proposed rules:

1. The designation of the Medford-Ashland Air Quality
Maintenance area as the area for a Program;
2. An addendum to the State Implementation Plan
updating the Medford Carbon Monoxide Attainment
Plan - and specifying for it the existing Oregon
Inspection and Maintenance Program Operating Rules;
3. The deletion from those Rules of inspection for
tampering on 1970-74 model year vehicles.

The Oregon Lung Association, Southern Region, supports the
adoption of these rules, as proposed, on the basis of the
documentation provided by the Department of Environmental
Quality, and of published reports on other Programs around
the country. These reports identify several critical
elements in I/M Programs which help to assure their
effectiveness and which are included in the proposed
Program for the Medford-Ashland Air Quality Maintenance
Area. Namely:

A centralized Program, providing good quality control;

A state-operated Program, allowing lower fees;

A Program tied to vehicle registration, assuring
adequate enforcement; and

A Program without waivers, or repair cost limits,
assuring that it really does come to grips with the
problem - that the approximately 1/3 of vehicles
which fail are producing 4 times as much pollution
as the remaining 2/3 and have to be repaired.

243 South Holly • Medford, OR 97501 • (503) 772-4466

Christmas Seals fight lung disease

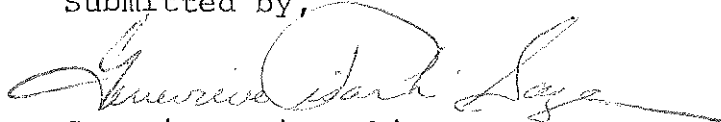
August 8, 1985
Page 2

Proposed I/M Rules/Oregon Lung Association

There is one element missing, however, that could diminish the effectiveness of the Program. The total number of vehicles failing the emissions inspection is highest at the initiation of a Program. Many vehicles' owners don't know what to expect; they aren't habituated to proper maintenance. After all, if they were, there wouldn't be a severe pollution problem or the need for a Program. The goal of a Program is not just to finger the vehicles that are polluting; but to get the owners of those vehicles onto the right track of good and regular maintenance (which will also yield them good gas mileage, engine life) and resale value, in addition to cleaner air, as opposed to a wrong track such as making some temporary adjustments solely for the purpose of the inspection. The benefits of proper maintenance are what offset the potential expense of an I/M Program to vehicle owners, rather than waivers or repair cost limits.

A traditional way to educate vehicle owners has been to phase-in a Program, with voluntary inspections. There is no time for this under the proposed Program because of federal deadlines. Aggressive mechanic training is suggested as the alternative and is essential. The Program should also include, however, consultations on the likely causes and repairs for vehicles that fail, if not by the inspectors themselves in the test lane, then elsewhere at the site, or by a telephone hot-line. Under successful Programs the number of vehicles passing the emissions inspection increases over time, which is attributable in part to more owners actually practicing good maintenance.

Submitted by,



Genevieve Pisarski Sage
Regional Director

GPS/ssh

CAR SPRINGER

To: ENVIRONMENTAL QUALITY COMMISSION

STATE OF OREGON

Subject: In response to agenda Item No. E on 7/19/85 **RECEIVED**
EQC Meeting

AUG 8 1985

PROGRAM BOUNDRIES

Dept. of Environmental Quality
Vehicle Inspection Division

Medford-Ashland Air Quality Maintenance Area

Other than the fact that a percentage of residents in the A.Q.M.A area would register their vehicles in the outlining areas to bypass emission tests. Vehicles driven in Gold Hill or Sams Valley contribute to the pollution problem in the A.Q.M.A. area proposed. Most families living outside the A.Q.M.A. area must use the larger metropolitan areas for shopping, medical, and other general services therefore; vehicles from these areas should also help reduce vehicles emissions. According to the D.E.Q. figures 15% of the Jackson County Residents are outside of the A.Q.M.A. If approximately 30% of these residents use the roadways of the maintenance area. This would result in as high as 5% increase in harmful emissions. 5% doesn't sound like much until you remember this is 1/3 the projected A.Q.M.A. reduction.

TAMPERING INSECTION REQUIREMENT

One of the major problems to deal with is the technician responsible for automotive maintenance. Misinformed repair technicians that remove or alter antipollution devices. The tampering inspection requirement should not be deleted, but modified to insure a minimum of necessary antipollution devices be retained, i.e. P.C.V. systems. Further have voluntary licensing of repair facilities at an annual fee to cover cost of Semi-Annual Analyzer Inspection. This license could be attained by passing the same test as Fleet Emission Certification. This assures the consumer of a repair facility knowledgeable in the repairs of emissions control devices. A basic knowledge of HC CO and NOx emissions and control devices is necessary.

In most instances a vehicle with non-functioning or missing emission control devices will not pass an emission test with ~~the~~ in standards. The tampering inspection should be performed only after a vehicle falls a retest. This will save a great deal of Inspection Station Personnel time and reduce long lines at testing stations.

The certified repair station performing a "Low Emission Tune Up" will greatly reduce the amount of failed retests.

SUGGESTED OPERATING PROGRAM

With the number of vehicles in Jackson County and the short amount of time available, a stream-lined testing procedure is suggested with little if any loss in testing validity.

ENGINE SPEED TEST

The engine speed test is not a viable indicator of vehicles in the "OFF IDLE" condition. An engine can easily be adjusted to a low idle speed and still be operating in the off idle circuit of the fuel delivery system. Vehicles produced after 1978 and before 1981 require expensive test equipment to modify air/fuel delivery systems. Most vehicles produced after 1981 have electronic computer engine controls. Where the computer controls idle speed and air/fuel delivery systems and are not adjustable by the public. This test in 1975 was necessary; in 1986 the engine speed test has little useful value.

WAIVER OUTLINE

Jackson County residents are in favor of the waiver system. The system now in effect states any vehicle not passing the emission test, registration will be withheld. This means canceled insurance, vehicles operating without registration, a large increase in the workload of overburdened Law Enforcement Agencies, increase in court case load and a larger burden on Jackson County taxpayer funds. This plan will reduce Federal, State and Jackson County burden.

- 1) All vehicles registered in Jackson County would be emission tested in 1986 in the month of registration renewal.
- 2) A fee of \$7.50 paid prior to testing.
- 3) If a vehicle fails, a copy of the test results will be issued to the vehicle operator.
- 4) This form can be taken to a private sector repair facility certified by the state. The repair facility will be required to perform a "Low Emission Tune Up".
- 5) A repair limit should be established
 - (A) Any vehicle under 5 years old and out of warranty approximately \$130.00
 - (B) Any vehicle produced after 1978 model year \$125.00
 - (C) Any vehicle produced before 1978
 - 4 cylinder: \$45.00
 - 8 cylinder: \$55.00
- 6) The licensed repair facility will fill out the form and receipt to the customer.
- 7) Any licensed repair facility that makes a false statement on the emission test form will result in loss of license and up to a \$10,000.00 fine. This will eliminate the two major objections to cost of repair limit.
- 8) The form is returned to the emission testing station for a no cost retest.

WAIVER OUTLINE CON'T.

- 9) If the vehicle fails the retest an under the hood inspection is made to determine the cause of failure.
- 10) When testing station officials are satisfied a legitamate attempt was made to pass the emission standards, a vehicle can be waived and registration be issued.
- 11) The \$7.50 charge only covers 1 test and 1 retest.. A suggested \$5.00 fee for each additional test.

FLEET EMISSION CERTIFICATION

This is a consumer protection plan. A person buying a vehcle from a dealer will be assured that it is in good operating condition at of sale. All emission control devices must be on and operating. This will also reduce the taxpayer burden and involve the private sector in helping to meet the emission standard.

- 1) All automotive dealerships must pay a fee to cover cost of analyzer inspection and certification.
- 2) A fee of \$5.00 for each certificate of compliance.
- 3) Only certified technicians may sign the certificates.
- 4) All certificates must have indorsement and the technicians license number.
- 5) All vehicles other than the current model year must be tested.

THE
CHAMBER

OF MEDFORD/JACKSON COUNTY

EQC
Hearing Section

AUG 12 1985

August 8, 1985

Department of Environmental Quality
Southwest Region Office
201 West Main Suite 2-D
Medford, Or 97501

Sir,

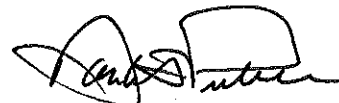
The Chamber believes that there should be a provision included in the I&M program every three years by the EQC/DEQ, to verify if the program is still needed for the area to be in compliance, and if it is not needed that the program would be discontinued.

In addition, we feel consideration should be given to qualified business operators with fleets who have their own maintenance facilities, to conduct their own certification program. Employees time away from the business to make inspections could be very costly to business.

The Chamber also recommends that the Parking Lot rules adopted last year be repealed. Now that I&M is a reality they become an unnecessary burden to our community.

Sincerely,

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
AUG 09 1985


Frank Pulver
President

SOUTHWEST REGION OFFICE

FP/my





OREGON INTERGOVERNMENTAL PROJECT REVIEW

STATE OF OREGON
RECEIVED

AUG 22 1985

State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N. E.
Salem, Oregon 97310

Dept. of Environmental Quality
Vehicle Inspection Division

Phone (503)378-3732 or Toll Free in Oregon 1-800-422-3600

C O N C L U S I O N S

APPLICANT: DEQ

PROJECT TITLE: VEHICLE INSPECTION PROGRAM OPERATING RULES

DATE: August 21, 1985

The State of Oregon (and local clearinghouses if listed) has reviewed your project and reached the following conclusions:

- No significant conflict with the plans, policies or programs of state or local government have been identified.
- Relevant comments of state agencies and/or local governments are attached and should be considered in the final design of your proposal.
- Potential conflicts with the plans and programs of state and/or local government:
 - may exist.
 - have been identified and remain unresolved. The final proposal has been reviewed and the final comments and recommendations are attached.
 - have been satisfactorily resolved. No significant issues remain.

A copy of this notification and attachments, if any, must accompany your application to the federal agency.

FEDERAL CATALOG # _____

NOTICE TO FEDERAL AGENCY

THE FOLLOWING IS THE OFFICIALLY ASSIGNED STATE IDENTIFIER NUMBER:

OR 850709-013-6

IPR #3

cc:EPA

Dolores Streeter
Clearinghouse Coordinator



OREGON INTERGOVERNMENTAL PROJECT REVIEW

INTERGOVERNMENTAL RELATIONS

State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N. E.
Salem, Oregon 97310

AUG 16 1985

Jackson County

Phone (503)378-3732 or Toll Free in Oregon 1-800-422-3600

STATE AGENCY REVIEW

Project Number: OR 850709-013-6

Return Date: AUG 16 1985

STATE PLAN/AMENDMENT

TO AGENCY ADDRESSED: The attached State Plan/Amendment has been submitted for review. It is provided for your information and to solicit comments. Your comments, if any, must be received by the above date in order to receive consideration.

COMMENTS

See attached letter

Norris IR

7/15 ✓ cc - Paul Norris

RECEIVED DOT DIRECTOR						
JUL 12 '85						
REFER TO <i>Rulien</i>						
FOR						
Info	Invst	R/D	D/R	Sign	Act	File
					✓	


Agency
IPR #7

Director of Transportation By *L. W. Rulien*

L. W. Rulien, Assistant 010
Director for Administration

8-6388

AUG 21 1985



STATE OF OREGON
HIGHWAY DIVISION 378-8272

INTEROFFICE MEMO
PLA 19

TO: Paul Norris
Policy and Planning

DATE: August 7, 1985

FROM: Robert E. Royer *RLW*
Planning Engineer

SUBJECT: Comments on Traffic Portion of Oregon Intergovernmental
Project Review Document

As requested in your July 17, 1985 transmittal, the System Studies Unit has reviewed the traffic portion (Section 4.9.11.1) of the Medford Carbon Monoxide Plan Addendum. This addendum is to the State Implementation Plan Revisions for Medford-Jackson County.

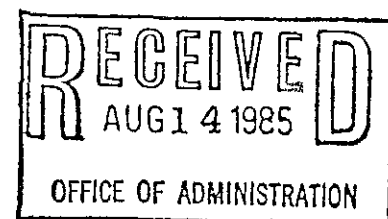
The following comments concerning the traffic aspects of this report are offered:

The text and graph (figure 4.9.11.1) are comparing existing changes in traffic volumes at the East Main Street recorder, with other projections that are based on areawide growth. An impression that the recorder location at East Main Street reflects areawide trends is gained from this report, and this may not be the case. A comparison with the City of Medford areawide traffic counts would have been more significant, as the East Main Street volumes only reflect the changes at one location.

The word "area" appears to have been omitted from the first sentence in paragraph one, on page three of the addendum.

Thank you for the opportunity to comment on this report.

RLW:bj





OREGON INTERGOVERNMENTAL PROJECT REVIEW

Hold Paul

JUL 22 1985

State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N. E.
Salem, Oregon 97310

Jackson County

Phone (503)378-3732 or Toll Free in Oregon 1-800-422-3600

STATE AGENCY REVIEW

AUG 16 1985

Project Number: OR 850709-013-6 Return Date: _____

STATE PLAN/AMENDMENT

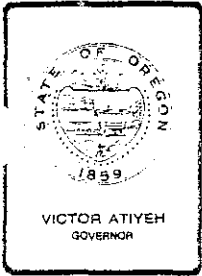
TO AGENCY ADDRESSED: The attached State Plan/Amendment has been submitted for review. It is provided for your information and to solicit comments. Your comments, if any, must be received by the above date in order to receive consideration.

COMMENTS

The implementation of this program is crucial to further economic development in Jackson County

Agency Economic Development
IPR #7

By Paul England
010



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, July 19, 1985, EQC Meeting

Request for Authorization for Public Hearings to Establish
Boundaries and Implement a Motor Vehicle Emission
Inspection/Maintenance Program in the Medford-Ashland AQMA
as a Revision to the State Implementation Plan.

BACKGROUND AND PROBLEM STATEMENT

Jackson County, Oregon has a severe carbon monoxide (CO) air pollution problem. In 1983, the national and state CO health standard was exceeded in downtown Medford on 34 days. Only nine cities in the nation had more exceedances of the 8-hour CO standard than Medford that year.

A key reason for the Medford carbon monoxide problem is the extremely poor ventilation of the area. Medford is located in a bowl-like mountain valley, with low average wind speeds and frequent temperature inversions which essentially keep a "lid" on the valley. This allows pollutant concentrations to increase to unhealthful levels. A national study several years ago identified the Medford area as one of two areas having the highest air pollution potential in the country based on its poor ventilation.

CO is a colorless, odorless gas that reduces the amount of oxygen in the blood. In extremely high concentrations, it is deadly. At lower concentrations, CO can cause dizziness, loss of appetite, nausea, blurred vision and headaches. The people most sensitive to high levels of CO are infants and small children, elderly people, those with respiratory and heart problems, and active people such as joggers.

The Federal Clean Air Act requires that control measures be implemented to bring those areas exceeding the national air pollution health standards into compliance by no later than December 31, 1987. Following an exhaustive analysis of alternative control measures, a CO attainment

strategy for Jackson County was adopted by the Environmental Quality Commission (EQC) in 1982. A major control element of this strategy was a commitment to implement a motor vehicle inspection and maintenance (I/M) program. No other additional control measure or combination of measures could be projected to match I/M for effectiveness in reducing the emissions necessary to meet the CO standard by the 1987 federal deadline.

Failure to implement I/M, as envisioned in the State Implementation Plan, led to the plan's disapproval by the Environmental Protection Agency (EPA) and the imposition of economic growth sanctions. To provide the Medford area with healthful air quality and to allow for removal of federal sanctions, the Department proposed legislation on I/M to the 1985 session of the Oregon Legislature.

The 1985 Oregon Legislature passed House Bill (HB) 2845, which directs the Environmental Quality Commission to designate areas in which motor vehicles will be subject to emission control inspections. The Commission is directed to designate by rule the boundaries of areas needing a motor vehicle inspection program as identified in the State Implementation Plan (SIP). HB 2845 was signed by the Governor on June 11, 1985 and is now law.

The Portland metropolitan area and the Jackson County area are the only two areas identified in the SIP as needing motor vehicle I/M programs. The Portland area (Metropolitan Service District) is specified in ORS 481.190 as an area requiring an I/M program and has had a program in operation since July 1975. Jackson County is the only area in the State currently affected by HB 2845.

At this time, an important ambient air health issue in Jackson County is compliance with the carbon monoxide ambient air health standard. The SIP discusses the causes and potential control strategies for the CO problem in the Jackson County area. The Commission has been presented, over the past years, with various plans aimed at meeting the federal and state ambient air health standards. The largest source of carbon monoxide in the area is motor vehicles. The strategies presented to achieve attainment with the federal air pollution health requirements have all had to rely upon an inspection and maintenance program.

Motor vehicles are the major cause of elevated CO levels in Medford and other parts of the country. For example, on the worst CO day in Medford during 1983, most of the CO concentration was attributed to motor vehicles (89%). Residential spaceheating (from woodstoves, etc.) contributed about 6% and all other sources (industry, natural background, etc.) contributed about 5%. Biomass One, a controversial industrial facility under construction in White City, would have contributed only about 0.3% to worst-day Medford CO levels if it had operated during 1983. This is presented graphically in Attachment D.

Over 30 states and the District of Columbia have implemented I/M programs as air quality control measures. They range in size from relatively small programs, such as in Boise, Idaho, to very large programs such as those in

the seven major air quality areas of California. Every region from Alaska to Arizona and from New York to North Carolina has addressed its air pollution problems and has in operation or is implementing the needed I/M program to protect the health of its citizens. The U.S. General Accounting Office issued a recent report critical of some I/M programs. Nevertheless, they concluded that well run I/M programs were effective air pollution control measures. In particular, the report cited many Oregon I/M program features as a model for other states.

The program that the Department is proposing for the Medford area is aimed at meeting the federal and state ambient air health standards. The philosophy in the development of the program was to build upon the experience and knowledge gained through the operation of Oregon's I/M program in the Portland area. The major goal of Oregon's I/M program is to improve air quality by promoting proper automotive maintenance. The program identifies high polluting vehicles in need of maintenance. Proper maintenance and repair of these vehicles reduces their air pollution contribution. This system has been proven to be an effective air pollution control tool.

Chronology

In December 1976, the Department began CO monitoring in Central Medford at the request of the City of Medford. It was quickly apparent that Medford had a significant CO problem. CO violations were recorded on 176 days in 1977. Continuous CO data has been recorded at the central Medford site from December 1976 to present.

The numerous recorded violations of the CO health standard resulted in a 1978 EPA designation of the Medford-Ashland Air Quality Maintenance Area (AQMA) as nonattainment for CO. A comprehensive planning effort with extensive public involvement took place over a 3-year period to identify a combination of pollution control measures that would enable the AQMA to reach CO attainment by the end of 1987.

The Jackson County Board of Commissioners adopted the CO attainment plan for the Medford-Ashland AQMA in August 1982. This attainment plan identified the need for an I/M program and included a commitment to seek authorization from the Oregon Legislature to implement a biennial county-wide I/M program beginning January 1984. The Environmental Quality Commission adopted the attainment plan as a part of the SIP in October 1982.

In February 1983, EPA proposed to approve the Medford CO plan upon county or state adoption of a specific I/M program. The 1983 Oregon Legislature authorized Jackson County to implement a local I/M program. The Jackson County Board of Commissioners adopted an I/M ordinance in January 1984 subject to voter ratification. In March 1984, the voters of Jackson County did not ratify the establishment of an I/M program.

In March 1984, EPA proposed to disapprove the Medford CO plan and initiate a construction moratorium on major stationary sources of CO because the

plan did not contain an enforceable commitment to I/M. In September 1984, EPA finalized the disapproval of the plan, specifically for the lack of an I/M program and attainment demonstration in the plan. This action finalized the construction moratorium.

In September 1984, EPA also proposed sanctions on federal funding for transportation and sewage treatment projects in Jackson County. The federal funding sanctions took effect in May 1985.

In June 1985, the Oregon Legislature passed HB 2845. EPA rescinded its sanctions on June 18, 1985 because of passage of that legislation.

Included in this report, as Attachment A, is the Notice of Public Hearing and Statements of Need and Fiscal Impact. Attachment B is the proposed boundary designation (OAR 340-24-301) and a proposed rule revision deleting the anti-tampering testing procedures for 1974 and older vehicles (OAR 340-24-320 and 325). Attachment C is the proposed addendum to Section 4.9 of the State Implementation Plan, OAR 340-20-047.

The Notice of Public Hearing was published in the July 1, 1985 Secretary of State's Bulletin as authorized by the Commission. The public hearings have been tentatively scheduled for August 1, 2, 8, and 9. All of the hearings are to be held in Jackson County.

ALTERNATIVES AND EVALUATION

A rule adoption is required to implement an I/M program in the Medford-Jackson County area and attain the CO health standard by the December 31, 1987 federal deadline. The staff is proposing, in addition to the boundary designation rule, rule amendments affecting the test procedure and the SIP. These rule changes can be categorized as follows:

1. A description of the Medford-Jackson County I/M program boundaries - OAR 340-24-301.
2. A deletion of the tampering inspection requirement for 1974 and older vehicles (OAR 340-24-320 and 325). This would apply to the Oregon I/M program in both the Jackson County area and the greater Portland area.
3. An addendum to the Medford CO Attainment Plan in Section 4.9 of the Oregon SIP which would update air quality information, outline the proposed I/M program, and demonstrate the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

Program Boundaries

Two potential boundaries for an I/M program have been considered: Jackson County and the Medford-Ashland AQMA. Previous transportation studies indicate that Jackson County-registered vehicles account for about 92% of the vehicle-miles-traveled in the CO problem area in Medford. Vehicles registered in the Medford-Ashland AQMA account for about 88% of the vehicle-miles-traveled.

plan did not contain an enforceable commitment to I/M. In September 1984, EPA finalized the disapproval of the plan, specifically for the lack of an I/M program and attainment demonstration in the plan. This action finalized the construction moratorium.

In September 1984, EPA also proposed sanctions on federal funding for transportation and sewage treatment projects in Jackson County. The federal funding sanctions took effect in May 1985.

In June 1985, the Oregon Legislature passed HB 2845. EPA rescinded its sanctions on June 18, 1985 because of passage of that legislation.

Included in this report, as Attachment A, is the Notice of Public Hearing and Statements of Need and Fiscal Impact. Attachment B is the proposed boundary designation (OAR 340-24-301) and a proposed rule revision deleting the anti-tampering testing procedures for 1974 and older vehicles (OAR 340-24-320 and 325). Attachment C is the proposed addendum to Section 4.9 of the State Implementation Plan, OAR 340-20-047.

The Notice of Public Hearing was published in the July 1, 1985 Secretary of State's Bulletin as authorized by the Commission. The public hearings have been tentatively scheduled for August 1, 2, 8, and 9. All of the hearings are to be held in Jackson County.

ALTERNATIVES AND EVALUATION

A rule adoption is required to implement an I/M program in the Medford-Jackson County area and attain the CO health standard by the December 31, 1987 federal deadline. The staff is proposing, in addition to the boundary designation rule, rule amendments affecting the test procedure and the SIP. These rule changes can be categorized as follows:

1. A description of the Medford-Jackson County I/M program boundaries - OAR 340-24-301.
2. A deletion of the tampering inspection requirement for 1974 and older vehicles (OAR 340-24-320 and 325). This would apply to the Oregon I/M program in both the Jackson County area and the greater Portland area.
3. An addendum to the Medford CO Attainment Plan in Section 4.9 of the Oregon SIP which would update air quality information, outline the proposed I/M program, and demonstrate the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

Program Boundaries

Two potential boundaries for an I/M program have been considered: Jackson County and the Medford-Ashland AQMA. Previous transportation studies indicate that Jackson County-registered vehicles account for about 92% of the vehicle-miles-traveled in the CO problem area in Medford. Vehicles registered in the Medford-Ashland AQMA account for about 88% of the vehicle-miles-traveled.

Using the most recent traffic projections provided by the City of Medford and the Oregon Department of Transportation, it appears that an I/M program for either Jackson County or the Medford-Ashland AQMA would be adequate to meet the CO standard by the deadline. The major advantage of an AQMA-wide I/M program is that it would involve less regulatory burden on Jackson County residents than would a county-wide program.

In addition to minimizing the regulatory burden, an AQMA-wide program would be less costly. A county-wide I/M program would be considerably more expensive to operate since it would require a mobile testing van in addition to a central testing station if reasonable service is to be provided throughout the county. A central testing station, without a mobile testing van, would be adequate for an I/M program with Medford-Ashland AQMA boundaries.

The Medford CO plan adopted by Jackson County and the Environmental Quality Commission in 1982 proposed a county-wide I/M program. The Jackson County I/M ordinance adopted in January 1984 (but rejected by the voters) proposed Medford-Ashland AQMA boundaries.

HB 2845 specifies that when the need for a motor vehicle inspection program is identified for an area in the SIP, then the Commission shall designate by rule the inspection program boundaries. The Department has proposed the Medford-Ashland AQMA as the I/M program boundaries in the proposed OAR 340-24-301 (Attachment B) based on the following:

1. The Medford-Ashland AQMA is the designated air quality maintenance area in the SIP.
2. The 1982 SIP identified the need for a county-wide I/M program. The proposed SIP addendum is based on an AQMA-wide I/M program that, with the other measures, projects attainment with the CO standard by the deadline.
3. Jackson County officials estimate that only 15% of the total county population is outside of the AQMA area. Previous traffic studies indicate that this 15% of the population contributes only about 4% of the vehicle-miles-traveled in the Medford CO problem area.
4. The Medford-Ashland AQMA boundary minimizes the number of vehicles subject to the I/M program, while achieving the necessary emission reductions to achieve compliance by the deadline date of December 31, 1987, by eliminating the more remote areas of Jackson County.

Program Operating Rules

ORS 481.190 provides that motor vehicles registered within designated boundaries shall comply with emission standards adopted by the Environmental Quality Commission pursuant to ORS 468.370; ORS 481.190 further directs the Motor Vehicles Division of the Department of Transportation not to issue a registration or renewal of registration for a

motor vehicle subject to those requirements unless the Division receives a completed Certificate of Compliance. The fee to issue a Certificate of Compliance is \$7. A vehicle must comply with inspection standards, as specified in the operating rules, in order to receive a Certificate. A vehicle which does not initially pass the test will need to be repaired, retested, and passed before a Certificate is issued and the fee collected.

The inspection test and operating rules used in Oregon's I/M program are aimed at promoting proper maintenance, thus reducing the automotive contribution to air pollution levels. The regulated gaseous emissions from cars and trucks are carbon monoxide, hydrocarbons, and nitrogen oxides. Oregon's I/M program, operating in the Portland area, is currently credited with fleetwide mass emission reductions of 30% for carbon monoxide and 10.5% for hydrocarbons. The inspection test itself is composed of two parts: 1) the underhood inspection for pollution control equipment and 2) the gaseous emission measurements from the tailpipe. Because the gaseous emissions are measured when the vehicle is at idle in a test station, rather than "on-the-road", the inspection for the pollution control equipment helps insure that emissions from the tested vehicle are acceptable at all operating modes, not just engine idle.

The standards used in the program were selected on the basis of identifying high emitting vehicles which are operating outside of their design limits. The standards and associated enforcement tolerances take into account a limited amount of engine wear and tear, but are not so lenient that "gross emitting" vehicles would pass an emissions test.

To insure the integrity of the test, two other measurements are made. One is for the engine speed and the other is for carbon dioxide content in the vehicle's exhaust. The engine speed measurement allows the placement of an upper limit on engine idle speed so that cars and trucks cannot circumvent the inspection test by utilizing very high idle speeds. The carbon dioxide check measures both vehicle exhaust system integrity as well as the State's exhaust gas analyzer sample handling system. This prevents those cars and trucks with a diluted exhaust, that might be caused by large holes in the tailpipe or muffler, from passing the test. The experience in the Oregon I/M program has been that only about 2% of the vehicles tested are rejected for these causes.

It is proposed that Oregon's I/M test and associated procedures be used in the Jackson County/Medford-Ashland AQMA area. The test procedure and associated standards would then be uniform throughout the state. When Oregon's I/M program was implemented in Portland, some of the test standards were phased-in to allow for a period of adjustment. This has been a common action in I/M programs throughout the country. However, the severity of the Medford CO problem and the short time remaining to meet the Clean Air Act deadline do not allow a phased implementation program.

It is proposed to eliminate the underhood inspection requirement for 1974 and older model year vehicles. This action would apply to the Oregon I/M program in both the Medford and Portland inspection areas. It would remove

motor vehicle subject to those requirements unless the Division receives a completed Certificate of Compliance. The fee to issue a Certificate of Compliance is \$7. A vehicle must comply with inspection standards, as specified in the operating rules, in order to receive a Certificate. A vehicle which does not initially pass the test will need to be repaired, retested, and passed before a Certificate is issued and the fee collected.

The inspection test and operating rules used in Oregon's I/M program are aimed at promoting proper maintenance, thus reducing the automotive contribution to air pollution levels. The regulated gaseous emissions from cars and trucks are carbon monoxide, hydrocarbons, and nitrogen oxides. Oregon's I/M program, operating in the Portland area, is currently credited with fleetwide mass emission reductions of 30% for carbon monoxide and 10.5% for hydrocarbons. The inspection test itself is composed of two parts: 1) the underhood inspection for pollution control equipment and 2) the gaseous emission measurements from the tailpipe. Because the gaseous emissions are measured when the vehicle is at idle in a test station, rather than "on-the-road", the inspection for the pollution control equipment helps insure that emissions from the tested vehicle are acceptable at all operating modes, not just engine idle.

The standards used in the program were selected on the basis of identifying high emitting vehicles which are operating outside of their design limits. The standards and associated enforcement tolerances take into account a limited amount of engine wear and tear, but are not so lenient that "gross emitting" vehicles would pass an emissions test.

To insure the integrity of the test, two other measurements are made. One is for the engine speed and the other is for carbon dioxide content in the vehicle's exhaust. The engine speed measurement allows the placement of an upper limit on engine idle speed so that cars and trucks cannot circumvent the inspection test by utilizing very high idle speeds. The carbon dioxide check measures both vehicle exhaust system integrity as well as the State's exhaust gas analyzer sample handling system. This prevents those cars and trucks with a diluted exhaust, that might be caused by large holes in the tailpipe or muffler, from passing the test. The experience in the Oregon I/M program has been that only about 2% of the vehicles tested are rejected for these causes.

It is proposed that Oregon's I/M test and associated procedures be used in the Jackson County/Medford-Ashland AQMA area. The test procedure and associated standards would then be uniform throughout the state. When Oregon's I/M program was implemented in Portland, some of the test standards were phased-in to allow for a period of adjustment. This has been a common action in I/M programs throughout the country. However, the severity of the Medford CO problem and the short time remaining to meet the Clean Air Act deadline do not allow a phased implementation program.

It is proposed to eliminate the underhood inspection requirement for 1974 and older model year vehicles. This action would apply to the Oregon I/M program in both the Medford and Portland inspection areas. It would remove

the requirement to check for the presence and proper operation of the positive crankcase ventilation, evaporative emission control, and air pump systems on these older vehicles. This action will result in a small pollution impact, but is being proposed because of the overall age of these vehicles and the reduced mileage impacts. Because of this proposed change to OAR 340-24-320(3)(a) and 325(3)(a), consistency requires a similar rewording of paragraphs 5 and 6 of these sections. No other changes in the Oregon I/M program test standards or procedures are proposed. The proposed changes to the program will result in a slight increase in vehicle pass rate in the Portland area. In the Jackson County area, this action will ease the concern felt by many owners of older cars and pickup trucks regarding overall test severity.

The inspection for tampered emission equipment on 1975 and newer vehicles is an important element of the I/M program. Checking for the equipment tampering that may not affect idle emission rates, makes the inspection test a better predictor of overall emissions. Additional factors support the continuation of this part of the inspection, especially in relationship to catalyst tampering and fuel switching. These factors include: (1) current federal law prohibits using leaded fuel in unleaded vehicle applications, and State law prohibits both self-service gasoline dispensing, and tampering with or removing pollution control equipment, (2) the catalyst technology used on many newer vehicles has been an effective air pollution control tool, and (3) there is good parts availability for automotive emission control equipment and inexpensive catalyst replacements are available.

There are less than 4000 heavy duty trucks registered in Jackson County. Heavy duty gasoline trucks, subject to the inspection, are primarily used for pickup and delivery. ORS 481.190 provides that these vehicles will receive an annual inspection.

Cost of Repairs Limit While the Jackson County I/M ordinance had a cost limit, there is no provision in State law for a cost of repair limit, and the Commission does not have legislative direction to consider a cost of repair limit. Repair cost limits tend to be ineffective and often result in an overall increase in repair costs. Some facilities may charge a price at the cost limit and not do the repair. Another method that is often used is to provide a repair estimate above the cost limit, again insuring that the car passes, without doing the repairs. Not placing a limit maximizes the free market forces, by promoting competition, quality of workmanship, and competitive pricing. It should also be noted that in the Jackson County ordinance, the cost of repair limit did not apply to tampered emission control equipment.

Addendum to CO Plan

The Department has prepared an addendum to the Medford-Ashland AQMA carbon monoxide attainment plan (Section 4.9 of the SIP--Attachment C). The addendum updates traffic and air quality information, outlines the proposed

I/M program, and demonstrates the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

The most significant changes in the database since the preparation of the 1982 CO plan have been the observed and projected traffic growth rates. The 1982 plan projected a traffic growth rate of 1.3% per year. (A traffic growth rate of 2% per year is typical for the larger urban areas of Oregon). The City of Medford currently projects a traffic growth rate of 0.5% per year from 1982 to 1987 based on an actual decrease in traffic volumes from 1978 to present.

The projected traffic growth rate has a significant effect on CO concentrations expected in 1987. For example, the 1982 CO plan projected that CO concentrations in 1987 would be 29% above the standard if an I/M program were not implemented. The 1982 plan indicated that an I/M program would have to start in 1984 in order to meet the standard by the 1987 deadline. The most recent analysis (based on 0.5% instead of 1.3% traffic growth) projects that CO concentrations would be 14% above the CO standard in 1987 if an I/M program were not implemented. The recent analysis indicates that an I/M program starting in January 1986 would be adequate to meet the CO standard in Medford by December 31, 1987. Operation of the program past 1987 will be a key factor in maintaining compliance with the CO standard beyond 1987, even with expected traffic growth. The current traffic and air quality analyses are included in the proposed addendum to Section 4.9 of the SIP.

SUMMATION

1. The 1985 Oregon Legislature passed House Bill 2845 which directs the Environmental Quality Commission to designate the boundaries of areas needing motor vehicle inspection and maintenance (I/M) programs if such a program has been identified in the State's Implementation Plan.
2. The need for an I/M program in the Medford-Jackson County area is identified in the State Implementation Plan.
3. The Department has evaluated various I/M program boundaries for the Medford-Jackson County area. An I/M program in the Medford-Ashland Air Quality Maintenance Area would be less burdensome on the residents of Jackson County and would be more cost-effective than a county-wide I/M program. An AQMA-wide program appears to be adequate to meet the CO standard by the December 31, 1987 federal deadline.
4. The Department proposes that the Oregon I/M program will be operated in the Medford-Ashland AQMA. The program is currently in operation in the Portland area. The Department also proposes the elimination of the tampering inspection for 1974 and older vehicles throughout Oregon's I/M program.

I/M program, and demonstrates the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

The most significant changes in the database since the preparation of the 1982 CO plan have been the observed and projected traffic growth rates. The 1982 plan projected a traffic growth rate of 1.3% per year. (A traffic growth rate of 2% per year is typical for the larger urban areas of Oregon). The City of Medford currently projects a traffic growth rate of 0.5% per year from 1982 to 1987 based on an actual decrease in traffic volumes from 1978 to present.

The projected traffic growth rate has a significant effect on CO concentrations expected in 1987. For example, the 1982 CO plan projected that CO concentrations in 1987 would be 29% above the standard if an I/M program were not implemented. The 1982 plan indicated that an I/M program would have to start in 1984 in order to meet the standard by the 1987 deadline. The most recent analysis (based on 0.5% instead of 1.3% traffic growth) projects that CO concentrations would be 14% above the CO standard in 1987 if an I/M program were not implemented. The recent analysis indicates that an I/M program starting in January 1986 would be adequate to meet the CO standard in Medford by December 31, 1987. Operation of the program past 1987 will be a key factor in maintaining compliance with the CO standard beyond 1987, even with expected traffic growth. The current traffic and air quality analyses are included in the proposed addendum to Section 4.9 of the SIP.

SUMMATION

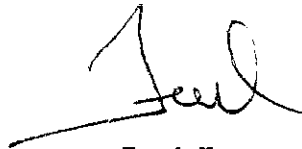
1. The 1985 Oregon Legislature passed House Bill 2845 which directs the Environmental Quality Commission to designate the boundaries of areas needing motor vehicle inspection and maintenance (I/M) programs if such a program has been identified in the State's Implementation Plan.
2. The need for an I/M program in the Medford-Jackson County area is identified in the State Implementation Plan.
3. The Department has evaluated various I/M program boundaries for the Medford-Jackson County area. An I/M program in the Medford-Ashland Air Quality Maintenance Area would be less burdensome on the residents of Jackson County and would be more cost-effective than a county-wide I/M program. An AQMA-wide program appears to be adequate to meet the CO standard by the December 31, 1987 federal deadline.
4. The Department proposes that the Oregon I/M program will be operated in the Medford-Ashland AQMA. The program is currently in operation in the Portland area. The Department also proposes the elimination of the tampering inspection for 1974 and older vehicles throughout Oregon's I/M program.

5. The Department has prepared an addendum to the Medford carbon monoxide attainment plan in Section 4.9 of the State Implementation Plan. The addendum updates air quality information, outlines the proposed I/M program, and demonstrates the adequacy of the proposed I/M program to meet the CO standard by December 31, 1987.

DIRECTOR'S RECOMMENDATION

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

1. Proposed boundaries of a motor vehicle inspection and maintenance program for the Medford-Ashland Air Quality Maintenance Area (OAR 340-24-301);
2. Proposed deletion of the tampering inspection portion of the test for 1970-1974 model year vehicle vehicles (OAR 340-24-320 and 325);
3. Proposed addendum to the Medford Carbon Monoxide Attainment Plan (Section 4.9 of the State Implementation Plan, OAR 340-20-047).



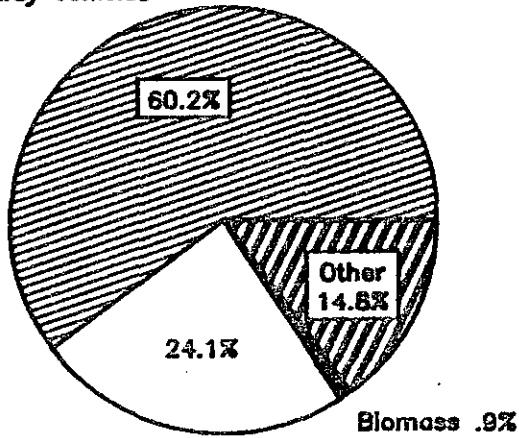
Fred Hansen

- Attachments:
- A. Notice of Public Hearing and Statement of Need
 - B. Proposed revisions to OAR 340-24-301, OAR 340-24-320 and OAR 340-24-325
 - C. Proposed addendum to Section 4.9 of the State Implementation Plan, OAR 340-20-047
 - D. Figure of Medford CO Emissions and Impacts
(only Attachment D included)

MH:p
AP155
W. P. Jasper
(229-5081)
M. L. Hough
(229-6446)
H. W. Harris
(229-6086)
July 3, 1985

MEDFORD CARBON MONOXIDE EMISSIONS AND IMPACTS

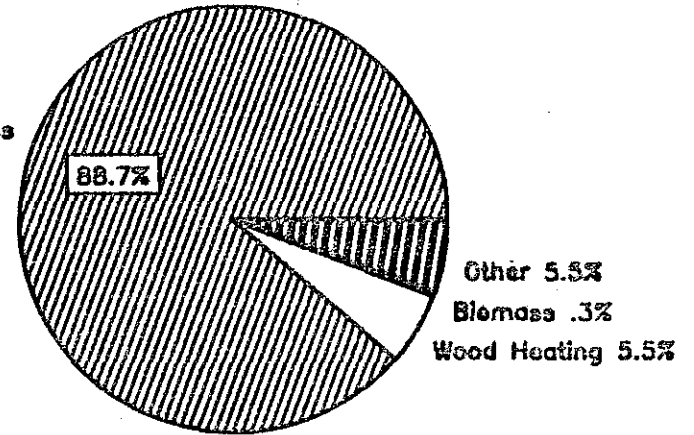
Highway Vehicles



Wood Heating

EMISSION INVENTORY FOR 1983

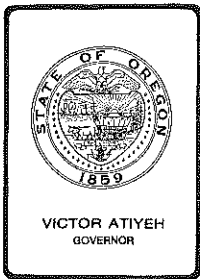
Highway Vehicles



WORST DAY IMPACTS IN 1983

Attachment D
 Agenda Item No. E
 July 19, 1985, EOC Meeting

Note: If Biomass had operated in 1983



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. J, September 27, 1985, EQC Meeting

Proposed Adoption of Rules Amending Standards of Performance for New Stationary Sources OAR 340-25-510 to -805 to Include New and Amended Federal Rules, and to Consider Requesting Delegation from EPA.

Background

The U.S. Environmental Protection Agency (EPA) has been adopting air quality New Stationary Source Performance Standards (NSPS) since 1971. To acquire delegation to administer these standards, the Commission adopted Oregon Administrative Rules (OAR) 340-25-505 to -705 in September 1975, and amended them in 1981, 1982, 1983, and 1984. EPA delegated NSPS to the Department in 1976, 1981, 1983, and 1984.

Problem Statement

EPA is continuously adopting New Source Performance Standards. The Department of Environmental Quality (DEQ) has committed to bring its rules up to date with EPA rules on a once a year basis.

Seven new and five amended NSPS rules published by EPA in the last year necessitate the EQC considering new rule adoptions. The proposed new rules (see Attachment 1) cover the following source categories:

<u>40 CFR Subpart</u>	<u>Title</u>	<u>Federal Register Date</u>
M, 60.130 & 60.133	Rod Casting at Secondary Bronze or Brass Production Plants	02/14/85

<u>40 CFR Subpart</u>	<u>Title</u>	<u>Federal Register Date</u>
AA, 60.270 to 60.276	Steel Plants: Electric Arc Furnaces Before 1984	10/31/84
AAa, 60.270a to 60.276a	Steel Plants: Electric Arc Furnaces & Argon Decarburization	10/31/84
BB, 60.283 to 60.286	Kraft Pulp Mills	02/14/85
GG, 60.335	Gas Turbines	06/30/84
HH, 60.340 to 60.344	Lime Manufacturing Plants	04/26/84
VV, 60.481 to 60.488	Leaks at Synthetic Organic Chemical Manufacturing Industry Plants	05/30/84 & 06/29/84
FFF, 60.580 to 60.585	Vinyl and Urethane Coating and Printing	06/29/84 & 08/17/84
GGG, 60.590 to 60.593	Leaks at Refineries	05/30/84
HHH, 60.600 to 60.604	Synthetic Fiber	04/05/84
JJJ, 60.620 to 60.625	Petroleum Dry Cleaners	09/21/84
PPP, 60.680 to 60.685	Fiberglass Insulation Plants	02/25/85

Authority for the Commission to act is provided in Oregon Revised Statutes (ORS) 468.020 and 468.295(3) where the Commission is authorized to establish emission standards for sources of air contaminants. A "Statement of Need for Rulemaking" is Attachment 2 of this memorandum.

Alternatives and Evaluation

1. The Commission could take NO ACTION.

A no-action consequence would be that both the Department and EPA staffs would have to review certain emission sources in Oregon, because the DEQ's rules have not been kept up to date with EPA's.

2. The Commission could adopt the attached amendments to Oregon Administrative Rules (OAR).

This would help EPA-Department cooperation to achieve single, state jurisdiction and review of certain new and modified sources.

Rule Development Process

The Department has assembled a complete list of amendments to NSPS, and the Federal Registers describing those rule changes, and has made appropriate changes in wording to fit these rules into the OAR format.

The Commission authorized a public hearing for these rule additions at its June 7, 1985 meeting. Legal public notice requirements were met by publication of the hearing notice in the June 15, 1985 Secretary of State's Bulletin. Hearing notices were also sent to the Department's mailing lists.

Hearing Testimony

The only testimony received on the proposed rules was at the July 16, 1985 public hearing. One person, Tom McCue, representing Oregon Steel Mills, merely questioned whether proposed OAR 340-25-625 was applicable to a modification made at the Oregon Steel Mill's Portland plant in 1985. This applicability is being investigated; notwithstanding, the steel mill would be in compliance with proposed 340-25-625 because of their high level of baghouse control of emissions.

The proposed rules generally affect facilities which may be built in the future. One exception is an existing north Portland lime plant, which complies with the proposed rules. Another exception may be a north Portland steel plant which made a modification earlier this year.

The proposed rules, if adopted, would allow EPA to delegate administration of applicable Federal Rules.

Proposed Rule Additions

The proposed rules are the same version authorized for hearing by the Commission in June. No testimony to change the federal or state rules was received. The following rule descriptions describe the federal rules, both new and amended, proposed for adoption.

Secondary Brass and Bronze Production Plants, Subpart M of Title 40 Code of Federal Regulations, Parts 60.130 and 60.133 (40 CFR 60.130, 60.133) was amended by Vol. 49 Federal Register page 43616 (49 FR 43616), to remove the word "ingot" from the title and revises paragraph 60.130(a) to include plants which produce continuously cast rod. A test method was clarified in paragraph 60.133.

Electric Arc Furnaces in Steel Plants, Subpart AA was amended, and Subpart AAa was added by 49 FR 43838, October 31, 1984. Subpart AAa, 40 CFR 60.270a to 60.276a, makes the rule applicable to Argon-Oxygen Decarburization Vessels.

Kraft Pulp Mills, Subpart BB, was amended by 50 FR 6316, February 14, 1985. EPA granted a waiver by adding section 40 CFR 60.286.

Stationary Gas Turbines, Subpart GG, was amended by 49 FR 30672, July 31, 1984. New test methods were added in 40 CFR 60.335.

Lime Manufacturing Plants, Subpart HH, was amended by 49 FR 18076, April 26, 1984. EPA doubled the standard from 0.30 lb/ton to 0.60 lb/ton in response to a court suit by the National Lime Association. Now that the standard is out of litigation initiated in 1978, the Department recommends asking for delegation. This rule, 40 CFR 60.340 to 60.344, has an effective date of May 3, 1977. The one Oregon facility constructed since then complies with the rule. This one facility is a lime plant's new kiln, in Rivergate area of north Portland, owned by Ash Grove Cement Company.

Synthetic Organic Chemical Manufacturing Industry; Equipment Leaks of Volatile Organic Compounds (SOCMI VOC leaks), Subpart VV was amended by 40 FR 22607, May 30, 1984. Three definitions were added and other paragraphs clarified in 40 CFR 60.480 to 60.488.

Flexible Vinyl and Urethane Coating and Printing, Subpart FFF, was added by 49 FR 26884, June 29, 1984, and amended by 49 FR 32848, August 17, 1984. This new rule, 40 CFR 60.580 to 60.585, limits ink on new rotogravure presses, which coat vinyl or urethane, to 50 percent VOC. Higher solvent inks must have their emissions destroyed with at least 85 percent efficiency.

Equipment Leaks of VOC in Petroleum Refineries, Subpart GGG, was added by 49 FR 22598, May 30, 1984. This new rule, 40 CFR 60.590 to 60.593, requires repair and reporting of VOC leaks at refineries.

Synthetic Fiber Production Facilities, Subpart HHH, was added by 49 FR 13646, April 5, 1984. This new rule, 40 CFR 60.600 to 60.604, limits VOC emissions from certain new or reconstructed synthetic fiber processes to 10 percent of the VOC fed into the process.

Petroleum Dry Cleaners, Subpart JJJ, was added by 49 FR 37328, September 21, 1984. This new rule, 40 CFR 60.620 to 60.625, requires plants, with a rated dryer capacity equal to or greater than 84 pounds, to use only a solvent recovery dryer, and to maintain certain solvent conservation work practices. The rule does not apply to dry cleaners using perchloroethylene. No dry cleaning plant in Oregon has dryer capacity this large.

Wool Fiberglass Insulation Manufacturing Plants, Subpart PPP, was added by 50 FR 7694, February 25, 1985. This new rule, 40 CFR 60.680 to 60.685, limits particulate emissions to less than 11 lbs per ton of glass pulled from each rotary spin wool fiberglass insulation manufacturing line.


Summation

1. EPA adopted the first New Stationary Source Performance Standards (NSPS) in 1971. More have been added since then, the most recent one in February 1985.

2. To acquire delegation to administer NSPS in Oregon, the Commission adopted equivalent administrative rules in September 1975 and subsequently received delegation.
3. The Commission amended the NSPS rules in 1981, in 1982, in 1983, and in August 1984 to bring them up to date with EPA rules.
4. The proposed rule changes (Attachment 1) would bring the State rules up to date with the current federal EPA NSPS rules. The proposed rules are the same version authorized for hearing by the Commission in June. No testimony to modify the proposed rules was received. The regulated sources affected are:
 - a. Rod Casting at Bronze and Brass Plants
 - b. Opacity at Steel Plants
 - c. Argon Decarburization at Steel Plants
 - d. Kraft Pulp Mills
 - e. Stationary Gas Turbines
 - f. Lime Manufacturing Plants
 - g. Leaks at Chemical Plants
 - h. Vinyl and Urethane Coating and Printing
 - i. Leaks at Refineries
 - j. Synthetic Fiber Manufacture
 - k. Large Petroleum Dry Cleaners
 - l. Wool Fiberglass Insulation Manufacturing
5. The proposed rules generally affect facilities which may be built in the future. One exception is an existing north Portland lime plant, which complies with the proposed rules. Another exception may be a north Portland steel plant which made a modification earlier this year.
6. On June 7, 1985, the Commission authorized a hearing and legal notice was given in the Secretary of State's Bulletin.
7. The only testimony received before, during, and after the July 16, 1985 public hearing was a question as to whether the proposed rule 340-25-625 is applicable to a recent steel mill modification. The applicability is being investigated. The steel mill is in compliance with the new rule.

Director's Recommendation

It is recommended that the Commission adopt the proposed attached amendments to OAR 340-25-520 to 340-25-805, rules on Standards of Performance for New Stationary Sources, and direct the Department to request EPA for authority to administer the equivalent Federal Rules in Oregon.



Fred Hansen

- Attachments 1. Proposed Rules 340-25-510 to 340-25-805
2. Rulemaking Statements

P.B. Bosserman:pl
AP323
(503) 229-6278
September 11, 1985

**Standards of Performance for
New Stationary Sources**

Statement of Purpose

340-25-505 The U.S. Environmental Protection Agency has adopted in Title 40, Code of Federal Regulations, Part 60, Standard of Performance for certain new stationary sources. It is the intent of this rule to specify requirements and procedures necessary for the Department to implement and enforce the aforementioned Federal Regulation.

Definitions

340-25-510 (1) "Administrator" herein and in Title 40, Code of Federal Regulations, Part 60, means the Director of the Department or appropriate regional authority.

(2) "Federal Regulation" means Title 40, Code of Federal Regulations, Part 60, as promulgated prior to [April 18, 1984] March 22, 1985.

(3) "CFR" means Code of Federal Regulations.

(4) "Regional authority" means a regional air quality control authority established under provisions of ORS 468.505.

Statement of Policy

340-25-515 It is hereby declared the policy of the Department to consider the performance standards for new stationary sources contained herein to be minimum standards; and, as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

Delegation

340-25-520 The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules, authorize and confer jurisdiction upon such regional authority to perform all or any of such provisions within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Applicability

340-25-525 This rule shall be applicable to stationary sources identified in rules 340-25-550 through [340-25-690] 340-25-715 for which construction, reconstruction, or modification has been commenced, as defined in Title 40, Code of Federal Regulations, 40 CFR 60 [(40 CFR) 60.2 after the effective dates of these rules].

General Provisions

340-25-530 Title 40, CFR, Part 60, Subpart A as promulgated prior to [April 18, 1984,] March 22, 1985 is by this reference adopted and incorporated herein. Subpart A includes paragraphs 60.1 to 60.16 which address, among other things, definitions, performance tests, monitoring requirements, and modifications.

Performance Standards

Federal Regulations Adopted by Reference

340-25-535 Title 40, CFR, Parts 60.40 through 60.154, and 60.250 through [60.506] 60.685, as established as final rules prior to [April 18, 1984] March 22, 1985, is by this reference adopted and incorporated herein. As of [April 18, 1984] March 22, 1985, the Federal Regulations adopted by reference set the emission standards for the new stationary source categories set out in rules 340-25-550 through [340-25-690] 340-25-715 (these are summarized for easy screening, but testing conditions, the actual standards, and other details will be found in the Code of Federal Regulations).

. . .

Standard of Performance for Secondary Brass and Bronze [Ingot] Production Plants

340-25-595 The pertinent federal rules are 40 CFR 60.130 to 60.133, also known as Subpart M. The following emission standards, summarizing the federal standards set forth in Subpart M, apply to the following affected facilities in secondary brass or bronze [ingot] production plants subject to this rule: Reverberatory and electric furnaces of 1000 Kg. (2205 lbs) or greater production capacity and blast (cupola) furnaces of 250 Kg/hr (550 lbs/hr) or greater production capacity. Standards for Particulate Matter: No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from a reverberatory furnace any gases which:

- (1) Contain particulate matter in excess of 50 mg/dscm (0.022 gr/dscf).
- (2) Exhibit 20 percent opacity or greater.
- (3) No owner or operator subject to the provisions of this rule shall discharge or cause the discharge into the atmosphere from any blast (cupola) or electric furnace any gases which exhibit 10 percent opacity or greater.

(Publications: The publication(s) referred to in this rule are available from the office of the Department of Environmental Quality in Portland.)

. . .

Standards of Performance for Steel Plants: Electric Arc Furnaces

340-25-625 The pertinent federal rules are 40 CFR 60.270 to [60.275] 60.276a, also known as **Subpart AA and AAa**. These standards, summarizing the federal standards set forth in **Subpart AA and AAa**, for Steel Plants are applicable only to electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling equipment, built or modified after October 21, 1974:

- (1) No owner or operator shall cause to be discharged into the atmosphere from an electric arc furnace any gases which:
 - (a) Exit from a control device and contain particulate matter in excess of 12 mg/dscm (0.0052 gr/dscf);
 - (b) Exit from a control device and exhibit 3.0 percent opacity or greater;
 - (c) Exit from a shop and, due solely to operations of any electric arc furnaces or argon-oxygen decarburization vessels, exhibit 6 percent or greater [than zero percent] shop opacity, except that if constructed before August 17, 1983 then shop opacity must be only less than 20 percent during charging periods and only less than 40 percent during tapping periods.
- (2) No owner or operator shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit 10 percent opacity or greater.

(Publications: The publications(s) referred to in this rule are available from the office of the Department of Environmental Quality in Portland.)

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1981, f. & ef. 5-6-81

Standards of Performance for Kraft Pulp Mills

340-25-630 The pertinent federal rules are 40 CFR 60.280 to [60.285] 60.286, also known as **Subpart BB**. The standards for kraft pulp mills' facilities, summarizing the federal standards set forth in **Subpart BB**, are applicable only to a recovery furnace, smelt dissolving tank, lime kiln, digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, and condensate stripper system built or modified after September 24, 1976:

- (1) No owner or operator shall cause to be discharged into the atmosphere particulate matter:
 - (a) From any recovery furnace:
 - (A) In excess of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen, or
 - (B) Exhibit 35 percent opacity or greater;
 - (b) From any smelt dissolving tank in excess of 0.10 g/Kg black liquor solids, dry weight (0.20 lb/ton);
 - (c) From any lime kiln:
 - (A) In excess of 0.15 g/dscm (0.067 gr/dscf) corrected to 10 percent oxygen, when gaseous fossil fuel is burned;
 - (B) In excess of 0.30 g/dscm (0.13 gr/dscf) corrected to 10 percent oxygen, when liquid fossil fuel is burned.

- (2) No owner or operator shall cause to be discharged in the atmosphere Total Reduced Sulfur compounds, (TRS), which are hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide:
 - (a) From any digester system, brown stock washer system, multiple-effect evaporator system, black liquor oxidation system, or condensate stripper system in excess of 5.0 ppm by volume on a dry basis, corrected to the actual oxygen content of the untreated gas stream;
 - (b) From any straight kraft recovery furnace in excess of 5.0 ppm by volume on a dry basis corrected to 8 percent oxygen;
 - (c) From any cross recovery furnace in excess of 25 ppm by volume on a dry basis, corrected to 8.0 percent oxygen;
 - (d) From any smelt dissolving tank in excess of 0.0084 g/Kg black liquor solids, dry weight (0.0168 lb/ton);
 - (e) From any lime kiln in excess of 8.0 ppm by volume on a dry basis, corrected to 10 percent oxygen.

(Publications: The publication(s) referred to in this rule are available from the office of the Department of Environmental Quality in Portland.)

Stat. Auth.: ORS Ch. 468

Hist: DEQ 16-1981, f. & ef. 5-6-81

. . .

Standards of Performance for Lime Manufacturing Plants

340-25-647 The pertinent federal rules are 40 CFR 60.340 to 60.344, also known as Subpart HH. The following standards set forth in Subpart HH apply to each rotary lime kiln used in the manufacture of lime, except those at kraft pulp mills, for which construction or modification of any facility affected by the rule commenced after May 3, 1977. Standards for Particulate: No owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any rotary lime kiln any gases which:

- (1) Contain particulate matter in excess of 0.30 kilogram per megagram (0.60 lb/ton) of stone feed.
- (2) Exhibit greater than 15 percent opacity when exiting from a dry emission control device.

. . .

Standards of Performance for Flexible Vinyl and Urethane Coating and Printing

340-25-701 The pertinent federal rules are 40 CFR 60.580 to 60.585, also known as Subpart FFF. The following emission standards set forth in Subpart FFF apply to each rotogravure printing line used to print or coat flexible vinyl or urethane products, for which construction, modification, or reconstruction was commenced after January 18, 1983. Standard for Volatile Organic Compounds (VOC): Each owner or operator subject to this subpart shall either:

- (1) Use inks with a weighted average VOC content of less than 1.0 kilogram VOC per kilogram ink solids, or
- (2) Reduce VOC emissions to the atmosphere by 85 percent.

Standards of Performance for VOC Leaks in Petroleum Refineries

340-25-702 The pertinent federal rules are 40 CFR 60.590 to 60.593, also known as Subpart GGG. The following emission standards set forth in Subpart GGG apply to Volatile Organic Compound (VOC) leaks from petroleum refineries, modified or constructed after January 4, 1983.

(1) VOC leaks from the following components:

- (a) Pumps
- (b) Compressors
- (c) Pressure relief devices
- (d) Sampling connection systems
- (e) Open-ended valves or lines
- (f) Valves

(2) The detailed standards are found in seven pages of federal rules (see 40 CFR 60.592 which references 60.482-1 to 60.482-10), along with the recordkeeping and reporting requirements.

Standards of Performance for Synthetic Fiber Plants

340-25-704 The pertinent federal rules are 40 CFR 60.600 to 60.604, also known as Subpart HHH. The following emission standards set forth in Subpart HHH apply to each solvent-spun synthetic fiber process that produces more than 500 megagrams of fiber per year, that commenced construction or reconstruction after November 23, 1982. Standard for Volatile Organic Compounds (VOC): No owner or operator shall cause the discharge into the atmosphere from any process, VOC in excess of:

- (1) 10 kilograms of VOC per megagram of solvent fed to the spinning solution preparation system or precipitation bath for processes producing acrylic fibers, or producing both acrylic and non-acrylic fiber types.
- (2) 17 kilograms of VOC per megagram of solvent feed if producing only non-acrylic fiber types.

Standards of Performance for Petroleum Dry Cleaners

340-25-706 The pertinent federal rules are 40 CFR 60.620 to 60.625, also known as Subpart JJJ. The following work practice standards set forth in Subpart JJJ apply to petroleum dry cleaning plants with a total dryer capacity equal to or greater than 38 kilograms (84 pounds), for which construction or modification was commenced after December 14, 1982. Standard for Volatile Organic Compounds:

- (1) Each dryer shall be a solvent recovery dryer.
- (2) Each filter shall be a cartridge filter, which shall be drained in its sealed housing for at least 8 hours prior to its removal.
- (3) Dryers, washers, filters, stills, and settling tanks shall have a leak repair instruction posted on the unit and printed in the operating manual by the manufacturer.

Standards of Performance for Fiberglass Insulation Manufacturing

340-25-715 The pertinent federal rules are 40 CFR 60.680 to 60.685, also known as Subpart PPP. The following emission standard set forth in Subpart PPP applies to each rotary spin wool fiberglass insulation manufacturing line, for which construction, modification, or reconstruction was commenced after February 7, 1984. Standard for Particulate: No owner or operator shall cause to be discharged into the atmosphere from an affected facility any gases which contain particulate matter in excess of 5.5 kg/Mg (11.0 lb/ton) of glass pulled.

Compliance

[340-25-700] 340-25-800 Compliance with standards set forth in this rule shall be determined by performance tests and monitoring methods as set forth in the Federal Regulation adopted by reference in rule 340-25-530.

More Restrictive Regulations

[340-25-705] 340-25-805 If at any time there is a conflict between Department or regional authority rules and the Federal Regulation (40 CFR, Part 60), the more stringent shall apply.

(Publications: The publications incorporated by reference in this rule are available from the office of the Department of Environmental Quality in Portland.)

AP323.A

RULEMAKING STATEMENTS

for
Standards of Performance for
New Stationary Sources

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 Oregon Administrative Rules 340-25-510 to 340-25-805. It is proposed under authority of Oregon Revised Statutes 468.020(1) and 468.295(3) where the Environmental Quality Commission is authorized to establish different rules for different sources of air pollution.

Need for the Rule

The proposed changes bring the Oregon rules up-to-date with changes and additions to the federal "Standards of Performance for New Stationary Source", 40 CFR 60. As Oregon rules are kept up-to-date with the federal rules, then the federal Environmental Protection Agency (EPA) delegates jurisdiction for their rules to the Department, allowing Oregon industry and commerce to be regulated by only one environmental agency.

Principal Documents Relied Upon

1. 40 CFR 60 Code of Federal Regulations, as amended in recent Federal Registers, concerning "Standards of Performance for New Stationary Sources" (NSPS):

<u>Subpart</u>	<u>Title</u>	<u>Federal Register Date</u>
M, 60.130 and 60.133	Rod Casting at secondary Bronze or Brass Production Plants	10/30/84
AA, 60.270 to 60.276	Steel Plants: Electric Arc Furnaces Before 1984	10/31/84
AAa, 60.270a to 60.276a	Steel Plants: Electric Arc Furnaces and Argon Decarburization	10/31/84
BB, 60.283 to 60.286	Kraft Pulp Mills	02/14/85
GG, 60.335	Gas Turbines	07/31/84
HH, 60.340 to 60.344	Lime Manufacturing Plants	04/26/84

VV, 60.481 to 60.488	Leaks at Synthetic Organic Chemical Manufacturing Plants	05/30/84 & 06/29/84
FFF, 60.580 to 60.585	Vinyl and Urethane Coating and Printing	06/29/84 & 08/17/84
GGG, 60.590 to 60.593	Leaks at Refineries	05/30/84
HHH, 60.600 to 60.604	Synthetic Fiber	04/05/84
JJJ, 60.620 to 60.625	Petroleum Dry Cleaners	09/21/84
PPP, 60.680 to 60.685	Fiberglass Insulation Plants	02/25/85

2. Environmental Quality Commission Agenda Item No. E, June 7, 1985 Meeting, Request for Authorization to Hold a Public Hearing to Amend Standards of Performance for New Stationary Sources, OAR 340-25-510 to -805 to Include Certain New Federal Rules and Consider Requesting EPA to Delegate Authority to Administer the Rules in Oregon.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The NSPS rules are already promulgated by EPA. Adoption by and delegation to DEQ simplifies environmental administration generally at less cost.

Small businesses will incur less cost and processing time if these rules are administered by only one agency.

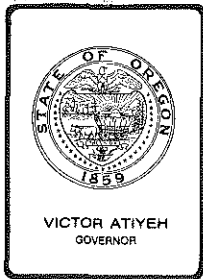
LAND USE CONSISTENCY STATEMENT:

The proposed rule changes appear to affect land use and appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6 (air, water, and land resources quality), the rules are designed to enhance and preserve air quality in the affected area and are considered consistent with the goal.

Goal 11 (public facilities and services) is deemed unaffected by the rule. The rule does not appear to conflict with other goals.

AP323.B



Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. K , September 27, 1985, EQC Meeting

Proposed Adoption of Revisions to New Source Review Rule Related to Assessment of Visibility Impacts of Major New or Modified Sources on Class I Areas (OAR 340-20-276) as a Revision to the State Air Quality Implementation Plan.

Background and Problem Statement

In 1980, the Environmental Protection Agency (EPA) adopted visibility protection rules for Federal Class I areas (40 CFR 51.300-307). Oregon's 12 Class I areas include 11 wilderness areas and Crater Lake National Park. The rule requires states to develop programs to assure that reasonable progress is being made toward meeting the national goal of preventing any future and remedying any existing significant visibility impairment resulting from manmade air pollution. A key provision of the rule is related to the assessment of visibility impacts on Class I areas by major new or modified stationary sources.

On September 14, 1984, the Environmental Quality Commission (EQC) adopted revisions to the State Air Quality Implementation Plan to address Class I visibility monitoring (OAR 340-20-047) and amended the New Source Review Rules (OAR 340-20-220 through 276) to add Class I visibility impact assessment requirements for major new or modified stationary sources.

Subsequent to EQC adoption of the SIP amendments, Environmental Protection Agency review of the Visibility Impact Assessment section (OAR 340-20-276(1)(a)) identified inconsistencies with EPA New Source Review regulations (40 CFR 51.307).

Provisions of the current visibility impact assessment requirements of the Prevention of Significant Deterioration (PSD) New Source Review Rules (OAR 340-20-276(1)(a)) exempt major new or modified sources from Class I area visibility impact review if they would emit less than 250 tons/year of total suspended particulate (TSP), sulfur dioxide (SO₂) or nitrogen oxides (NO_x) and are proposed to be located more than 30 Km from a Class I area. This section of the rule is less stringent than EPA visibility impact review regulations and cannot be approved by EPA in its current form.

The significant differences between the current rule, the EPA PSD rule and the proposed rule are noted in the table below.

PSD Visibility Impact Assessment
Requirements

<u>Current DEQ Rule</u>	<u>EPA PSD Rule</u>	<u>Proposed DEQ Rule</u>
Sources greater than 250 TPY and within 30 Km from Class I Area*	Sources greater than 100 TPY (listed) and greater than 250 TPY (unlisted)(OAR 340-20-245(3)(B))*	Same as EPA PSD Rule Sources greater than significant emission levels (OAR 340-20-225(22)) but less than 100 TPY (listed) or 250 TPY (unlisted)**

* Sources are responsible for completion of the visibility impact assessment.

** The Department will complete the assessment for these sources.

If the Department does not adopt an amendment to the Rule, EPA cannot propose approval of Oregon's permitting program related to visibility impact assessment. EPA will then be required to promulgate a federal permitting program.

Alternative and Evaluation

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

Rule Development

The proposed rule revision was drafted by Air Quality Division staff following consultation with EPA technical staff and Department legal counsel. On July 19, 1985 (Agenda Item D), the Commission authorized a public hearing on the proposed rule revisions.

Comments submitted at the August 19 (Portland) public hearing focused on two principal issues discussed in the following sections.

Rule Clarification

In response to testimony requesting clarification of the rule, the language has been modified to insure that the visibility impact assessment exemption includes major new or modified sources which may impact nonattainment areas. This is consistent with the EPA PSD rule.

Exemption of Major New or Modified Sources

The issue of visibility impact assessment exemptions for sources of less than 100 tons/year listed within the New Source Review Rule was raised at the public hearing. Since sources with 25 tons/year of particulate emissions would have to be located closer than four miles to a Class I area to adversely impact visibility within the area, the Department feels that the benefits of requiring all such sources proposed to be located anywhere in the state to complete a visibility assessment is outweighed by the analysis costs that would be imposed on Oregon industry.

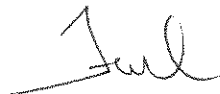
To insure that small sources located close to Class I areas and exempted by the rule are evaluated with respect to their visibility impact, the Department will commit to provide the analysis for the source. This assures that the impact of exempted sources will be evaluated without imposing an undue burden on Oregon industry.

Summation

1. In December 1980, the Environmental Protection Agency (EPA) promulgated a rule requiring states to incorporate visibility protection for Class I areas into their SIPs. A key element of EPA's rule requires visibility impact assessment of major new or modified stationary sources as part of the State's New Source Review program. In September 1984, the Department adopted the required revisions.
2. EPA review of the visibility impact assessment section of the New Source Review Rule (OAR 340-20-276(1)(a)) has disclosed a source exemption provision which is less stringent than EPA requirements. This inconsistency must be corrected before EPA can propose approval of the Department's rule. At the July 19, 1985, EQC meeting the Commission authorized a public hearing on the proposed revision to the rule. The public hearing was held August 19, 1985, in Portland.
3. Public comment focused on clarification of the wording of the proposed revision and deletion of the visibility impact assessment exemption from the rule. Deletion of the exemption would require all new sources or major source modifications subject to the New Source Review Rule to complete a visibility impact assessment.
4. The proposed change to the New Source Review Rule revises OAR 340-20-276(1)(a) to clarify the intent of the visibility impact assessment exemption. To insure that small sources exempted by the rule from impact assessment do not adversely impair Class I visibility, the Department will complete the assessment. As proposed, the rule is consistent with EPA PSD regulations.

Director's Recommendation

Based on the summation, the Director recommends that the Commission adopt the revised proposed rule (OAR 340-20-220 through -276) as amended.



Fred Hansen

- Attachments
1. Statement of Need for Rulemaking
 2. Hearing Officer's Report
 3. Proposed Revision to the New Source Review Rule

John Core:s
229-5380
September 11, 1985

AS1659.A

RULEMAKING STATEMENTS
for
ADOPTION OF STATE IMPLEMENTATION PLAN REVISIONS
for
VISIBILITY ASSESSMENT NEW SOURCE REVIEW

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

STATEMENT OF NEED

Legal Authority

This project amends OAR 340-20-276 of the State Implementation Plan. It is proposed under the authority of ORS Chapter 468, Section 305 which authorizes the Commission to adopt a general comprehensive plan for air pollution control.

Need for the Rule Change

The Clean Air Act Amendments require that the State of Oregon adopt a New Source Review program which includes visibility impact assessment of major new and modified stationary sources on Class I areas. In September 1984, the Department modified the New Source Review Rule which incorporated Visibility Impact Assessment provisions (OAR 340-20-276). Subsection (1)(a) of the rule exempted sources emitting less than 250 tons per year of TSP, SO₂, or NO_x, and located more than 30 Km from a Class I area, from the visibility impact requirements of the rule. EPA review of subsection 276(1)(a) disclosed this criteria to be less stringent than federal regulations. Revision of subsection 276 is therefore required before EPA approval can be granted.

Principal Documents Relied Upon

- (1) Clean Air Act as amended, Section 169(a)(1) (PL 95-95).
- (2) Visibility Protection for Federal Class I Areas (40CFR51) December 2, 1980.
- (3) Correspondence of February 19, 1985 Addressed to T. Bispham, Administrator, Air Quality Division, Department of Environmental Quality, from R. Smith, Chief, Air Programs Branch, U.S. Environmental Protection Agency Region X.

FISCAL AND ECONOMIC IMPACT STATEMENT

The proposed rule may impose additional fiscal impacts on major new industrial sources and major modifications to industrial sources emitting 100-250 tons per year and located closer than 30 Km from a Class I area. These economic impacts are related to deletion of the visibility assessment exemption provision of the New Source Review:

1. Provisions requiring an initial analysis of the visibility impact of the source. Maximum costs are approximately \$20,000 per occurrence for large sources. Typical costs would be \$1,000 to \$2,000.

Within the past four years, seven sources have been subject to the visibility impairment analysis provisions of the EPA rule. None of these sources would have been excluded from review based on the exemption plan included in subsection 276(1)(a) and none of these sources have been required to incur costs beyond that of the impact analysis. Small businesses would not be adversely impacted by the proposed rule since it only applies to major industrial sources.

LAND USE CONSISTENCY STATEMENT

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

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

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

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

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

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts brought to our attention by local, state, or federal authorities.

MEMORANDUM

To: Environmental Quality Commission
From: Hearing Officer
Subject: Report for Hearing Held August 19, 1985

Proposed Revisions to New Source Review Rule Related to
Assessment of Visibility Impacts of Major New or Modified Sources
in Class I Areas (OAR 340-20-276) as a Revision to the State Air
Quality Implementation Plan

Summary of Procedure

Two persons attended the August 19 Portland hearing. John Core, Senior Environmental Analyst, Air Quality Division, presided at the hearing. Both persons presented written testimony.

Summary of Testimony

Tom Donaca, General Council of the Associated Oregon Industries (AOI), requested that the rule be revised to read "Proposed sources which are exempted under OAR 340-20-245(3)(a)(B) or exempted by 245(3)(b) are also exempted from the visibility impact assessment requirements of this rule." As proposed, AOI feels that the wording would require that a source meet the condition of both OAR 340-20-245(3)(a) and (3)(b) before the exemption would apply. AOI requested that the wording be revised to clarify the rule.

Ann Wheeler-Bartol, Representative for the Oregon Environmental Council; Oregon Chapter, Sierra Club and Northwest Environmental Defense Center, opposed the proposed rule amendment arguing that the rule provides a blanket exemption for all new sources which emit less than 250 tons/year or 100 tons (if listed under OAR 340-20-245(3)(a)(B)). Ms. Wheeler-Bartol felt elimination of the proposed (and current) exemption is inappropriate considering the importance of tourism to Oregon and the unique nature of Oregon's scenic resources. Instead, she supported elimination of the exemption with consideration of unusual cases through a variance procedure, thereby enabling the EQC to review new source visibility impacts on a case-by-case basis. The Oregon Environmental Council, Sierra Club and Northwest Environmental Defense Center feel that the exemption does not provide the protection necessary to preserve or improve visibility in Oregon which exists today.

[New Source Review]

Reader Guidance

Changes are proposed to the existing New Source Review Rules, OAR 340-20-276(a)(1) to revise the exemption for major new and modified sources to be consistent with Federal requirements. Deletions from the existing rule are enclosed in brackets [].

New Source Review

340-20-220 - Applicability

- (1) No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 280 of these Rules.
- (2) Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR 340-20-001), Notice of Construction and Approval of Plans (OAR 340-20-020 to 032), Air Contaminant Discharge Permits (OAR 340-20-140 to 185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 705).

340-20-225 - Definitions

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

- (b) The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.
 - (c) For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.
- (2) "Baseline Concentration" means that ambient concentration level for a particular pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978.

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

- (a) Actual emission increases or decreases occurring before January 1, 1978, and
 - (b) Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.
- (3) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.
- (4) "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.
- (5) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120.

- (6) "Commence" means that the owner or operator has obtained all necessary preconstruction approvals required by the Clean Air Act and either has:
- (a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time, or
 - (b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.
- (7) "Construction" means any physical change (including fabrication, erection, installation, demolition, or modification of an emissions unit) or change in the method of operation of a source which would result in a change in actual emissions.
- (8) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.
- (9) "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.
- (10) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.
- (11) "Fugitive emissions" means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.
- (12) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.
- (13) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.
- (14) "Major modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition (22) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any

pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

- (15) "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition (22)).
- (16) "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission and approved by the Environmental Protection Agency.
- (17) "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.
- (18) "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.
- (19) "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.
- (20) "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility.
- (21) "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

- (a) Emissions from ships and trains coming to or from a facility,
 - (b) Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
- (22) "Significant emission rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act.

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

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

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

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

Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m³ (24 hour average) shall be deemed to be emitting at a significant emission rate.

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

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

- (23) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

Table 3

<u>Pollutant</u>	<u>Annual</u>	<u>Pollutant Averaging Time</u>			
		<u>24-hour</u>	<u>8-hour</u>	<u>3-hour</u>	<u>1-hour</u>
SO ₂	1.0 ug/m ³	5 ug/m ³		25 ug/m ³	
TSP	0.2 ug/m ³	1.0 ug/m ³			
NO ₂	1.0 ug/m ³				
CO			0.5 mg/m ³		2 mg/m ³

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

- (24) "Significant impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.
- (25) "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

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

340-20-230 - Procedural Requirements

(1) Information Required

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

- (a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
- (b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;
- (c) A detailed schedule for construction of the source or modification;
- (d) A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;
- (e) To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
- (f) To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.

(2) Other Obligations

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

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

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

(3) Public Participation

- (a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information.
- (b) Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.
 - (A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.
 - (B) Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.
 - (C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.
 - (D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.

- (E) Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.
- (F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.
- (G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.
- (H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

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

The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

340-20-240 - Requirements for Sources in Nonattainment Areas

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

(1) Lowest Achievable Emission Rate

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each

nonattainment pollutant. In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Source Compliance

The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

(3) Growth Increment or Offsets

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

(4) Net Air Quality Benefit

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

(5) Alternative Analysis

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

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

(6) Special Exemption for the Salem Ozone Nonattainment Area

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

340-20-241 - Growth Increments

The ozone control strategies for the Medford-Ashland and Portland ozone nonattainment areas establish growth margins for new major sources or major modifications which will emit volatile organic compounds. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. No single source shall receive an allocation of more than 50% of any remaining growth margin. The allocation of emission increases from the growth margins shall be calculated based on the ozone season (April 1 to October 31 of each year). The amount of each growth margin that is available is defined in the State Implementation Plan for each area and is on file with the Department.

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

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

(1) Best Available Control Technology The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition (22)). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Air Quality Analysis

(a) The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225 definition (22)) in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

- (A) Any State or National ambient air quality standard, or
- (B) Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110),
or

- (C) An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition (23)). New sources or modifications of sources which would emit volatile organic compounds which may impact the Salem ozone nonattainment area are exempt from this requirement.
 - (b) Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.
 - (c) If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in OAR 340-20-260 is provided, the Department may consider the requirements of section (2) of this rule to have been met.
- (3) Exemption for Sources Not Significantly Impacting Designated Nonattainment Areas.
- (a) A proposed major source or major modification is exempt from OAR 340-20-220 to 340-20-270 if:
 - (A) The proposed source or major modification does not have a significant air quality impacts on a designated nonattainment area, and
 - (B) The potential emissions of the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:
 - I Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input
 - II Coal cleaning plants (with thermal dryers)
 - III Kraft pulp mills
 - IV Portland cement plants
 - V Primary Zinc Smelters
 - VI Iron and Steel Mill Plants
 - VII Primary aluminum ore reduction plants
 - VIII Primary copper smelters
 - IX Municipal Incinerators capable of charging more than 250 tons of refuse per day
 - X Hydrofluoric acid plants

- XI Sulfuric acid plants
- XII Nitric acid plants
- XIII Petroleum Refineries
- XIV Lime plants
- XV Phosphate rock processing plants
- XVI Coke oven batteries
- XVII Sulfur recovery plants
- XVIII Carbon black plants (furnace process)
- XIX Primary lead smelters
- XX Fuel conversion plants
- XXI Sintering plants
- XXII Secondary metal production plants
- XXIII Chemical process plants
- XXIV Fossil fuel fired boilers (or combinations thereof)
totaling more than 250 million BTU per hour heat
input
- XXV Petroleum storage and transfer units with a total
storage capacity exceeding 300,000 barrels
- XXVI Taconite ore processing plants
- XXVII Glass fiber processing plants
- XXVIII Charcoal production plants

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

(4) Air Quality Models

All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711,

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

(5) Air Quality Monitoring

- (a) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.
- (b) Air quality monitoring which is conducted pursuant to this requirement, shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.
- (c) The Department may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts.
 - (i) Carbon monoxide - 575 ug/m^3 , 8 hour average
 - (ii) Nitrogen dioxide - 14 ug/m^3 , annual average
 - (iii) Total suspended particulate - 10 ug/m^3 , 24 hour average

- (iv) Sulfur dioxide - 13 ug/m³, 24 hour average
 - (v) Ozone - Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data.
 - (vi) Lead - 0.1 ug/m³, 24 hour average
 - (vii) Mercury - 0.25 ug/m³, 24 hour average
 - (viii) Beryllium - 0.0005 ug/m³, 24 hour average
 - (ix) Fluorides - 0.25 ug/m³, 24 hour average
 - (x) Vinyl chloride - 15 ug/m³, 24 hour average
 - (xi) Total reduced sulfur - 10 ug/m³, 1 hour average
 - (xii) Hydrogen sulfide - 0.04 ug/m³, 1 hour average
 - (xiii) Reduced sulfur compounds - 10 ug/m³, 1 hour average
- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant (other than nonmethane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(6) Additional Impact Analysis

- (a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.
- (b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.

(7) Sources Impacting Class I Areas

- (a) Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 30 days prior to Department. Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application.
- (b) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230 Section 3 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

340-20-250 - Exemptions

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

(Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.)
- (2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.
- (3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases

cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.

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

340-20-255 - Baseline for Determining Credit for Offsets

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

340-20-260 - Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit must include the following.

- (1) A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models". Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.
- (2) For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition (231) on the non-attainment area, the emission offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modifications which emit volatile organic compounds and are located within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

- (3) The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.
- (4) The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended as provided for in OAR 340-20-265 (Emission Reduction Credit Banking). In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

340-20-265 - Emission Reduction Credit Banking

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

- (1) To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320.
- (2) Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.
- (3) Emission reductions which are required pursuant to an adopted rule shall not be banked.
- (4) Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets as provided in OAR 340-20-260(4) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The Department may allocate these emission reductions as a growth increment. The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the

permanent shutdown or curtailment. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in OAR 340-14-005 through 050.

- (5) The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.
- (6) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows: a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(22); b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.
- (7) Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:
 - (a) A detailed description of the processes controlled,
 - (b) Emission calculations showing the types and amounts of actual emissions reduced,
 - (c) The date or dates of such reductions,
 - (d) Identification of the probable uses to which the banked reductions are to be applied,
 - (e) Procedure by which such emission reductions can be rendered permanent and enforceable.
- (8) Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.
- (9) The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transferred, the Department must be notified in writing. Any use of emission reduction credits must be compatible with local comprehensive plans, Statewide planning goals, and State laws and rules.

340-20-270 - Fugitive and Secondary Emissions

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

340-20-276 - Visibility Impact [Assessment:]

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

(1) Visibility Impact Requirements and Analysis.

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

Proposed sources which are exempted under OAR 340-20-245(3), excluding section (3)(a)(A) are not required to complete a visibility impact assessment to demonstrate that the source does not cause or contribute to significant visibility impairment within a Class I area.

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

(2) Air Quality Models

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

(3) Determination of Significant Impairment

The results of the modeling must be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The

Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.

(4) Visibility Monitoring

- (a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of TSP, SO or NO shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year, would be adequate to determine that the source of major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan.
- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.

(5) Additional Impact Analysis

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

(6) Notification of Permit Application

- (a) Where a proposed major source or major modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days

prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application.

- (b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice.
- (c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing.
- (d) The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230(3) to present a demonstration that the emissions from the proposed source of modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source of modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.