

1/31/1986

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of
Environmental
Quality

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OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

January 31, 1986

Room 1400
522 S. W. Fifth Avenue
Portland, OR

TENTATIVE AGENDA

9:00 a.m. CONSENT ITEMS

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

- A. Minutes of November 21, 1985 special meeting and work session and November 22, 1985 regular meeting.
- B. Monthly Activity Report for October and November, 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 Amendments to the State Implementation Plan Regarding Stack Heights and Dispersion Techniques, Deleting OAR 340-20-340 and 340-20-345, Adding Replacement Rule 340-20-037.
- E. Request for Authorization to Conduct a Public Hearing on Proposed Consolidation and Updating of the Oregon State Clean Air Act Implementation Plan, OAR 340-20-047.
- F. Request For Authorization To Conduct Public Hearings On Proposed Amendments to On-Site Sewage Disposal Rules OAR 340, Division 71, 72, and 73.
- G. Request for Authorization to Conduct a Public Hearing on the Proposed Amendment of Hazardous Waste Management Civil Penalty Schedule.
- H. Request for Authorization to Conduct a Public Hearing on Proposed Changes in Rules Relating to the Opportunity to Recycle (OAR 340-60-010 and 340-60-030), Identifying Yard Debris as a Principal Recyclable Material in the Portland, Washington, Multnomah, Clackamas, and Proposed West Linn Wastesheds.

(over)

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.

- I. Appeal of On-Site Sewage Disposal System Variance by William F. Holdner.
- J. Consideration of a Petition to Amend OAR 340-21-027 (Municipal Waste Incinerator in Coastal Areas).
- K. Petition from Gilmore Steel for variance from classification as a Solid Waste certain iron ore.
- L. Proposed Adoption of Plastics Recycling Tax Credit Rules, OAR Chapter 340, Division 17.
- M. Proposed Adoption of 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).
- N. Proposed Adoption of Amendments to the State Implementation Plan Regarding Volatile Organic Compound Rules OAR 340-22-100 to 220, and Permit Rules 340-22-155(1) Table 1.
- O. Proposed Adoption of Standards for Nuisance Phytoplankton Growths.
- P. Proposed Adoption of Notification Rules for Underground Storage Tank Program.
- Q. Proposed Adoption of Hazardous Waste Management Fees for Superfund Cleanup.
- R. Proposed Rules: Open Burning of Solid Waste at Disposal Sites.
- S. Proposed Adoption of Revision to Rules Relating to the Opportunity to Recycle (OAR 340-60-025 and OAR 340-60-030) creating a West Linn Wasteshed.
- T. Request for an Extension of a Variance From OAR 340-25-315(1) (b), Veneer Dryer Emission Limits for Leading Plywood Corporation, Corvallis.

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 Imperial Hotel, 450 S. W. Broadway. Agenda items may be discussed at breakfast. The Commission will lunch at the DEQ Offices, 522 S. W. Fifth Avenue.

The next Commission meeting will be a special meeting February 7, 1986 in Portland to consider the METRO Waste Reduction Plan and the Threat to Drinking Water and proposed Sewer Implementation Plan in Mid-Multnomah County.

The next regular meeting of the Commission will be March 14 in Portland.

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

DOY215.3
EQC.AG (5/83)

THESE MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

MINUTES OF THE ONE HUNDRED SIXTY-NINTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

January 31, 1986

On Friday, January 31, 1986, the one hundred sixty-ninth meeting of the Oregon Environmental Quality Commission convened in room 1400 of the Department of Environmental Quality offices, 522 SW Fifth Avenue, in Portland, Oregon. Present were Commission Chairman James Petersen, Vice Chairman Arno Denecke, and Commission members Mary Bishop and Wallace Brill. Commissioner Sonia Buist was absent. Present on behalf of the Department were its Director, Fred Hansen, and several members of the Department staff.

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

BREAKFAST MEETING

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

1. Introduction of New Division Administrator for Laboratory

Fred Hansen informed the Commission that Alan Hose, Laboratories Manager had recently been promoted to the Division Administrator of that Division. The Commission congratulated Mr. Hose on his promotion.

2. Suspected EDB Contamination

Director Hansen reported that recent tests had not found the generalized pollution in Willamette Valley drinking water wells originally feared after reports of tests done by the U.S. Environmental Protection Agency (EPA). Except for a couple of isolated cases, the Department found no instances of wells being above the

10 parts per trillion (ppt) standard tested for. Alan Hose of the Department's Laboratories Division said the differences in tests could be attributed to a number of things such as the time elapsed between when EPA took samples in June and the Department took

samples in January. That may have been enough time for the problem to correct itself. Also, he continued, in working with samples being tested for such small amounts, the chance of contamination of those samples was high.

Director Hansen said that it was originally the Department's intent to split samples with the Department of Agriculture. However it was found that the sample bottles the Department intended to use were not adequate for the type of sampling conducted by the Department of Agriculture. Director Hansen commended the Department's Laboratory staff for its diligence in finally finding the appropriate bottles in Philadelphia and having them air-expressed to Portland so the sampling could be conducted.

In addition, Director Hansen noted that Chairman Petersen was able to attend a meeting with the Governor regarding this potentially serious pollution problem. Director Hansen said he appreciated Chairman Petersen's involvement.

3. Forestry Issues

Director Hansen informed the Commission the Department was working on updating the Smoke Management Program with the Department of Forestry and were close to an agreement. In addition, an advisory committee had been appointed to study the visibility protection issue. Director Hansen said that as a result of the study and the agreement with the Department of Forestry, there should be a substantial reduction in slash burning in the Cascades during the summer months. As this is a very sensitive issue with the timber industry, Director Hansen said, the Department would be looking toward coordination with the Commission and its counterpart, the Board of Forestry.

In addition, under the Section 208 of the Federal Clean Water Act, the Department is required to annually certify the Department of Forestry's plan as best management practices to protect water quality. The Department had not done that for some time, but was now in the review process. This would require formal EQC action and a forwarding of recommendations to the Department of Forestry.

Director Hansen said he and members of the Department staff had recently taken a tour conducted by the Department of Forestry and were impressed with the improvement in forestry practices. However in some areas, improvement was still needed.

Chairman Petersen asked now the Smoke Management Plan related to visibility. Tom Bispham, Administrator of the Department's Air Quality Division, replied that the intent was to deal with the Smoke Management Plan and visibility jointly and incorporate visibility into the Smoke Management Plan.

Director Hansen reported that there may be some money from the U.S. Environmental Protection Agency (EPA) to look into the emissions of toxic air pollutants from slash burning. He said he had a commitment from the Department of Forestry to look at this problem jointly with DEQ. In addition, the Department would also be taking a look at field burning for the same reason.

Commissioner Brill, as an aside, asked what had happened to the oyster bed contamination problem on the coast. Harold Sawyer, Administrator of the Department's Water Quality Division, replied that the issue was an application to the Department of Fish & Wildlife to apply Sevin to the oyster beds. This matter was now in the courts and Mr. Sawyer did not know the current status. He said he would get back to Commissioner Brill.

4. Legislative Concepts

Director Hansen, Stan Biles (Assistant to the Director) and Department Division Administrators discussed with the Commission preliminary concepts for proposed legislation for the 1987 Legislative Session. This discussion was continued at the Commission's lunch meeting.

FORMAL MEETING

Director Hansen reported that the Department had received final authorization to operate hazardous waste program effective today, January 31.

In addition Director Hansen commented that today marked his two year anniversary as Director of the Department. He thanked the Commission for the opportunity. Chairman Petersen remarked that he felt hiring Director Hansen was one of the best decisions the Commission ever made. The rest of the Commission agreed.

AGENDA ITEM A: Minutes of the November 21, 1985 special meeting and work session and the November 22, 1985 regular meeting.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that the minutes of the November 21 special meeting and work session be approved.

On Page 6 of the November 22 minutes, Commissioner Bishop asked that the following language be reworded:

"...they realized that whatever findings were required under Section 48-025, subsection 2, the Department would have to do no matter what."

On page 16 of the November 22 minutes, Commissioner Denecke corrected the vote on Agenda Item O, the "Variance Review for the Brookings Energy Facility." Commissioner Denecke, not Commissioner Brill was the dissenting vote.

In addition, Commissioner Denecke wanted to be certain that the material on page 5 of the November 22 minutes, under Agenda Item M, the "Request for Adoption of Rules for Granting Water Quality Standards Compliance Certification pursuant to requirements of Section 401 of the Federal Clean Water Act", correctly stated the views of Dr. Jack Smith.

The Commission deferred action on this item until later in the meeting.

At the end of the meeting, the following action was taken regarding the November 22 minutes.

Harold Sawyer of the Department's Water Quality Division presented the following wording change requested by Commissioner Bishop:

Page 6 of the November 22, 1986 Minutes, first paragraph, reword the following language:

[When the Department was discussing changes to this subsection, they realized that whatever findings were required under Section 48-025(2), the Department would have to do no matter what.] The Department realized findings required under Section 48-025(2) would have to be addressed.

Commissioner Denecke said that Dr. Smith had indicated the language in the minutes correctly stated his views.

The vote on Item O was corrected.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the minutes of the November 22 meeting be approved as corrected.

AGENDA ITEM B: Monthly Activity Report for October and November, 1985

Referring to the Contested Case Log section of the Activity Report, Commissioner Bishop asked where the Department was in rescheduling the hearings on Clearwater. Linda Zucker, the Commission's Hearings Officer, replied that the initial hearing had been held but not concluded as the attorneys wished to submit further information.

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

AGENDA ITEM C: Tax Credit Applications

Director's Recommendation

It is recommended that the Commission take the following action:

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

T-1759	Portland General Electric Company
T-1762	Teledyne Industries, Inc.
T-1763	Teledyne Industries, Inc.
T-1783	Teledyne Industries, Inc.
T-1785	Teledyne Industries, Inc.
T-1787	Teledyne Industries, Inc.

2. Issue tax credit certificates for facilities subject to the 1982 tax credit laws:

T-1743	Rosboro Lumber Company
T-1758	Tektronix, Inc.
T-1761	Delta Engineering & Mfg. Co.
T-1772	Publishers Paper Company
T-1773	Georgia-Pacific Corporation
T-1774	Stayton Canning Company Coop.
T-1775	Stayton Canning Company Coop.
T-1786	Teledyne Industries, Inc.
T-1790	Dunn-LeBlanc, Inc.

3. Revoke Certificates 1156 and 1557 issued to Publishers Paper Company.

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

Public Forum

Robert Forthan, an employee with the Department's Vehicle Inspection Program, testified that he had been with the Department for 10 years. He said he did not trust white people with the protection of the air. Mr. Forthan said he felt well-educated white people think they are superior in Oregon, and even if he had a Ph.D. it would not make a difference. Mr. Forthan then presented a speech he titled "The Compromise of 1986." Mr. Forthan said he would like to be the next Governor of Oregon. He would try to get more people to come to Oregon, consolidate housing into places similar to the Superdome, and ban cars. Mr. Forthan said he was for environmental affirmative action.

Pat Brown, resident of mid-Multnomah County, testified regarding the Commission's upcoming action on the treat to drinking water in that area. She said there were more and more two-parent families in the area who were having trouble making ends meet and the plan to sewer the area would cause many to lose their homes. Ms. Brown said that school levies in the area have failed and residents were over-taxed and over-burdened. Ms. Brown asked how many new sewer hookups had happened since the ban on cesspool installation was altered over a year ago.

Chairman Petersen said he did not have that information in front of him, but assured Ms. Brown that Mr. Sawyer of the Water Quality Division would get back to her with the answer.

Herb Brown, on the Board of Directors of the Multnomah County Community Action Agency and United Citizens in Action, said he was taking this opportunity to address the Commission on the threat to drinking water in mid-Multnomah County as he would not be allowed to talk at the Commission's February 7 meeting. He said he had evidence of conspiracy among government officials regarding actions such as determining a threat to drinking water and attempts to annex the area. Mr. Brown said this evidence would come out in lawsuits filed after the Commission made a decision. Mr. Brown thanked Chairman Petersen for the response to his letter requesting an additional hearing, even though the request was denied. Nevertheless, Mr. Brown felt an additional hearing was in order. He said the problem was correcting itself now, and would continue to do so as new construction must be hooked up to sewers. Mr. Brown said that like a movie where an actor is picked to play a part, the laws regarding the determination of a threat to drinking water were changed to fit the situation. He asked the Commission to give careful consideration to the more than 1200 letters they had received, principally as a result of efforts by citizen's groups and a letter to residents from Representative Ron McCarty. Mr. Brown said he was not convinced the plan was the most affordable. In his opinion, the most affordable plan would be to treat the drinking water, or not use the aquifer for drinking water.

Chairman Petersen assured Mr. Brown that the Commission was considering each letter as individual comment. He said that the particular statute was perhaps inartfully drawn by the Legislature, but nevertheless the Commission was bound to abide by the law. Chairman Petersen stressed the statue provides not only for initial public hearings, but after the Commission makes findings and recommendations they must publish notice of those findings and recommendations, and people may then petition for arguments. In Chairman Petersen's opinion, the public had had more than ample opportunity to express themselves. Chairman Petersen said it was his view that an additional public hearing at this time would only delay the process. Mr. Brown replied he did not agree. Mr. Brown also indicated he might be a candidate for the Oregon State Senate.

Michael Rosen, Water Quality Committee of Columbia Group of the Sierra Club, testified regarding notification requirements for the underground storage tank program. He said this was a serious problem affecting the health of the nation's communities. Nationally property damage ran into the \$100's of millions. He commended the Department for taking a strong initial stance with the notification rules for the underground storage tank program. Mr. Rosen said that as originally proposed the Department's rules went beyond the minimums required by law. He was concerned that as a result of comment received at public hearing the Department has decided not to require the additional information, but only that required by the U.S. Environmental Protection Agency. Mr. Rosen suggested a compromise by which the regulated community submit the minimum information required by federal law by the May 8, 1986 deadline. The Department could then require the additional information be submitted by a later date. Mr. Rosen asked that the Commission to consider this proposal and require the Department to implement the rules as originally drafted, except for submission of the additional information. He said states have the ability to implement rules more stringent than those required by the federal government.

Director Hansen replied that the agenda item which would have brought rules forward for Commission approval had been deleted from the agenda as the Department believed a better way would be to send out a voluntary form asking for the additional information. The answers to the questions on the voluntary form would enable the Department to provide the best program. The Department would take a look at the information received, and if necessary, again explore requiring the additional information. Director Hansen said the Department was going ahead with the form required by EPA and may ask for additional information later. Director Hansen said he agreed with Mr. Rosen that more information was better.

Chairman Petersen said he was in agreement with the Department's action. He said it would be less of a burden on the regulated community if the necessary information could be acquired voluntarily, rather than through additional regulation.

Bill Johnson, appeared representing ENUF (End Noxious Unhealthy Fumes). He said his group was for economic development in the form of using straw and wood waste in pelletized form for home heating fuel. He said the Smoke Management Program operated at the expense of Oregonians who suffer from field burning smoke. Mr. Johnson reminded the Commission that there were many people in the Willamette Valley who suffer from field burning smoke who do not live in the heavily populated areas of Eugene and Salem which have special arrangements under the Smoke Management Plan so smoke is not directed to those areas. Mr. Johnson said the health effects from field burning had never been adequately researched. There is now research being done on the use of microwaves for field sanitation, he continued. Also, an industry could be built to pelletize straw for home heating fuel, and thus eliminate the need to burn the fields. Mr. Johnson asked the Commission to encourage the release of funds for private research into alternatives to field burning. Thus, clean air could be accomplished.

Chairman Petersen said he understood that what was burned on the fields was stubble and that burning was used to sanitize the fields. Mr. Johnson replied that in most cases the burning was primarily to get rid of straw. Tom Bispham, Administrator of the Department's Air Quality Division, said that if there were solid markets for the straw, it would not be burned. Mr. Bispham said that there is a foreign market for straw, but it fluctuates greatly and is not dependable. The burning of straw is a timesaver for farmers. Mr. Bispham said that the burning of bales, as is done in some areas, seems to be cleaner than burning the straw on the fields, but the Department would like to see alternatives developed and promoted and put into production. The Department had reviewed one woodstove which uses straw pellets as fuel, and it is a very clean burning stove. He said the Field Burning Alternatives Advisory Committee had committed money to the stove manufacturer to develop and improve the burner. However, Mr. Bispham continued, money was only available for development, not for marketing. He said manufacturers of pelletized straw were having trouble finding monies for marketing. Mr. Johnson said the market potential was tremendous, but no funds for marketing were available.

Chairman Petersen said the Commission was dedicated to solving the field burning problem as quickly as possible. He asked Mr. Bispham to provide more information to the Commission during its discussion of legislative concepts at its lunch meeting.

Director Hansen said that statutes allowed for the burning of up to 250,000 acres per year and the Department works to manage the smoke so the impact is as little as possible.

AGENDA ITEM D: Request for Authorization to conduct a public hearing on amendments to the State Implementation Plan regarding stack heights and dispersion techniques, deleting OAR 340-20-340 and 340-20-345, adding replacement rule 340-20-037.

The U.S. Environmental Protection Agency (EPA) has been forced by court action to change its stack height and dispersion techniques rule. In response to EPA's request, the Commission is asked to consider changing the comparable Oregon rule which limits the use of excessive stack heights and dispersion techniques in calculating compliance with ambient air standards. The proposed rule change would keep Oregon's rule up to date with EPA's so the Department could continue to administer the federal program in Oregon. There are no existing Oregon tall stacks in Oregon affected by the rule change.

Director's Recommendation

It is recommended the Commission authorize a hearing to consider adoption of the new federal stack height rule by reference in OAR 340-20-037 and repealing the present Oregon stack height rule OAR

340-20-340 and 20-345 as amendments to the State Implementation plan.

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

AGENDA ITEM E: Request for authorization to conduct a public hearing on proposed consolidation and updating of the Oregon State Clean Air Act Implementation Plan, OAR 340-20-047.

The Oregon State Clean Air Act Implementation Plan (SIP) was first adopted in 1972 in response to requirements of the Clean Air Act of 1970. Since that time the SIP has been amended several times as a result of amendments to the Clean Air Act, revision to U.S. Environmental Protection Agency (EPA) regulations, and evolving technology. These changes to the SIP have caused several problems to develop, including: the SIP has become fragmented; portions of the SIP have become obsolete or unnecessary; some SIP regulations are not exactly the same as the corresponding regulation the State is currently enforcing. This is a request for authorization to conduct a public hearing on consolidation and updating of the Oregon State Implementation Plan as a means of correcting the problems that have developed over the past 14 years.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission authorize public hearings to accept testimony on repealing the existing Oregon State Implementation Plan, OAR 340-20-047, and adoption of an updated SIP consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program.

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

AGENDA ITEM F: Request for authorization to conduct a public hearing on proposed amendments to on-site sewage disposal rules, OAR Chapter 340, Divisions 71, 72 and 73

This is a request for authorization to conduct public hearings on the question of amending the On-Site Sewage Disposal Rules. Testimony would be received on several housekeeping and substantive issues. Hearings are proposed to be held in Bend, Medford, Newport and Portland during the latter part of February.

Director's Recommendation

Based on the summation in the staff report, it is recommended the Commission authorize public hearings to take testimony on proposed

amendments to On-Site Sewage Disposal rules, OAR Chapter 340, Divisions 71, 72 and 73, as presented in Attachment F to the staff report.

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 the proposed amendment of Hazardous Waste Management Civil Penalty Schedule

The Department is proposing to amend the schedule of minimum penalties for hazardous waste violations. The existing schedule adopted in 1982 does not specifically account for violations of certain rules adopted in 1984, although by default, these violations have a \$100 minimum penalty.

Additionally, the Department is proposing to incorporate into rule a civil penalty schedule for destruction of wildlife caused by hazardous waste which was enacted by the 1985 Legislature in SB 873.

Director's Recommendation

Based upon the summation in the staff report, it is recommended the Commission authorize the Department to conduct a public hearing to receive testimony on the proposed amendment of OAR 340-12-068.

Chairman Petersen asked what SB 873 did. Director Hansen replied that it listed the price and costs associated with various animals. This information was pulled from existing Department of Fish & Wildlife statutes.

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

AGENDA ITEM H: Request for authorization to conduct a public hearing on proposed changes in rules relating to the Opportunity to Recycle (OAR 340-60-010 and 340-60-030), identifying yard debris as a principal recyclable material in the Portland, Washington, Multnomah and proposed West Linn wasteshed

It is the Department's assessment that yard debris fits the definition of principal recyclable material in the Portland, Washington, Multnomah, Clackamas and proposed West Linn wastesheds. The Department is requesting that the Commission to authorize a public hearing on proposed rule changes identifying yard debris as a principal recyclable material in those wastesheds.

If yard debris is listed as a principal recyclable material, then local governments and other affected parties would have to either provide a collection system, or demonstrate to the Department that the material is not a recyclable material at specific locations in the wasteshed.

Director's Recommendation

Based upon the summation in the staff report, it is recommended the Commission authorize a public hearing on the proposed rule changes identifying yard debris as a principal recyclable material in the Portland, Washington, Multnomah, Clackamas and proposed West Linn wastesheds, effective July 1, 1987.

Commissioner Denecke asked if his understanding was correct that if the Commission finds that yard debris is a recyclable material, then it would be up to local jurisdictions to say it is not a recyclable material in their area. Director Hansen replied that the requirement was when the Commission lists a material as recyclable, then local government is required to provide for the recycling of that item. The local governments are required to report back to the Commission on how they have provided for the recycling of listed materials, or provide an explanation of why that material does not meet the definition of a recyclable material for their jurisdiction.

Chairman Petersen asked if there had been discussions with local jurisdictions regarding the listing of yard debris as a recyclable material. Lorie Parker, of the Department's Hazardous and Solid Waste Division, replied the Department had held two informational meetings with all counties present, and had informally discussed the matter with the City of Portland. Director Hansen said the City of Portland was concerned that yard debris was not a year-round generated item. SB 405 did not allow for seasonal variations. The City of Portland felt the proposal would not be difficult as long as they could address yard debris seasonally. Chairman Petersen commented that the rules under SB 405 were flexible enough to allow local jurisdictions to do whatever was necessary to get the job done. He felt that listing yard debris as a principal recyclable material would be a great boon to the Commission's backyard burning ban in the Portland Metropolitan Area. Ms. Parker commented that recycling yard debris was also a large part of the Metro Waste Reduction Plan the Commission would be considering at a special meeting on February 7.

Director Hansen said the Department would expect to get comments from local governments that there are methods other than on-route collection to deal with yard debris, such as neighborhood cleanups, etc.

For the record, Ms. Parker commented that the place for hearing for the Washington County meeting had been changed.

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

After the Commission voted, Chairman Petersen noted two people had signed up to testify on this matter.

Chuck Geyer, Metro, read a letter from Rick Gustafson expressing support for the Director's recommendation for the following reasons:

1. Existing yard debris processing facilities have demonstrated continued growth in the amounts of material received, processed and marketed over the last several years.
2. The cost of collecting and recycling yard debris as a source separated material is less than the cost of collecting and disposing of the material as a solid waste.
3. Metro has targeted the removal of yard debris from the waste stream as part of its Waste Reduction Program.
4. Metro is constructing a yard debris processing facility at the St. Johns Landfill, with capacity which will exceed the supply currently available at the site.

Dave Phillips, Clackamas County Solid Waste Administrator, testified he was dismayed with the reports presented by the Department staff as a result of public hearings. Mr. Phillips said he had been on Metro's yard debris committee and had also supported the backyard burning ban. However, he was now having serious doubts that yard debris can be recycled by such facilities as McFarlande's. Mr. Phillips said McFarlande's pile of yard debris was growing at a rapid rate, but it is just being stockpiled without being processed. The facility had been having some difficulty with its processing equipment along with not being able to market the full range of material. He said the Clackamas County Economic Development Commission was concerned about the aesthetics of the site and its effect on economic development in the area. The unsightly appearance of the site has inhibited the sale of properties in the area. Mr. Phillips said Clackamas County was not confident they have the market for yard debris as a recyclable material even after taking four years to get where they are now, and some communities were not as far along as Clackamas County.

Commissioner Denecke asked what the principal market was for recycled yard debris. Mr. Phillips replied that it can be used for a soil amendment and McFarlande's has a State Highway Division project contract for that purpose. Also, it was being used as compost.

Mr. Phillips testified he was not confident that all comments made during public hearings were being accurately forwarded to the Commission and wanted the Commission to be aware this was a problem.

As a result of the above testimony, Chairman Petersen asked if anyone on the Commission wanted to change their vote about taking this matter to public hearing. The Commission indicated they would stand with their previous vote.

Chairman Petersen said he was inclined to think the hearing process would get the input the Commission needed to adopt rules. He was sorry Mr. Phillips comments were not included in the staff report. He told Mr. Phillips he appreciated him coming to this meeting, but would have voted the same had he heard Mr. Phillips comments before the Commission voted on the matter. Chairman Petersen said the ability to recycle yard debris was still important to a lot of things the Commission was trying to do. He said Mr. Phillips comments were enlightening as he had not realized there was a problem with McFarlande's. He encouraged Mr. Phillips to comment at the public hearing to help determine if there was a market for recycled yard debris.

Commissioner Bishop commented that it was interesting to note that the original problem was there was not enough volume of yard debris to make it marketable, now the problem was just the opposite--too much yard debris.

Mr. Phillips commented he really wanted to see recycling of yard debris work as an alternative to open burning, but he was no longer comfortable with the situation.

AGENDA ITEM I: Appeal of On-Site Sewage Disposal System Variance by William F. Holdner

Mr. William Holdner applied to the Department for a variance to On-Site Sewage Disposal Rules for a sewage disposal system. A variance hearing was held and the Variance Officer granted a variance to the groundwater separation requirement, but denied a variance to certain construction standards. Mr. Holdner has filed an appeal to the Commission.

Director's Recommendation

Based on 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 approve the variance to the groundwater separation requirement and deny the variance to construction standards.

Before Mr. Holdner began arguing his appeal, he wanted to comment on Mr. Johnson's comments during public forum about the use of straw. Mr. Holdner owns a farm on which he raises cattle. He testified to the difficulty of finding straw to buy for feed. Mr. Holdner said farmers should be charged more for permits to burn and then they would find alternatives. Mr. Holdner was also concerned about the chemicals the grass seed growers use. He said the chemicals wind up in ditches where cattle may drink and become poisoned.

Mr. Holdner testified he was trying to get a subsurface sewage disposal system to serve an office and other buildings on his property. In 1983 when he applied for a permit, he was given information about requirements and was told the only system he could have was a sand

filter. Mr. Holdner said his proposal for a minimal underground system was ignored. Mr. Holdner said he was opposed to an above-ground sand filter system because of the space it would take up and the danger it would pose to his cattle. Mr. Holder said the Department had largely ignored his needs.

Before this time, Mr. Holdner said, he had not had any need to apply for a subsurface system, and when he did he was not given instructions from the Department or the County on how to apply. He originally applied for a 150 gallon system and was told he needed a 450 gallon system and would need to apply for a variance.

Mr. Holdner said he was told by the county he would never get a permit. He feels this is because of bad feelings between him and the county over other matters. He contacted Mr. Charles Gray of the Department, told Mr. Gray of the problems he was having with the county, and asked Mr. Gray to make an independent assessment. He said Mr. Gray agreed, but when Mr. Gray went to the property he was accompanied by a representative of the County. Mr. Holdner said Mr. Gray did not have an adequate explanation of why he asked the county to accompany him. At this time, Mr. Holdner said, Mr. Gray again told him the only system he could approve would be a sand filter system. Later on, Dr. Robert Paeth of the Department also inspected the site and, Mr. Holdner said, also told him the only system he could have would be a sand filter. When Dr. Paeth inspected the property, Mr. Holder continued, there was also a question about just where the temporary water table was.

At this point, Mr. Holdner said, he let the matter go until the summer of 1984 when he again contacted Mr. Gray. He told Mr. Gray he wanted a minimal system for an office. He said Mr. Gray told him that a permit would not be needed if the system was used primarily for an office. Mr. Holdner then hired someone to install an underground system. A year later, Mr. Holdner said, he went to the County to get a siting permit and the County Sanitarian told him the system had been installed illegally.

Mr. Holdner said he then applied for a variance, and Sherman Olson, the Variance Officer inspected the property. Mr. Olson reviewed the site, Mr. Holdner said, and discussed with him the tank and drainfield. Mr. Holdner said he had covered the site with topsoil so he could plant on top of it. He had to dig 11 more test holes for Mr. Olson, which were deeper than they should have been because of the topsoil. After the hearing, Mr. Holdner testified, Mr. Olson told him it was a good system. Mr. Holdner said Mr. Olson told him he would have a decision within one week, but it took more than three weeks. When the variance was received, Mr. Holdner said, Mr. Olson had attached many conditions to it, including complying with all county ordinances. Mr. Holdner said he wondered if DEQ was wanting to be cooperative or not.

Chairman Petersen asked if Mr. Gray had told Mr. Holdner he did not need a permit. Sherman Olson of the Department's Water Quality Division and the Variance Office in this matter, said he had talked with Mr. Gray, and Mr. Gray said he had not told Mr. Holdner he did not

Chairman Petersen asked Mr. Holdner how many acres he had, and asked if there was somewhere else on the property an approvable system could be installed. Mr. Holdner said there were 104 acres, but it was mostly very flat and there was no other place suitable for a system. Mr. Olson agreed. Mr. Olson said he had thoroughly looked at the property during the variance process and Mr. Holdner's chosen location for a system was the only place a system would function. In most places, Mr. Olson said, the water table was too high.

Commissioner Brill asked about a tile dewatering system. Mr. Olson said this was an alternative system used in areas where there was a high groundwater table which could be lowered with a field tile system. However, he said that would require a discharge point. Mr. Olson said it had not been established that type of system would be suitable for Mr. Holdner's property.

Director Hansen said the variance would allow a subsurface system to be installed if installed properly. Mr. Holdner's current system had been installed improperly, he said. Director Hansen said the recommended action would be to go with another subsurface system which is properly installed.

In response to Commissioner Bishop, Mr. Olson said his letter to Mr. Holdner with the variance had attachments giving instructions and a map to position the system. This was on a location adjacent, but slightly lower than the presently installed system. Essentially, Mr. Olson said, this would be a standard system located adjacent to the improperly installed system.

Mr. Holdner showed the Commission pictures of the area. He said he could not put drain tile in because the effluent would end up in the creek where his cattle drink. Mr. Holdner said he had an expert look at the system he had installed and the expert said it was a good system. Mr. Holdner presented the Commission with a letter from the expert.

Commissioner Denecke said that even though neither the County nor the Department would approve a system, Mr. Holdner installed one anyway. Mr. Holdner said he did install a system on the basis of Mr. Gray's comments. He said he did not intend to do it illegally. Mr. Holdner said he had talked to others with the same problem. Mr. Holdner said he believed Mr. Gray erred and offered to take a truth test on any of the issues involved. Chairman Petersen said that would not be necessary.

Mr. Holdner said the drain lines met the rules except for the lower line. He asked the Commission to consider letting him use the upper lines and he would close off the lower line. Chairman Petersen asked if that was a reasonable request. Mr. Olson said that the upper lines

did not meet the rules, based on a document provided by Mr. Holdner showing the grades. Mr. Holdner said he noted in his appeal that the information provided to Mr. Olson was possibly in error. He said he had rerun the measurements and now finds they are within the rules. Mr. Holdner said he had asked Columbia County to review the measurements, but they refused.

It was MOVED by Commissioner Denecke, seconded by Commissioner Bishop and passed unanimously to deny the variance appeal.

Mr. Holdner said he would be filing a lawsuit in court after following the appeal process.

AGENDA ITEM J: Consideration of a petition to amend OAR 340-21-027
(Municipal Incinerators in Coastal Areas)

This item considers a petition from Brookings Energy Facility, Inc. to amend the rule regarding municipal solid waste incineration in coastal areas. At its last meeting, the Commission acted not to approve Brookings Energy Facility's request for an extended variance from the temperature recording provision of the rule. The proposed rule revision would amend the temperature recording requirement and the other provisions of the current rule.

Director's Recommendation

It is recommended that the Commission deny the Petition to amend OAR 340-21-027 and issue a Commission Order regarding the denial.

Mr. Richard AuFranc, appeared representing Brookings Energy Facility. He said they had not received the staff report until January 28, and then received it from Curry County Commissioner John Mayea, not from the Department. Mr. AuFranc said the company's attorney John Coutrakon understood after the Commission's November meeting he would not be needed to attend this meeting. However, Mr. Coutrakon did feel he needed to comment, and Mr. AuFranc submitted a letter from Mr. Coutrakon into the record.

In his letter, Mr. Coutrakon said his basic concern was one of substantial fairness to all parties concerned and in that regard the Department bears much of the responsibility in not helping to resolve the on-going issues concerning the operation of the Consumat burners.

Mr. Coutrakon wrote that he first entered this matter in the summer of 1985 when he met with Wendy Sims and Bruce Hammon of the Department. In August of 1985 Mr. Coutrakon continued, he wrote a letter to Director Hansen indicating his clients wished to "submit a list of statements and concerns for consideration of the Commission regarding suggested modifications of the present permit so the operations of my client's facilities could realistically meet the rules and guidelines."

Mr. Coutrakon wrote that little else happened until he wrote a letter to the Commission in September 1985 bringing up the same concerns. After the Commission denied the variance appeal at its September meeting, Mr. Coutrakon submitted a petition to amend the coastal incinerator rules and waived the strict time limits on behalf of his clients so the request could be heard at the Commission's January meeting rather than their November meeting.

Mr. Coutrakon wrote that during this entire process he had not received any real communication from the Department in order to resolve this issue.

After the Commission's November meeting, Mr. Coutrakon said he wrote to Wendy Sims proposing a plan for temperature testing at the Brookings Energy Facility as the Commission had directed. Subsequently, Mr. Smart of Brookings Energy Facility received a letter from Tom Bispham of the Department's Air Quality Division which set out an extensive testing procedure and ignored Mr. Coutrakon's letter to Ms. Sims. Mr. Coutrakon wrote that the Commission directed that Brookings Energy Facility submit a plan for the Department's approval, not that the Department would make up an extensive testing plan of its own simply to use Brookings Energy Facility as a research laboratory.

At the Commission's November meeting, Mr. Coutrakon continued, the Department's main objection to the proposed rule change was that they did not have the information on how the incinerators would run according to the manufacturers installation and operating procedures. However, he said, the Department already had the test data from the Coos County burners.

It was his recollection, Mr. Coutrakon wrote, that the Department and Brookings Energy Facility were to be cooperating in resolving the temperature issue, but it appeared to him the Department had not shared or admitted what information it has previously had.

Mr. Coutrakon concluded by saying that the rulemaking modification procedures seemed the best way to resolve this issue.

Mr. Coutrakon's letter is made a part of the Commission's record on this matter.

Mr. AuFranc said because neither the Brookings Energy Facility nor their attorney had been provided a copy of the staff report, or a transcript or tapes from the Commission's November meeting, they asked that the Commission continue this matter until its next meeting so that testing could be completed. He said they had complied with the terms of their permit and had approval from Ms. Sims for the placement of pyrometers. This should be done within the next few days and testing can begin. Mr. AuFranc said testing had been done at the Coos County incinerators which support that the machines are not designed to

operate as the rule requires. He said they were not saying the machines could not burn at 1800 degrees F., but they were designed to run at 1600 degrees F. Mr. AuFranc said the Coos County incinerator's stacks have been damaged by the higher temperatures.

Estle Harlan, consultant for the Oregon Sanitary Service Institute, testified in support of a postponement, and of the proposed rule modification.

Pete Smart, Brookings Energy Facility, said he wanted the Department to understand how they operate. He said they were trying to operate the best way they could to incinerate garbage. He said they operated for six years in compliance with their permit, until the rule was changed. They are not now in compliance as burning at the higher temperatures would damage their equipment, he said.

Chairman Petersen asked if the Department objected to a continuance. Director Hansen replied that some of the issues were clearer now, but until the Department had results of tests it would not know whether or not a change in the rule was appropriate. He said the Department was concerned about air toxics at the lower burning temperatures and would like to find alternatives for the existing system in order to protect public health. Director Hansen said the Department was troubled with operating times and the lack fuel supplements which compound the air toxic problem. If the public health can still be protected with running at lower temperatures, that is what the Department is trying to accomplish.

Chairman Petersen asked if postponing this matter would add to the public health problems. Director Hansen replied that in the short-term, probably not.

Tom Bispham said it was the Department's hope that the sampling and monitoring would be done and a rule change addressed at this meeting. He said that Department staff and Brookings Energy Facility would be more comfortable if the matter were brought back to the Commission after testing was conducted and evaluated.

It was MOVED by Commissioner Denecke, seconded by Commissioner Brill and passed unanimously that this matter be continued until testing was accomplished and evaluated. The Department and Brookings Energy Facility was directed to do this as quickly as possible.

Chairman Petersen commented that any appearance of foot dragging on the part of Brookings Energy Facility would be detrimental.

AGENDA ITEM K: Petition from Gilmore Steel for variance from classification as a solid waste certain iron ore

Gilmore Steel Mills, also known as Oregon Steel Mills, operates a steel manufacturing facility in the Rivergate District of North Portland.

The facility has a pond of iron oxide ore on-site which was once mixed with dust from its air pollution control baghouses. The entire pond then became classified as a hazardous waste.

Under the recycling/reuse regulations of both the Commission and the U.S. Environmental Protection Agency, materials which can be reused or recycled are not considered hazardous wastes. The Contents of the iron ore pond can be reused.

However, one requirement of the recycling/reuse regulations is that 75% of the material must be recycled or reused in every full calendar year. Gilmore was unable to meet this requirement due to unforeseen shipping difficulties. Gilmore is selling the material to a Canadian company.

Gilmore has requested a variance from the classification as a solid waste for its iron ore pond. If granted, the variance would allow the material to be reused. If denied, the contents of the pond would be fully regulated as a hazardous waste surface impoundment.

Director's Recommendation

The Department believes that all wastes should be recycled or reused wherever possible, including hazardous wastes. Gilmore Steel had tried to recycle its iron ore within the time frame of the regulations, but was hampered by unforeseen problems in shipping.

The Department recommends that the Commission consider the factors listed in 40 CFR 260.31 and basing its decision on those factors, grant Gilmore Steel a variance from classification as solid waste certain iron ore material for six months. The Department recommends that the Commission instruct the company to remove the material as soon as possible, and submit a written report to the Department and Commission on its progress prior to the first day of each successive month until all of the material has been transported off-site.

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

AGENDA ITEM L: Proposed adoption of Plastics Recycling Tax Credit Rules, OAR Chapter 340, Division 17

The proposed rules have been written to implement the 1985 legislation regarding plastics recycling tax credits. The rules establish a method of determining the percentage of certified investment costs allocable to manufacturing a reclaimed plastic product. They also establish preliminary and final tax certification procedures.

Director's Recommendation

Based upon the summation in the staff report, it is recommended that the Commission adopt the proposed Plastics Recycling Tax Credit Rules, Chapter 340, Division 17.

Commissioner Bishop commented that under 340-17-015(3)(b), seven calendar days for notice of potential Commission action seemed like a short time. Maggie Conley of the Department's Management Services Division agreed, but said that was normally when staff reports are available.

Chairman Petersen said that 340-17-015(1)(b) was confusing and asked if Ms. Conley could draft clearer language.

Ms. Conley said this was an attempt to make these rules as close as possible to the existing preliminary certification rules. She said applicants must wait 30 days after applying for preliminary certification before beginning construction to give the Department time to review their proposal and comment.

Chairman Petersen asked if time was not a problem under 340-17-020(1)(h). Ms. Conley replied that this was a way of trying to get applicants to submit requested information. Otherwise, she said there was no way to clear an application from the Department's records; it is kept in suspension forever. If an application is rejected, she said, the applicant's processing fee will be refunded.

Chairman Petersen asked if there would be an instance when a request for additional time would be rejected. Ms. Conley replied it would only be where an application has gone beyond the two-year deadline for filing. Chairman Petersen asked if adding the language "which request, at the Department's discretion, may or may not be granted" would be a problem. Ms. Conley said it would not.

Chairman Petersen asked Ms. Conley to return later in the meeting with revised language.

At the end of the meeting Ms. Conley proposed the following language changes:

340-17-015(1)(b)

The capital investment must not be made until 30 days after filing an application with DEQ unless DEQ reviews the application and notifies the applicant that the application is complete. If the capital investment is made within 30 days after filing the application and the Department has not notified the applicant that the application is complete, the application will be rejected by the Department.

340-17-020(1) (h)

If the Department determines the application is incomplete for processing and applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected. If the applicant makes a written request for additional time to submit requested information, the Department may grant additional time so long as applicant is required to submit requested information by December 31, 1988.

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

AGENDA ITEM M: Proposed adoption of amendments to the State Implementation Plan regarding the Ozone Control Strategy for the Oregon portion of the Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) (OAR 340-20-047, Section 4.3) and Growth Increment Allocation (OAR 340-20-241)

This item proposed revisions to the State Implementation Plan that would: (1) update the ozone control plan for the Portland Area and provide a slightly larger growth cushion for use by new or expanding industries; and (2) revise the formula for allocating the growth cushion for volatile organic compounds (VOC) to new or expanding industries in the Portland area.

The Department had worked with an advisory committee, the Portland Ozone Task Force, to develop these proposed changes. A public hearing was held on November 19, 1985.

Director's Recommendation

Based on the Summation in the staff report, the Director recommends that the Commission adopt 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).

Commissioner Denecke asked what the answer was to Clark County, Washington, not having an Inspection/Maintenance (I/M) program. Merlyn Hough of the Department's Air Quality Division replied that this question had come up a number of times. The staff report summarizes the State of Washington's legislation which states an I/M program can only be implemented if standards are not met. Adding Clark County to the Portland I/M boundaries is not necessary to meet standards in the

airshed. Mr. Hough said it was Washington's position that they are unable under their existing legislation to start a program now, and once standards are met, the program would terminate anyway.

Commissioner Bishop commented that Clark County was a fast growing area and the number of automobiles was increasing. Mr. Hough agreed, but the U.S. Environmental Protection Agency had decided a number of years ago that the Oregon program met the requirements for the airshed.

Chairman Petersen asked if Oregon residents in the tri-county area were providing for additional growth in Clark County. Not at the present time, Mr. Hough replied. There are limits on growth until the airshed is fully in attainment with ozone standards, he said, and there is a small growth cushion that can be used until attainment is met. However, Mr. Hough said, Clark County has no growth credit and they have to continue to operate with offsets. Oregon would have a bigger cushion, he said, if Clark County did have an I/M program.

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

AGENDA ITEM N: Proposed adoption of amendments to the State
Implementation Plan regarding Volatile Organic
Compound Rules, OAR 340-22-100 to-220-, and Permit
Rules 340-22-155, Table 1

The emission of Volatile Organic Compounds (VOC) into the air is one of the three constituents causing ozone ambient air standard violations in the Portland area. In the five years since the VOC rules were adopted to reduce ozone levels, some problems have been uncovered in attempting to enforce the rules.

Practical control technology has not developed for application on many small surface coating sources and a permanent rule relaxation is justified. Other adjustments arising from five years experience with the rules are proposed for adoption. These rule changes will not adversely affect the Department's strategy to attain the ozone standard by 1987.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the proposed changes for permit rule 340-20-155(1) and for the VOC rules 340-22-100 to 340-22-220, as amendments to the State Implementation Plan.

Chairman Petersen asked to what extent the Department kept current on best available control technology. Director Hansen replied that is done primarily through communication with the Department's counterparts in other states and through the U.S. Environmental Protection Agency. He said there were enough areas with tight airsheds that there was pressure on industry to come up with best available control technology.

Commissioner Bishop asked how the Department inspected for violations of rules by small gasoline storage facilities. Peter Bosserman of the Department's Air Quality Division replied that it is the responsibility of the delivery truck driver to not fill tanks unless the vapor recovery equipment is in good repair.

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

AGENDA ITEM 0: Proposed adoption of standards for nuisance
phytoplankton growths

This agenda item proposed adoption of a water quality standard for nuisance phytoplankton growth. The Commission authorized hearings on two alternatives at its September meeting in Bend. These hearings were held in Portland, LaGrande and Medford. The proposed standard specifies average chlorophyll a levels which, if exceeded, would indicate water bodies where further study is needed. In accordance with a schedule approved by the Commission, studies would be conducted to determine probable causes, beneficial use impacts and appropriate control strategies, if needed.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt the revisions of Alternative 1 to OAR Chapter 340-41-150 and direct the Department to make the additional considerations noted in the staff report in the preparation of issue papers which may propose rule amendments scheduled for spring 1986.

Richard Raymond, Cooper Consultants, testified on behalf of the Unified Sewerage Agency of Washington County (USA). He said they had commented extensively at hearings and had looked at the revised proposal which met in large part some of their objections. Mr. Raymond said they feel the proposed standards were premature and not necessary as controls already exist. Mr. Raymond said the currently proposed standards were still ineffective for preventing problems and for solving some problems that might occur. They were pleased there was now no requirement for costly action unless determined by site-specific studies. Mr. Raymond says the current proposal recognizes the inappropriateness of an arbitrary standard, but does not address nondegradation or acute short-term problems which would be detrimental to beneficial uses. Another one of their original objections that had been remedied, Mr. Raymond continued, was that there are now a number of water bodies that would have naturally exceeded the proposed standard.

W. C. Gaffi, City of Portland, testified in general support of the Director's Recommendation. However they were concerned over potential misinterpretation of two provisions in the standards. The first sentence of item (1), he said, states that "no waste shall be discharged and no activities shall be conducted which will cause average chlorophyll a concentrations to exceed the following values:" They feel, he continued, that this language could easily be misinterpreted as requiring immediate control measures or the institution of a building ban in areas served by treatment works discharging to water bodies in noncompliance with the standard.

Another concern, Mr. Gaffi stated, relates to the interpretation of the last paragraph of Section (2) (b) which reads "where natural conditions are responsible for exceedance of the standard in subsection (1) above, or beneficial uses are not impaired, the standard in subsection (1) may be modified to an appropriate level for that water body." This language appears to indicate, he said, that no change in the standard will be made unless one of the above conditions is met. He said the standards should be modified or affirmed based upon the results of a site-specific study.

Mr. Gaffi offered the following modifications to the two sections of concern:

340-41-150(1)

No wastes shall be discharged and no activities shall be conducted subsequent to Commission adoption of control strategies which will cause average Chlorophyll a concentrations to exceed the following values or other values the Commission may adopt:

340-41-150(2) (b)

Proposed deleting the following:

[Where natural conditions are responsible for exceedance of the standard in subsection (1) above, or beneficial uses are not impaired, the standard in subsection (1) may be modified to an appropriate level for that water body.]

Proposed adding the following:

Where study results so indicate, propose modified standards.

340-41-150(2) (c)

Conduct necessary public hearings preliminary to adoption of a control strategy, amended standards, and additional standards after obtaining commission authorization;

Implement the strategy, amended standards and additional standards upon adoption by the Commission.

Mr. Gaffi thanked the Commission for their time and consideration.

Chairman Petersen said he appreciated Mr. Gaffi's suggestions.

John Charles, Oregon Environmental Council (OEC), and also representing the Oregon Chapter of the Sierra Club, testified they were still in support of Alternative 2, but as that was no longer in the Department's recommendation he would not argue further. Mr. Charles said they would like to see a preventative standard, which Alternative 1 is not. With Alternative 1, no water quality gains will be seen for at least a decade. Mr. Charles asked the Commission what would be done about new sources. He suggested a standard should be preventative for future sources if not for existing sources. Mr. Charles said it did not make sense to make a problem worse by issuing more permits until after a study is done. Mr. Charles asked for a policy judgment by the Commission if they want to put a moratorium on future permits if a problem is recognized.

Chairman Petersen asked what the Department thought about Mr. Charles' proposal. Andy Schaedel of the Department's Laboratories Division, replied that there were provisions in the rules on new source facility guidelines that would address Mr. Charles' concerns, and it was not the Department's intent to let a problem get worse.

Director Hansen pointed out that if it was determined the standard had been exceeded it would mean that zero discharge was necessary. Each permit applicant would be evaluated on an individual basis.

Mr. Schaedel commented that in the air quality program, the determination of nonattainment was built on a health standard, however no similar standard existed for water quality, therefore the numbers in the standard were subjective, but the best numbers the Department had.

Chairman Petersen said he was sympathetic to Mr. Charles' concerns that an existing problem not be allowed to become worse, and noted that that was the Department's intent also.

Mr. Charles said that the proposed standard was not much different than that applied under air quality, and once a level is picked it should mean something. It was his opinion that anything above zero discharge would make an existing problem worse. Noting the Department's contention that additional discharges from existing sources was addressed elsewhere in the rules, Mr. Charles said it would be helpful to have that language in these standards so permittees would only have to look in one place to find the standards that applied to them.

Chairman Petersen said he had no objection to Mr. Charles' proposal and asked him to put some language together and return by the end of the meeting.

Gary Krahrmer, Unified Sewerage Agency of Washington County (USA), thanked the Commission for the opportunity to address them again on this subject. They supported the City of Portland's proposed changes and hoped the issue could be closed at this meeting.

Lorrie Skurdahl, Assistant Washington County Counsel appeared on behalf of USA. She complimented the Department staff for their efforts on this technically difficult subject and the short time frame in which it was accomplished. They believed the Department had listened during the rulemaking process to the concerns of testifiers and was pleased the new version of the rules addressed the technical and economic feasibility questions. Ms. Skurdahl said they understood the proposed study would include the entire Tualatin Basin and was hopeful that any studies, computer models, etc. would also be applicable to other areas of the state to be addressed in the future.

USA also was concerned about 340-41-150(1) in that it appeared to them to allow for enforcement action after three samples were taken. They felt that it implied that immediate control actions would be taken on USA.

Ms. Skurdahl said they would appreciate knowing what was in store for the rest of the state's water bodies explaining that this was the Commission's first bite at the algae problem and the Department has proposed a two-year study of the Tualatin Basin. However, the Department had not yet said anything about the rest of the state except for proposing standards.

Chairman Petersen asked if USA was feeling singled out in this process. Mr. Krahrmer replied that they just did not want to be treated unfairly. The way the rule can be interpreted was that the Department could take samples, identify high chlorophyll a levels, and declare a nonattainment area. USA was concerned that if the Tualatin was declared in nonattainment, it would have a detrimental effect on economic development. Assuming a grant was not received for the study, he continued, the area could be in nonattainment for some years. Chairman Petersen said he understood USA's concerns, but the Department had to start somewhere and the original question about nuisance algae growths came from people concerned about the Tualatin basin. He said the Commission and the Department were not trying to treat any area differently and were trying to be as reasonable as possible. Mr. Krahrmer appreciated Chairman Petersen's comments.

Mark Pilliod, City of Tualatin, had similar concerns to the City of Portland. He asked that the language in 340-41-150(1) be eliminated. He said that preliminary reports indicate that the standard has already

been met or exceed in some water bodies. Mr. Pilliod did not think Mr. Charles was being realistic in advocating zero discharge. By doing so the Department would be in a position of not granting permits to a wide range of sources from small farmers to industry.

Mr. Pilliod supported the City of Portland's suggested rule changes and submitted written testimony for the record.

David Abraham, Clackamas County Department of Utilities (collects and treats waste from the Tri-Cities Service District, Clackamas County District #1 and the City of Happy Valley in the future), listened to all hearing testimony and heard that chlorophyll a was not a precise standard but a tool that might suggest there is a problem, and at some level that tool could be used as a screening mechanism to establish priority on where most urgent problems are in the State so every water body would not have to be studied. They supported the City of Portland amendments. He said it was important to determine if there is a problem, what is causing it, and it is economically feasible to fix the problem. He did not want to see a moratorium similar to that in the late 1970's on sewage treatment facilities.

Mr. Abraham said they accepted the responsibility of taking the regulations to the public and getting support for financing. He stressed using chlorophyll a as a triggering mechanism, but not a standard.

Cyndy Mackey, Northwest Environmental Defense Center was concerned that the standard would just go into a study mode and the problem would keep getting worse. She agreed with Mr. Charles that once a problem was identified it should not be allowed to become worse while the problem was studied.

Ms. Mackey said the Northwest Environmental Defense Center felt the Tualatin had already been studied enough and the Department should know what the situation is. She said the Clean Water Act did not look at economic feasibility. Ms. Mackey said they would still support the original alternative 2, but as an alternative they would support Mr. Charles.

Chairman Petersen asked if Ms. Mackey would propose the standard be applied to current facilities. Ms. Mackey replied it would be her preference to not allow any additions to current discharge limits. Chairman Petersen asked if this would not place an unreasonable burden on a source if, after a study was completed, it was found another source was responsible for the problem. Ms. Mackey commented Chairman Petersen could argue that. However, they would be happy to deal with new sources as Mr. Charles suggested.

John Atkins, City of Beaverton, also agreed with the City of Portland amendments and comments made by USA. He said the standards as now proposed mitigated a number of the original concerns, provided greater

flexibility, eliminated alternative 2, included new language acknowledging that control strategies should be technically and economically feasible, and acknowledged that some water bodies exceeded the standards due to natural conditions.

John Charles and Andy Schaedel then returned to the Commission and started working on suggested amendments. Chairman Petersen said he was not comfortable with drafting by committee and suggested the Commission give the Department policy direction and ask that amendments be brought back. The Commission indicated agreement, saying they did not want to prolong the process unnecessarily. The Commission offered the following guidance in amending the rules:

1. Disregard alternative 2.
2. Agree to City of Portland's proposed language that no enforcement action or moratorium action be taken until the site-specific study has been completed.
3. In regard to John Charles' issue on new sources, agreed to not intentionally make a problem worse. Commissioner Denecke clarified this would apply to new sources, not additional connections to present sources. However, zero discharge would not be the standard.

Chairman Petersen asked if any modifications would have to be taken back to public hearing. Michael Huston, Assistant Attorney General, replied that another public hearing would not be necessary.

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that this matter be tabled.

AGENDA ITEM P: Proposed Adoption of Notification Rules for Underground Storage Tanks.

This item was withdrawn from the agenda prior to the meeting.

AGENDA ITEM Q: Proposed Adoption of Hazardous Waste Management Fees for Superfund Cleanup.

As a result of 1985 legislative action, the Department was directed to collect a hazardous waste management fee of \$10 per dry weight ton from all hazardous waste incinerator and disposal site operators. The fee program is to begin January 1, 1986. The monies collected will be used to provide the state match on federally funded Superfund projects.

One major issue was raised during public hearings, that is, how to define dry weight ton? The law directs the Department to collect the fee in the same manner as provided in the original Superfund law. Through contact with the U.S. Environmental Protection Agency (EPA) in Washington D.C., the Department has determined that neither EPA nor the Federal Internal Revenue Service (IRS) ever defined how to calculate dry weight ton.

In fact, the Department was informed that EPA never enforced the tax requirement because of its inability to define a calculation formula. In the absence of federal guidance the Department is proposing to calculate the fee based on measured weight in tons at time of receipt. This approach is also consistent with information provided to the 1985 Legislature upon which revenue projections were based. Firms to be adversely impacted by the Department's approach are those that ship water based materials such as acid, caustics or sludges that are principally water.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission adopt rule OAR 340-105-120 as proposed in Attachment III to the staff report.

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

AGENDA ITEM R: Proposed Rules: Open Burning of Solid Waste at Disposal Sites (OAR 340-61-015 and 340-61-040(2))

At the January 25, 1985 EQC meeting, the Commission authorized the Department to hold public hearings on proposed rules relating to open burning of solid waste at disposal sites. The staff report outlines the results of the public hearings, a Department response to public comments, and proposes a recommendation to the Commission. Unlike most rule actions, the Department is requesting that the rule not be adopted and that the Commission concur that open burning dumps can be more efficiently regulated by use of the variance procedure.

Director's Recommendation

Based on the summation in the staff report, it is recommended that the Commission decline to adopt the proposed rules. It is also recommended that staff be instructed to pursue option two in the "Alternatives and Evaluation" section of the staff report and contact the operators presently open burning at disposal sites and indicate the need for the submissions required to obtain a variance.

Commissioner Bishop asked how many variances would be granted. Director Hansen replied that there were now a number of open burning dumps, and the Department would expect that some would stop burning, some would upgrade to landfills and some would continue to burn. The Department would like to stop open burning but in some cases that may lead to indiscriminate dumping. Director Hansen noted that the risks were outlined in the staff report.

Chairman Petersen said he was troubled with the number of open burning dumps being permitted to continue in violation of their permit conditions. Director Hansen replied that that was why this rulemaking process was originally begun. After much debate within the Department, Director Hansen said it was decided it was easier to accomplish the objective by variance rather than rule.

Chairman Petersen was concerned about the perception from the regulated community when the Department strictly enforces permit limits on some sources but not others. Director Hansen said that the Department would expect to move ahead with the currently open burning dumps and would expect them to either comply with their permit conditions or request a variance.

Chairman Petersen asked how the variances would be enforced. Michael Downs, Administrator of the Department's Hazardous and Solid Waste Division, replied that enforcement would depend on the variance conditions. If the variance was to allow open burning with agreement to certain other conditions, then the Department would expect compliance with the variance. Mr. Downs said that if open burning was completely stopped as the regulations require, the result would be a worse environmental alternative and a bigger problem than open burning that of indiscriminate dumping. Or it may result in material still being placed in the dump, but no management. Most of these dumps are in small jurisdictions that do not have the money to operate sanitary landfills. In some cases the counties have stepped in, but in other cases they have not. In response to Chairman Petersen, Mr. Downs said the Department field staff would be checking the dumps to be sure they were in compliance with their variance.

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

AGENDA ITEM S: Proposed adoption of revision to rules relating to the "Opportunity to Recycle" (OAR 340-60-025 and OAR 340-60-030) creating a West Linn Wasteshed

The City of West Linn is presently a part of the Clackamas wasteshed. A wasteshed is defined as an area of the state within which to develop a common recycling program.

Since 1983, the City of West Linn has developed a comprehensive recycling program which has achieved 40-50% participation and is making progress toward meeting its solid waste reduction goal. The program includes:

- Free weekly curbside collection of recyclable materials.
- Recycling at multi-family units.
- Yard debris collection and processing for composting.
- Extensive community and in-school education and promotion activities.
- Official commitment, including resources and staff support.
- A garbage collection rate structure which encourages and supports recycling.

The City of West Linn has requested designation as a separate wasteshed so that its program can be evaluated independently and serve as a model for other communities to look at to see how a successful recycling program can be accomplished.

Director's Recommendation

Based on the summation in the staff report, the Director recommends that the Commission adopt the proposed rule changes for OAR Chapter 340, Division 60, Sections -025 and -030, which would designate the City of West Linn as an independent wasteshed and identify the principal recyclable materials in the West Linn wasteshed.

Ed Druback, City of West Linn, commented they were hoping to create greater communication between cities so they could help other jurisdictions promote recycling. Chairman Petersen asked why the West Linn program was so successful. Mr. Druback replied that they had total community involvement, a garbage hauler that was very much behind the program and the City promoted the program. Commissioner Brill asked if the program paid for itself and Mr. Druback replied that it did not as yet. In response to Chairman Petersen, Mr. Druback said West Linn had a population of 12,000.

Chairman Petersen told Mr. Druback the Commission appreciated West Linn's leadership role in recycling.

Commissioner Bishop applauded West Linn's efforts and MOVED approval of the Director's Recommendation. The motion was seconded by Commissioner Brill and passed unanimously.

AGENDA ITEM T: Request for an extension of a variance from OAR 340-25-315(1)(b), veneer dryer emission limits, for Leading Plywood Corporation, Corvallis

Leading Plywood Corporation, Corvallis, is requesting variance for an additional time extension for adding emission controls to one of their two veneer dryers. On November 2, 1984, the Commission granted a variance which required both veneer dryers to be in compliance by January 1, 1986.

Problems during initial start-up of the new type of emission control device on the first dryer had delayed the company from purchasing and installing the second unit. The company now states that funds will not be available for purchase of this unit until July 1986. They are requesting that the final compliance date be extended to December 1, 1986.

Director's Recommendation

Based on the findings in the summation in the staff report, it is recommended that the Commission grant a variance to Leading Plywood Corporation for OAR 340-25-315(1)(b), Veneer Dryer Emission Limits, for the Prentice veneer dryer with increments of progress and a final compliance date as follows:

1. By no later than July 1, 1986, issue purchase orders for a second GeoEnergy ARS to be installed the Prentice veneer dryer;
2. By no later than July 1, 1986, submit to DEQ a Notice of Intent to Construct Application with plans and updated modifications to the GeoEnergy ARS to be installed on the Prentice veneer dryer.
3. By no later than October 1, 1986, initiate installation of emission control equipment.
4. By no later than November 1, 1986, complete the installation of emission control equipment and/or on-site construction.
5. By no later than December 1, 1986, conduct and submit the data and results of a particulate source test on the Prentice veneer dryer emission stack (subject to waiver by the Department upon evaluation of test results from Moore dryer).

Chairman Petersen asked to what extent the Department talked with the bank to verify information submitted by the applicant for a variance. Director Hansen replied that generally the Department relies on the applicant with some level of verification. Frankly, Director Hansen said, the Department needs to do more in this regard but it does not have the staff capability, nor does the Department really know the

right questions to ask. Chairman Petersen said that verification of the financial situation was an important factor in this type of decision and it was not reasonable to totally rely on the company for this information. Some type of independent analysis needs to be made before a variance is granted. He suggested this might be the subject of a legislative concept.

In this case, Director Hansen, said the Department did extensive talking with the bank and are assured of the Company's financial situation.

Noting he was impressed that any plywood company would be willing to spend this money for pollution control equipment in these difficult economic times, Commissioner Denecke MOVED, that the Director's Recommendation be approved. Commissioner Brill seconded and the motion was passed unanimously.

City of Klamath Falls Petition

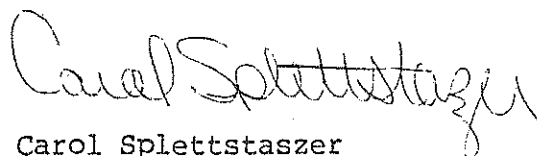
Noting the Commission had received a petition for rulemaking from the City of Klamath Falls, Chairman Petersen asked if the Commission needed to act on this petition at this meeting. Director Hansen said the Commission did not need to act at this time, and the Department would be either seeking a time extension, or asking the Commission to act by conference call later on.

This ended the formal meeting.

LUNCH MEETING

During lunch the Commission continued their discussion of preliminary legislative concepts.

Respectfully submitted,



Carol Splettstaszer
EQC Assistant

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MINUTES OF THE WORK SESSION AND SPECIAL MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

November 21, 1985

On Thursday, November 21, 1985, the Oregon Environmental Quality Commission conducted a work session and special meeting in the Lane County Courthouse, 125 E. Eighth, Eugene, Oregon. Present were Commission Chairman James Petersen and Commissioners Mary Bishop and Sonia Buist. Commissioners Wallace Brill and Arno Denecke were absent. Present on behalf of the Department were its Director, Fred Hansen, and several members of the Department staff.

WORK SESSION

The purpose of this work session was for the Department to review with the Commission the Department's proposed Enforcement Guidelines and Procedures for the Hazardous Waste Program.

Al Goodman of the Department's Hazardous and Solid Waste Division reviewed for the Commission the background and history of this matter. In addition, Mr. Goodman said the consequences of mismanagement in the hazardous waste program are greater than in the air and water programs. In those programs the problems stop when the facility closes, however that is not the case in hazardous waste. These Enforcement Guidelines are meant to provide guidance for Department staff to aid in consistent enforcement statewide. They are also meant to help staff prioritize efforts and resolve violations at the lowest possible level.

Mr. Goodman then walked through the proposed Guidelines with the Commission. The Guidelines contain general principles; definitions of Class I, II and III violations; enforcement options for each class of violation; definitions of enforcement actions; and a matrix of civil penalty amounts.

Chairman Petersen asked how these Guidelines would enhance hazardous waste management. Mr. Goodman replied that the Guidelines set the Department's top priorities for field staff, helping them to act consistently statewide.

Tom Donaca, Associated Oregon Industries, said the Guidelines were acceptable in the way the Department was proposing to use them. They had testified at the public hearings on whether or not these guidelines should really be rules. He said the regulated community was willing to see whether these guidelines would be cited or relied upon in enforcement actions. He said the same sort of policy need not be applied to the air and water programs as their circumstances were different.

Frank Deaver, Tektronix, commented the the Department had been fair so far in enforcement actions. He also said he considered that some of the Class II violations should really be Class I. At Chairman Petersen's request, Mr. Deaver said he would provide a list.

James Brown, Tektronix, said closure cost estimates were unrealistic. Closure may be far in the future therefore accurate costs estimates are only educated guesses. Also, a well managed facility would have different costs than others. Mr. Deaver said the while he agreed the closure costs were probably unrealistic, the purpose was to be sure the money was available for cleanup in case something should happen to the company. Mr. Deaver also said recyclers should be more heavily regulated. Chairman Petersen commented that perhaps the closure costs should be reviewed to be sure they are relevant.

Dick Bach, Stoel, Rives, Boley, Fraser & Wise, said the Guildelines were necessary. His clients want to know what type of enforcement actions to expect for violations. In regard to the issue of whether or not these Guidelines should be made rules, Mr. Bach said they would not be inclined to use the rules versus guideline issue in a civil penalty situation unless absolutely necessary. Mr. Bach asked for clarification of "unauthorized disposal of hazardous waste" under Class I violations. He asked if this would include an inadvertent spill. Mr. Hansen replied that if the company used good management practices and notified the Department promptly of the spill, no penalty would likely be assessed. Mr. Goodman said that unauthorized disposal was not a spill.

Commissioner Bishop asked if the Department would anticipate changes to these proposed Guidelines. Mr. Goodman replied that they were likely to change over time, but the Department would return to the Commission with any major changes and be sure to go back to the regulated community with those changes. Commissioner Bishop and Chairman Petersen emphasized remembering to work with the regulated community.

The Commission indicated agreement with the proposed Guidelines.

SPECIAL MEETING

Analysis of Issues Raised by the City of Klamath Falls in Their Petitions for Declaratory Rulings and Rulemaking

On September 20, 1985, the City of Klamath Falls submitted a Petition for Declaratory Ruling as to nonapplicability of laws, regulations and standards to Section 401 Certification of Salt Caves Project; Petition for Rulemaking; Request for Hearing; Request for Stay; and a Demand for Hearing. On October 18, 1985 the Consolidated Conservation Parties submitted a response to the City of Klamath Falls.

At the Commission's October 18, 1985 meeting, it denied petitions from the City of Klamath Falls and requested the Department to prepare an analysis of the points raised in the petitions and make appropriate recommendations for consideration at the November meeting.

On October 28, 1985, the City of Klamath Falls withdrew their application for 401 Certification for the Salt Caves Project. They indicated their intent to file a new application in early 1986. They also indicated withdrawal of their application for a Federal Energy Regulatory Commission (FERC) license.

Peter Glaser, attorney with the firm Duncan, Weinberg & Miller in Washington, D.C., appeared on behalf of the City of Klamath Falls, proponent of the Salt Caves Hydroelectric Project and of the two petitions before the Commission. He said the first petition asked the Commission to declare that its water quality standards for the Klamath River between Keno Dam and the Oregon-California border not be applied to the City's application for Certification of the Salt Caves Project under Section 401 of the Federal Clean Water Act. The petition also asked the Commission to declare that no land use requirements or other "related requirements" be considered in judging the City's Section 401 application and to declare whether the Commission or the Department is the agency that will take final action on the City's application. The second petition asked the Commission to institute rulemaking proceedings to establish rules to be applied to the City's 401 application.

At this meeting, Mr. Glaser said, they would comment on the Department's staff report and the water quality issues raised in the City's petitions. At the Commission's regular meeting the next day, Mr. Glaser intended to address what the Department characterized as "procedural" issues.

Mr. Glaser said they agreed the Commission's water quality standards should be designed to protect the wild trout population in the Klamath River. However, they disagreed with the Department on whether those standards are unnecessarily overbroad in achieving the goal of protecting that trout population.

The petitions argue, Mr. Glaser said, that Section 401 did not give the Commission the authority to outright ban significant dams and reservoirs on the Klamath River. In fact, he said, the City does not concede that Section 401 gives the Commission any authority to regulate the construction of dams that create reservoirs. The language of Section only gives authority to regulate activities causing "discharges."

Mr. Glaser said they did not believe it was necessary to have standards that preclude construction of thermally stratifying reservoirs in order to protect the wild trout population in the Klamath River. He said it should not be assumed that such reservoirs will cause harm to fish. They emphasized that standards can and should be promulgated that would allow the proponent of a reservoir to demonstrate that the reservoir would help and not hinder fish.

Regarding the concerns raised by the Consolidated Conservation parties, Mr. Glaser said that he believed the parties misread the extent of authority that Section 401 gives to the Commission. He said they did not believe Congress intended to vest plenary authority over such dams in state agencies without mentioning such intent in the Act or its legislative history. Also, Mr. Glaser believed the Conservation Parties make a number of inaccurate statements as to why the use of the Klamath River for fish and the use of the River for hydropower dam and reservoir are mutually exclusive.

Mr. Glaser said the the Commission's water quality standards were clearly developed for running water, and the effect on fish of running water and of reservoirs is different. He said it was inappropriate to have one standard applied in the same way to both situations. He urged the Commission to recognize this fact and adopt regulations that would allow a proponent of a reservoir to demonstrate the project will not harm fish.

Mr. Glaser concluded by asking the Commission to grant their petition.

Chairman Petersen asked how the temporary withdrawal of the FERC application would affect the Commission's proceedings. Mr. Glaser replied it should not have any impact as the City has stated that the withdrawal of the FERC application is temporary and the City intends to reapply for a license and to the Department for 401 Certification.

Chairman Petersen asked what the reason was for withdrawing the application. Mr. Glaser replied it was decided it would be necessary to do further studies both in the area of water quality (including monitoring) and in the area of archeology.

Chairman Petersen asked for an explanation of how the Commission rules would ban reservoirs. Mr. Glaser said they were contending that the rules in effect ban reservoirs principally because there would be no way a reservoir could be built to meet the standards for dissolved oxygen and temperature.

Mary Holt, Sierra Club, testified they did not think there was any question that Section 401 clearly gives the state the authority to implement it's water quality standards with respect to hydropower projects.

Chairman Petersen said it had been the Commission's decision that the Department had been delegated the authority to grant 401 Certification. Any appeal of the granting or denying of that Certification would come to the Commission for resolution. He said the Commission was not presently of a mind to change that process. Chairman Petersen also said the Department should not delegate that responsibility to any other agency in the state. The issue was not whether the Department had the authority, he continued, but what should be considered in the process.

Jack Smith, Northwest Environmental Defense Center, said it seemed to him that the City of Klamath Falls was arguing that their project would not affect the uses of the water. He said he could not agree with this position.

Chairman Petersen was not sure the Director's Recommendation was appropriate. The Commission had already denied the petition, he said, so no further formal action was needed unless they were to reverse themselves. In addition, the rulemaking process the Commission would go through at its formal meeting the next day would deal with issues of authority. Chairman Petersen also asked why it would be necessary to reaffirm the water quality standards for the Klamath River.

Director Hansen said that during the last Commission meeting the Department asked the Commission to reject the petitions both for substantative reasons and because of the time constraints. He said there would be no reason to reaffirm if, after hearing the substantative reasons, the Commission stood on their previous decision.

Director Hansen said the Department was standing by the standards as they are. He said there was no questions that the intent of the Commission and the Department at the time of the adoption of the standards was that they apply to reservoirs. And yet, upon review by Counsel, there is some clarification that would help make that intent clearer, he continued. The Department does not believe there is any question about the intent or the desires of the Commission at the time the rules were adopted.

Chairman Petersen said the Department had standards that are designed to protect fish. The Department is claiming that if this project is built, fish are going to die. The applicant is saying they do not think that would happen and want an opportunity to show that fish were not going to die if their project is built.

Glen Carter, of the Department's Water Quality Division explained that at the time standards were developed for the Lower Klamath River the Department was taking advantage of the natural and manmade conditions in the area. The upper river above Keno was in bad condition because of the natural decomposing organics. Once the river got below John Boyle Dam and into the area of the proposed Salt Caves Project, there was the advantage of a tremendous groundwater influx that improved the quality of the water and kept it suitable for the last of the native rainbow trout fishery. Mr. Carter said there were not the beneficial uses identified then that there are now, such as rafting. The area's beneficial uses were largely for recreational fishery and wildlife. He said the standards were set to protect those uses at that time.

Mr. Carter said the applicant believes they can build their project without injuring the fish. However, the experience of the fishery people with the three other reservoirs in the area has shown that in those reservoirs the fish stocks have not reproduced in the fashion

they do in the open river channel, and there is no reason to believe they can do so if the Salt Caves Project was built. Chairman Petersen asked if that was because of water quality. Mr. Carter said water quality would be a significant factor, but it would also be a major habitat change from a running stream to a reservoir-type habitat.

Mr. Carter said most of the fish were planted in those reservoirs, and occasionally a big trout would be found, but high-quality fish production has not been sustained in those reservoirs. The Department has done extensive electroshocking for fish in the John Boyle reservoir and have not turned up any trout.

Chairman Petersen said he was inclined in this matter to take no action regarding changing denial of the Petition for Rulemaking and Petition for Declaratory Ruling and proceed to rulemaking at the Commission's regular meeting; and to have the applicant, when they are ready, continue the 401 Certification process with the Department, and depending on the results of that process, exercise whatever appeal rights they want to bring before the Commission. He felt that any clarification of the rules at this time would be in effect changing goal posts on the applicant. He thought the applicant was entitled to continue under the rules in effect when they first applied. Commissioner Buist commented she was satisfied with the Director's recommendation. Commissioner Bishop said she was uncomfortable taking action at this time for the same reasons Chairman Petersen mentioned.

Director Hansen stressed the Department did not feel the suggested changes they would have proposed had the Commission authorized rulemaking would in any way have changed what the intent or purpose of the existing rules are. Rather, they would have removed two items that may have been litigated. The only changes would have been to clarify existing rules.

The Commission took no action of this item.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Carol Splettstaszer
EQC Assistant

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MINUTES OF THE ONE HUNDRED SIXTY-EIGHTH MEETING

OF THE

OREGON ENVIRONMENTAL QUALITY COMMISSION

November 22, 1985

On Friday, November 22, 1985, the one hundred sixty-eighth meeting of the Oregon Environmental Quality Commission convened in the Eugene City Council Chambers, 777 Pearl Street, Eugene, 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. Willamette Valley Regional Managers Report

David St. Louis, manager of the Willamette Valley Region Office briefed the Commission of Department Activities in the region.

2. Informational Report: Review of Portland International Airport's Noise Impacts During Westerly Departures.

John Hector presented a report on the investigation of concerns expressed by residents of Hayden Island regarding excessive aircraft noise due to westerly departures from Portland International Airport. The report concluded that noise impacts could be reduced if the westerly noise abatement departure procedure was strictly adhered to by all aircraft. John Newell, noise abatement officer for the airport, described his concern that the departure procedure cannot be enforced by the Port of Portland as flight operations are controlled by the Federal Aviation Administration. He also described several programs being developed to encourage the use of the noise abatement procedure. Discussion by the Commission led to the recommendation that the Director meet with Port of Portland

officials to assess possible amendments to the departure procedure that would hopefully reduce overflight of Hayden Island.

3. Status on Meeting EQC Request for Additional Information on the Threat to Drinking Water in East Multnomah County.

Lydia Taylor of the Department's Management Services Division reported on staff efforts to address the Commission's need for additional information. She said a contractor would be selected soon and it was expected the contractor's report on the plan would be completed by early January. Carolyn Young, the Department's Public Information Officer discussed notice to the public.

FORMAL MEETING

AGENDA ITEM A: Minutes of the September 27, 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 August and September, 1985

It was MOVED by Commissioner Bishop, seconded by Commissioner Brill 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 Brill and passed unanimously that the tax credit applications including the amendment to approve the Freres Lumber Company application, be approved.

PUBLIC FORUM

No one appeared.

As some people waiting to testify on agenda items were needing to leave the meeting early, Chairman Petersen took some agenda items out of order.

AGENDA ITEM F: Request for authorization to conduct public hearing on proposed rule changes which would allow regional air pollution authorities to set a permit fee schedule for sources within their jurisdictions.

The Lane Regional Air Pollution Authority (LRAPA) has requested that the Commission amend its rules to allow LRAPA to adopt a permit fee schedule that is different from the Department's schedule. Such a rule change would potentially allow LRAPA to increase fee revenues to offset decreases in contributions from local government sources.

Director's Recommendation:

It is recommended that the Commission authorize a public hearing to receive testimony on proposed rule revisions concerning authorizing regional air pollution authorities to adopt a permit fee table that is different from the Department's.

Chairman Petersen asked why the Department's schedule was not adequate. Don Arkell, Director of LRAPA, replied that the current permit fee system did not give LRAPA enough revenue needed to stabilize its operations. The LRAPA Board had instructed Mr. Arkell to look at all potential sources of revenue. He said that they do not intend to recover 100 percent of costs but would like a higher percentage than they recover now. The Commission must authorize the use of fees other than those in its rules. Mr. Arkell also said that LRAPA wanted to consider adjusting fees for all source categories. He said that some fees were too high now for some categories but overall they would propose that the fees would be higher.

Chairman Petersen was concerned about inconsistent fee schedules throughout the state and was worried that there might be a perception of competitive advantage.

It was moved by Commissioner Bishop, seconded by Commission Buist and passed unanimously that the Director's recommendation be approved.

AGENDA ITEM M: Request for adoption of rules for granting Water Quality Standards Compliance Certification pursuant to requirements of Section 401 of the Federal Clean Water Act.

At the Commission's July 19, 1985 meeting, issues surrounding 401 certification were discussed. The Commission authorized the Department to go back to public hearings on proposed procedural rules for 401 certification. The hearing was held October 8, 1985. The Department summarized the testimony and prepared analysis of the significant issues raised. Amendments to the rules taken to public hearing were proposed.

Director's Recommendation:

Based on the Summation of the staff report the Director recommends that the Commission adopt the rules OAR 340-48-005 to 340-48-040.

Peter Glaser appeared representing the City of Klamath Falls. He said that Section 340-48-015 differed from Section 401 in that the proposed new rule would add one comma and delete three commas and substitute the word "activity" for "discharge". He said deletion of the commas makes "which may result in any discharge" apply to only the first part of the paragraph. He saw this as a significant language change showing the Department intended to broaden regulatory authority that did not exist. Chairman Petersen asked if Mr. Glaser understood that there was no requirement that the rules be identical to Section 401. Mr. Glaser replied that they were only concerned that the substance be the same.

Mr. Glaser then commented on Section 340-48-020(2)(h). He said that Section 401 did not give the Commission the right to require land use compatibility statements and therefore urged this proposed rule not be adopted.

Mr. Glaser also objected to proposed rule OAR 340-48-025(2) which sets forth findings the Department must make before issuing a Water Quality Certification. He said the only findings the Department was authorized to make under Section 401 were that a proposed discharge meet the required applicable provisions in Sections 301, 302, 303, 306 and 307 of the Federal Clean Water Act. The proposed rule would go beyond the specific water quality authorizations which are granted in Section 401. Therefore, Mr. Glaser said the rule should not be adopted.

Mary Holt appeared representing the Sierra Club. She testified that in general the Sierra Club supported the adoption of the proposed rule and only requested the Commission to examine one change proposed by staff in 340-48-020(7). This particular staff proposal would change the word "will" to the word "may" in this section. Ms. Holt urged the Commission to retain the word "will" in order to make this rule consistent with OAR 340-48-026(2)(f). She said that if the word "will" was eliminated the Commission would be permitting staff to eliminate beneficial uses and other considerations.

Jack Smith representing the Northwest Environmental Defense Center (NEDC) testified that they also supported the rules in general but he wanted to make a couple of clarifications on the staff report. On page 4 of the staff report in the last paragraph, Dr. Smith said, it states that the testimony of NEDC and others raised the issue of the degree to which 401 certification should be based on factors other than water quality. Dr. Smith said that was not NEDC's contention. He said they had not been a party which had been arguing for factors other than water quality. Their contention was, Dr. Smith continued, that the Department and the Commission was basing 401 certification on inadequate considerations of water quality. Then on page 6 of the staff report, Dr. Smith said, the first sentence in the fifth paragraph states that the water quality standards adopted by the EQC are intended to assure water quality to support the beneficial uses designated by the Water Resources Commission. It was NEDC's contention that the EQC should protect not those uses

designated by the Water Resources Commission but the uses designated by the EQC themselves as part of the federally approved water quality standards of the State of Oregon. Dr. Smith also urged the retention of the word "will" in OAR 340-48-020(7).

Chairman Petersen said that he did not think either the Commission or the Department had ever suggested that water quality should be considered in a vacuum because obviously water quality must relate to some use of the water. Traditionally the Department and the Commission had taken the position that the Water Resources Commission was charged statutorily with deciding how the waters of the state are to be used. Chairman Petersen continued that the Commission had not intended to either attempt to overrule or to quarrel with that process. The Water Resources Commission decides how the water is used. The Environmental Quality Commission then decides what standards are appropriate for that use and then regulates that use and enforces those standards. Dr. Smith agreed that within state law the uses designated by the EQC ought to be consistent with the uses designated by the Water Resources Commission. However, he continued, Section 401 speaks to certification of compliance with Section 303 of the Federal Clean Water Act and within Section 303 of that act, the task of designating beneficial uses of the waters is given to the EQC. Dr. Smith said it was only the Commission that would be able to make the determination of compliance with beneficial uses. If the Commission does not address designated beneficial uses, no matter who has designated them, Dr. Smith said, those uses do not get addressed in the 401 process because the Water Resources Commission is not a part of that process.

Director Hansen asked if Dr. Smith's concern was that the decision on beneficial uses was not being made by a body that could make it or was it that structurally Dr. Smith felt that the designation had to happen with the EQC for reasons beyond whether or not the Water Resources Commission would make that decision. Dr. Smith replied that first of all it would be an improvement if somebody in the state of Oregon made the determination of impact on uses and preferably that somebody should be the agency responsible for water quality impact in the state. He said that had been delegated to DEQ and the EQC and it was not a water allocation question but a water quality question.

Michael Huston of the Attorney General's Office explained that Section 303 of the Federal Clean Water Act requires that the states rules include both a listing of the designated uses as well as technical water quality criteria designed to protect those uses. Where the Department and Dr. Smith differ is that Dr. Smith contends that in the 401 review the Department would have to go back and directly measure the impact on those beneficial uses. Mr. Huston said the language of Section 303 did not say that, and there was no historical obligation for the state agency to do more than examine the water quality criteria. Mr. Huston reminded the Commission that both the specific issue on beneficial uses as well as the land use

issues were currently pending in the Court of Appeals and that at some point in time the Commission would have judicial guidance on those issues.

Commissioner Bishop asked if it would make any difference if the word "will" were retained in OAR 340-48-020(7). Director Hansen replied that if "will" was retained in the rule, unless the findings section were also amended to ensure findings were actually made relative to those issues, the Commission would not have the basis on which to make findings on use. Mr. Huston said the word "will" in subsection 7 seemed to be representing a mandatory commitment to include in every 401 certification an evaluation of impact on uses as Dr. Smith had asked. However, Mr. Huston said, the Department's rules were not consistent with that and that it was not the Department's desire. Commissioner Bishop asked how much work would be involved if the mandatory "will" were to be retained in the rule. Harold Sawyer of the Department's Water Quality Division replied that the amount of work involved would depend on the specific project. When the Department was discussing changes to this subsection, they realized that whatever findings were required under Section 48-025, subsection 2, the Department would have to do no matter what. The intent was not to limit the Department in whatever it must do to make those findings. Mr. Huston said he had looked at subsection 7 as it previously stood with the word "will" and as he read it it would clearly require the Department to review for the potential impact on beneficial uses which was contrary to his understanding of the Department's position. Mr. Huston said the Department did not feel it was its responsibility to determine the impact on uses but that it was the responsibility of the Water Resources Commission.

Chairman Petersen asked if the Department would comment on the substitution of the word "activity" for "discharge". Mr. Sawyer replied that the Department chose the word "activity" because it felt it more accurately reflected the types of projects before the Department for certification. Mr. Sawyer said the majority of those projects were Corps of Engineer permits or Coast Guard permits. These projects mostly involve activities where there may be an impact on water quality but not necessarily a discharge. Commissioner Denecke asked that if by changing the word "discharge" to "activity" did the Department intend to extend authority beyond what was contained in the Clean Water Act. Mr. Sawyer replied that was certainly not the Department's intent; it was only an attempt to clarify what appeared to be some confusing language.

Chairman Petersen said he personally had some concerns about Section 48-020(i). He agreed with Mr. Glaser concerns about this section and he did not think it was good policy under the Commission's responsibilities under Section 401 of the Clean Water Act to require a statement of local land use compatibility. Chairman Petersen said it was difficult for him to believe that Section 401 would allow essentially every local jurisdiction to have what would amount to veto power over a 401 project if they refuse to issue a land use compatibility statement. Therefore, he recommended that subsection

be deleted. Director Hansen said the Department's position on this matter had been raised well in the Benham Falls matter which came before the Commission previously. He asked Mr. Huston to summarize the legal basis by which the Department felt that requiring land use compatibility statements was appropriate. Mr. Huston said the legal basis was that there are state land use laws on the books that say that any time a state agency takes any action that effects land use it is obligated to ensure compliance with local comprehensive plans and statewide planning goals. Mr. Huston said the issue here was whether or not the Federal Clean Water Act and the Federal Power Act preempted those state laws. He said this was an extremely tight legal issue which was now in the Court of Appeals. Chairman Petersen suggested then that this requirement be deleted until the Court of Appeals decision.

Commissioner Buist offered that it might be possible to ask the local jurisdiction to give the Department their view on how the project fits into the land use plan without making land use compatibility statements a requirement. This would allow the Department to use that information in their project review. Chairman Petersen said that as long as it was not a requirement, taking the local planning agency's views into consideration was appropriate and he was comfortable with it.

It was MOVED by Chairman Petersen, seconded by Commissioner Bishop and passed with Commission Brill voting no that Section 340-025(2) (f) be deleted and that Section 48-020(2) (i) be amended as follows:

(i) A statement from the appropriate local government whether the project is compatible with the acknowledged local comprehensive plan and land use regulations or that the project complies with statewide planning goals if the local plan is not acknowledged. If the project is not compatible or in compliance, the statement shall include reasons why it is not. If a local government is the applicant for a project for which it has also made the land use compatibility determination, the State Land Conservation and Development Department may be asked by DEQ to review and comment on the local government's compatibility determination.

It was MOVED by Commissioner Bishop that in of 340-48-020(7) the word "will" be retained. The motion failed for lack of a second.

It was MOVED by Commissioner Bishop, seconded by Commissioner Denecke and passed unanimously that the following amendment be made to Section 48-025.

340-48-025 (1) Within thirty (30) days from the time the Department determines an application is complete, it shall so notify the applicant by certified mail. Within ninety (90) days of receiving a complete application for project certification, the DEQ shall serve written notice upon the applicant that the

certification is granted or denied or that a further specified time period is required to process the application. Written notice shall be served in accordance with the provisions of OAR 340-11-097 except that granting of certification may be by regular mail. Any extension of time shall not exceed 1 year from the date of filing a completed application.

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

Director Hansen asked that if along with these motions the Department would be directed to renegotiate its agreement with the Land Conservation and Development Commission. Chairman Petersen replied that yes; to the extent the Department felt it was necessary.

AGENDA ITEM H: Appeal of Hearing Officer's Findings of Fact, Conclusions of Law, and Final Order in DEQ v. Hayworth, Case No. 50-AQ-FB-82-09

John Hayworth and Hayworth Farms appeal to the Environmental Quality Commission asks for reversal of the Hearings Officer's decision which found liability for a \$1,000 civil penalty.

Mr. J. W. Walton of the firm of Ringo, Walton, Eves, and Stuber appeared representing John Hayworth and Hayworth Farms, Inc. Mr. Walton said that Mr. Hayworth had been cited for a violation of the regulatory provision to actively extinguish fires. On the day Mr. Hayworth was cited, he had ignited his fields well within the time permitted and had done so pursuant to a proper permit registration. During the course of burning this field, the fire jumped several yards and ignited a fence adjacent to another farmers field. This created a critical situation for Mr. Hayworth in light of present liability laws for the spread of fire on to the land of another. This emergency required Mr. Hayworth to take the time to contain and prevent the spread of the fire along the property line, which caused him to use a great deal of his water in fighting the wild fire and prevented him from finishing burning his original 38-acre field fire prior to the fires-out time. Given the circumstances which existed at the time and the few remaining unburned acres left, Mr. Hayworth felt an into-the-wind strip burn was the best means to extinguish the existing fire. Mr. Walton said that such a method also produces far less smoke than extinguishing the fire with water. Mr. Hayworth also had a fire burning on a 90-acre field which he left burning in order to extinguish the wild fire on the 38-acre field. Both Mr. Hayworth and his son felt that the 90-acre field would burn itself out and would not be dangerous due to the lack of fuel on the field. Mr. Hayworth was not able to return to the 90 acre field until after the fires-out time, at which time it was necessary to refill his water trucks. Mr. Walton concluded by saying that Mr. Hayworth had demonstrated the reasonableness of his efforts to actively extinguish his two fields and therefore the Commission should substitute its judgment for that of the Hearing's Officer and find that Mr. Hayworth's acts were reasonable under the circumstances and that he is not liable for a civil penalty.

Michael Weirich, Assistant Attorney General, appeared on behalf of the Department. He said the Department agreed with the Hearing Officer's Findings of Fact, Conclusion of Law and Final Order. Hayworth Farms and John Hayworth were charged with two counts of late burning in violation of OAR 340-26-010(5). It was the Department's argument that Mr. Hayworth was responsible for the late burns either through his negligent or intentional actions because he was trying to burn too much acreage, too far apart, in too little time. Mr. Hayworth left the 90 acre field smoldering, and unattended because he was in a hurry to burn as much other acreage as possible. He had no excuse, Mr. Weirich said, for the fact that the field continued to burn and in fact was not extinguished until almost two hours after the fires-out time. Mr. Hayworth lit the 38 acre field so late in the day that it would have had to burn out completely within 10 minutes in order to be extinguished by the fires-out time. Clearly Mr. Weirich continued, the 10 minute burn time allowed by Mr. Hayworth for the 38 acre field was unrealistic. The Department requested that the Hearing Officer order be affirmed.

Commissioner Bishop said it appeared that too much had been tried to be done in too little time and therefore she was MOVING to affirm the Hearing Officer's order. The motion was seconded by Commissioner Brill and passed unanimously.

AGENDA ITEM G: Appeal of the Hearings Officer Findings of Fact, Conclusions of Law, and Final Order in DEQ v. Bielenberg, Case No. 09-AQ-FB-83-04.

David Bielenberg has asked the Environmental Quality Commission to review the Hearings Officer's decision upholding a \$300 civil penalty against him.

Mr. Bielenberg appeared saying he was not contesting the Hearings Officer's decision but he was seeking a reduction or elimination of the fine as he was not in any financial condition to pay it.

It was MOVED by Commissioner Brill, seconded by Commissioner Buist and passed unanimously that the Hearings Officer's Findings of Fact, Conclusions of Law, and Final Order be affirmed but that the fine be lowered to \$50.

AGENDA ITEM D: Request for authorization to conduct a public hearing on Plastics Recycling Tax Credit Rules, OAR Chapter 340 Division 17.

This item proposes adoption of rules to implement 1985 plastics recycling legislation. The Legislature specifically gave the EQC the authority to adopt rules establishing filing and processing fees and providing guidance to calculation of the percent allocable to investments in plastics recycling equipment. The rules would also provide guidance for applying and qualifying for tax credit.

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 plastics recycling tax credit rules, Chapter 340 Division 17.

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

AGENDA ITEM E: Request for authorization to conduct a public hearing on proposed Hazardous Waste Management Fees, OAR 340-105-120.

The 1985 Legislative Assembly passed House Bill 2146 to create a permanent financing mechanism for the state match required for federal Superfund clean-ups. The bill imposes a \$10 per ton fee on operators of hazardous waste and polychlorinated biphenyl (PCB) incineration and disposal facilities in Oregon effective January 1, 1986. Currently only the Arlington Hazardous Waste Disposal Facility will be subject to this new fee.

Director's Recommendation:

Based on the Summation in the staff, it is recommended that the Commission authorize a public hearing to take testimony on proposed rule OAR 340-105-120.

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

AGENDA ITEM I: Proposed adoption of rule amendments regarding Notice of Violation for Hazardous Waste Program requirements, OAR 340-12-040.

The proposed amendment of OAR 340-12-040 is brought about by a recent revision of Oregon Statutes by the 1985 Legislature. Specifically, ORS 468.125 was revised to drop the requirement for 5-day notice prior to the assessment of civil penalty for hazardous waste violations. The Department is requesting the Commission to adopt an amendment to its Notice of Violation rule, OAR 340-12-040 to ensure its consistency with the statutory revision.

Director Hansen pointed out that although there would no longer be a legal requirement for notice prior to civil penalty assessment for hazardous waste violations, as a matter of practice the Department would still intend to provide notice with limited exceptions.

Director's Recommendation:

Based on the Summation in the staff report, it is recommended that the Commission adopt a proposed amendment of OAR 340-12-040.

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

AGENDA ITEM J: Proposed adoption of additions to New Source Review Rule regarding visibility impact exemptions, OAR 340-20-276(1) (a), as a revision to the State Implementation Plan.

At the Commission's September 27, 1985 meeting it directed staff to review the wording of the visibility impact exemptions section of the New Source Review Rule (OAR 340-20-276(1) (a) to include a Department commitment to complete assessments exempted by the rule. The Department has worked with Oregon Environmental Council and legal staff to draft proposed wording acceptable to all parties. This item proposes adoption of the additional wording as a revision to the New Source Review Rule and the Implementation Plan.

Director's Recommendation:

Based on the Summation in the staff report, it is recommended that the Commission adopt the proposed addition to the rule OAR 340-20-276(1) (a).

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

AGENDA ITEM K: Proposed adoption of rules formalizing the suspension of motorcycle noise testing requirements OAR 340-24-311.

On June 7, 1985, the Commission adopted a temporary rule suspending the motorcycle noise test requirements. That temporary rule expires at the end of 1985. At the time of the rule adoption the Commission also authorized a public hearing which was held September 17, 1985.

At the hearing there was support expressed for the continued suspension of the motorcycle noise testing. There was also support expressed for implementation of motorcycle noise testing at this time. However, those expressing support for noise testing offered no alternatives to the legislative fiscal impediments that currently prevent the Department from implementing this program.

The Department recommends that the Commission adopt the temporary rule as a permanent rule. This will continue the suspension of the motorcycle noise testing program. With this action the rules remain and can become effective when budget issues are resolved.

Director's Recommendation:

Based on the Summation in the staff report, it is recommended that OAR 340-24-311(6) be adopted making the temporary rule permanent.

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

Commissioner Bishop emphasized that the Commission was still concerned with noise and Chairman Petersen expressed the hope that the Department would continue to press the legislature for fiscal authority. Director Hansen said the original petitioners were now working with police chiefs of local jurisdictions to see if noise testing could be done through the police departments.

AGENDA ITEM L: Proposed approval of amendments to Lane Regional Air Pollution Authority Rules concerning Standards of Performance for New Stationary Sources.

The Lane Regional Air Pollution Authority (LRAPA) has revised its Standards of Performance for New Stationary Sources rule. State statutes require the Commission to approve such rules provided they are no less stringent than state rules. Staff has reviewed the new LRAPA rules and finds them to be at least as stringent as the Department rules.

Director's Recommendation:

It is recommended that the Commission approved LRAPA's rule revision concerning standards of performance for new stationary sources.

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

AGENDA ITEM N: Petition for Declaratory Ruling by Brazier Forest Products as to the applicability of ORS 459.005 to 459.285 and OAR 340 Division 61 to its storage pile of sawmill residual material.

Several months ago Department staff discovered what appeared to be a typical wood waste disposal site at a sawmill located near Mollala in Clackamas County. The facility is operated by Brazier Forest Products of Oregon, Inc. The disposal site consists of sawdust, bark, scrap wood, soil, rock and tires and metal covering about 1 acre and measuring from 2 feet to 12 feet in depth. A company representative stated that the site has been used since the early 1970's.

The Department has asked Brazier Forest Products to obtain a solid waste disposal permit for this site. The company in response has petitioned the Commission for Declaratory Ruling on this matter. The company contends that a permit should not be required.

John Caldwell, attorney, appeared on behalf of Brazier Forest Products. He said the company contends that the material stored is not waste or solid waste because it has economic value. However, he continued, if the materials stored should be determined to be a

waste (which they deny) the storage site is exempt from the requirements of a permit pursuant to OAR 340-61-020(d). He said they were requesting a Declaratory Ruling to eliminate any necessity on the part of the company to obtain a permit for solid waste storage. This would allow the company a way to comply with rules without violations and the need of a contested case hearing.

Donalda Porter, is a neighbor of the Brazier site. She testified that contrary to what the staff report stated, the waste pile could not have been started until late 1978 or 1979. Her concern was that there might be some sort of a grandfather right which would allow the stock pile to continue. Ms. Porter testified that several farms in the area take water from what is known as the Mollala Irrigation Company ditch and she was concerned about leaching from the stock pile because it contained not only wood waste but other things. Ms. Porter also said that the company's trucks which dump at the stock pile do so at very early hours and the noise is very annoying.

Director's Recommendation:

Based on the Summation in the staff report, it is recommended that the Commission not issue a Declaratory Ruling to Brazier Forest Products of Oregon, Inc.

In response to the Commission, Michael Huston, Assistant Attorney General, stated the decision before the Commission was whether or not to accept the petition for declaratory ruling. If the petition were to be granted, it would essentially be a contested case process which would result in a ruling of legal issues. The matter would ultimately come back before the Commission and the opinion would be binding on the company and appealable to the courts.

Commissioner Denecke noted the Company was going through Chapter 11 bankruptcy. He said he did not see anything to be lost by granting the petition for declaratory ruling.

It was MOVED by Commissioner Denecke, seconded by Commissioner Buist and passed unanimously that the Petition for Declaratory Ruling be granted.

AGENDA ITEM 0: Variance review for Brookings Energy Facility, Curry County.

On September 27, 1985, the Commission reviewed the performance of the Brookings Energy Facility during the 1 year variance from OAR 340-21-027(2). Prior to that meeting, John Mayea, Chairman of the Curry County Board of Commissioners, requested that action regarding the variance be postponed until the November 22nd, so that a Curry County Commissioner could attend and submit testimony. The Commission heard testimony from representatives of Brookings Energy Facility and from the Department on September 27, 1985. The Commission then

extended the variance until November 22, 1985 in response to the Curry County request and to give Brookings Energy Facility an opportunity to reassess its position.

In addition, the Commission was made aware of a petition for rulemaking submitted on November 8, 1985 by Mr. John Coutrakon on behalf of Brookings Energy Facility. The petitioner asked to amend OAR 340-21-027 regarding municipal waste incineration in coastal areas. Under the time restrictions in OAR 340-11-047 the Commission had the option at this meeting to initiate the requested rulemaking, defer action to deny or accept the petition until a conference call in December or request the petitioner withdraw the petition and resubmit it for the January 1986 Commission meeting.

Director's Recommendation:

It is recommended that the Commission terminate the variance from OAR 340-21-028(2) for the Brookings Energy Facility and require that the temperature recording equipment be installed and operated as required by the rule without delay.

It is further recommended that the Commission endorse the following Departmental plan of action. The Department proposes to require Brookings Energy Facility to:

1. Conduct a test of the temperature capabilities of the incinerators within 60 days. The test shall be conducted according to plan approved in advance by the Department and at a time which will enable a Department representative to present.
2. Prior to establishment of a compliance schedule (established in number 3 below) make every attempt to operate in compliance with the required minimum exhaust gas temperatures. At a minimum this shall include adequately preheating the generators using auxiliary fuel prior to charging with garbage to ensure adequate combustion of garbage and using auxiliary fuel when necessary to maintain minimum exhaust gas temperatures and residence times between 1800 degrees Fahrenheit for 1 second or 1700 degrees Fahrenheit for 2 seconds.
3. Follow a compliance program to be established by the Department if the required testing shows that the facility is not able to comply with the temperature requirements. Such a compliance program would include but not be limited to a final date for achieving compliance, interim operating procedures, and measures to be used to achieve compliance. Final compliance may be based on facility modifications, rule revisions, revising the operating schedule to minimize the need to operate the incinerators in a start-up mode, or other actions.

In addition to developing the compliance program described above, if it is necessary, the Department would take enforcement actions

against Brookings Energy Facility based on currently existing regulations if Brookings Energy Facility fails to perform these actions in a timely manner.

John Coutrakon appeared on behalf of Brookings Energy Facility. He said he had reviewed the transcripts of the previous meeting. As the company was in the process of purchasing the equipment to install steam boilers to generate energy which would include the temperature recording devices the Department asks for, Mr. Coutrakon asked that a variance be extended until the company had a chance to retrofit the facility. Mr. Coutrakon also asked that rulemaking be initiated to amend the coastal incinerator rules. The company would like a fresh start to see if a rule can be worked out that would allow the facility to operate in compliance. In the meantime, he asked that they be allowed to maintain the status quo.

Commissioner John Mayea, Curry County, testified that the county could not afford any more money for solid waste disposal. He asked that the variance be extended until the energy recovery system was installed. Commissioner Mayea also asked for the initiation of rulemaking. Chairman Petersen asked what the new equipment would do. Wendy Sims of the Department's Air Quality Division replied that the company was talking about installing steam boilers to generate electricity but the Department did not have details or time tables on the installation of that equipment.

Commissioner Buist said that while the Commission was continually being asked for more variances and more time, the Company had yet to provide the temperature information needed to determine if its units could meet the standard or not. Mr. Coutrakon replied that the units had pyrometers and the temperatures were manually recorded off those pyrometers at 15 minute intervals and this information was provided to the Department. He said the Department had known for a long time the units could not meet the temperature requirements.

Pete Smart, operator of the Brookings Energy Facility, said they had two letters from the manufacturers of the units which stated how the machinery ought to be run. He said the letter from the factory stated that it would take three hours to get up to temperature with cold machinery. On factory recommendation, Mr. Smart continued, they had operated their units at 1600°F. for the last five years. During the approximately nine months the units operated at 1800°F, he said, they have sustained damage to the upper stacks from the higher temperatures. He said that they have since lowered the temperature to 1600°F. to avoid more damage.

Commissioner Buist asked why the testing requested by the Department had not been done. Mr. Smart replied that it would have interfered with their daily operation. In addition, he did not think testing was needed as the Department had proof from the factory that the

Company is operating the machines properly. In response to Commissioner Buist, Mr. Smart said the machines could do what the letter from the factory said they could do.

Commissioner Buist said this was the first time the Commissioner had heard about the higher temperatures damaging the stacks in all the times Mr. Smart had been before the Commission on this matter. Mr. Smart said it took them a while to recognize the problem. He also said the same thing was happening to the stacks at the Coos Bay facility.

It was MOVED by Commissioner Buist, seconded by Commissioner Bishop and passed with Commissioner Brill voting no, that the Director's recommendation be approved.

Chairman Petersen said the Department and Commission was trying to avoid unacceptable air pollution, and they were trying to do that in the most efficient and least expensive manner. He said he understood the Company feared the Department harassing them. Frankly, Chairman Petersen continued, the Department and Commission had bent over backwards in the last year to try to accommodate the Company. Chairman Petersen urged the Department to continue to work with the Company to resolve this problem.

Mr. Coutrakon said he assumed the Commission would take up the request for rulemaking at its next meeting. The Commission indicated agreement.

Direct Hansen said the Department would do its best to complete the testing referred to in the Director's recommendation and have it evaluated before the Commission's January meeting.

AGENDA ITEM P: Informational Report: Review of principal recyclable materials list

OAR 340-60-030 requires the Department to at least annually review the principal recyclable materials list for each wasteshed and to submit any proposed changes to these rules to the Commission. The list of principal recyclable materials for wasteshed is a list of the most common materials which are "recyclable" at some place in the wasteshed.

Director's Recommendation:

It is recommended that with the exception of yard debris in the Clackamas, Multnomah, Portland, Washington and proposed West Linn wastesheds, which will be discussed separately, no changes be made at this time in OAR 340-60-030 to lists of principal recyclable material for each wasteshed.

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

AGENDA ITEM Q: Informational Report: Yard debris as a principal recyclable material in the Portland, Washington, Multnomah, Clackamas and proposed West Linn wastesheds.

The Department has begun the work necessary to determine whether yard debris should be listed as a principal recyclable material in the Portland Metropolitan wastesheds. If yard debris is listed as a principal recyclable material, then local governments and other affected parties would have to either demonstrate to the department that the material is not a recyclable material at a specific location in the wasteshed or provide a collection system. It is the Department's preliminary assessment that yard debris fits the definition of principal recyclable material and should be listed.

Director's Recommendation:

It is recommended that the Commission direct the Department to meet with the affected parties to determine the comparative costs of processing versus disposal of yard debris within the Portland, Washington, Multnomah, Clackamas and proposed West Linn wastesheds and return to the Commission in January with a request for rulemaking which is based on those findings.

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

There being no further business the meeting was adjourned.

LUNCH MEETING

SB662

Steve Greenwood and Lorie Parker of the Department's Hazardous and Solid Waste Division reviewed for the Commission the timetable for implementation of SB662 which deals with landfill siting.

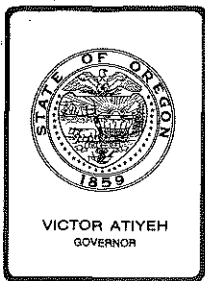
Future Meeting Dates

The Commission decided on the following meeting dates and locations for

January 31	Portland
February 7	Portland (Special meeting on Metro Waste Reduction Plan and Mid Multnomah County Threat to Drinking Water)
March 14	Portland
April 25	Location to be determined
June 13	Location to be determined
July 25	Salem

Respectfully submitted,


Carol Spletstaszer
EQC Assistant



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, January 31, 1986, EQC Meeting
October and November 1985 Program Activity Report

Discussion

Attached is the October and November 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 and status of variances.

Recommendation

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

Fred Hansen

SChew:y
MD26
229-6484
Attachment

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

October and November, 1985

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality and
 Hazardous and Solid Waste Divisions
 (Reporting Units)

October 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	5	24	6	23	0	0	17
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	5	24	6	23	0	0	17
<u>Water</u>							
Municipal	10	64	36	80	0	2	19
Industrial	08	38	07	33	0	0	16
Total	18	102	43	113	0	2	35
<u>Solid Waste</u>							
Gen. Refuse	2	21	1	13	-	-	32
Demolition	-	1	-	-	-	-	2
Industrial	2	10	-	5	-	-	17
Sludge	1	1	-	-	-	-	1
Total	5	33	1	18	-	-	52
<u>Hazardous Wastes</u>							
	1	5	1	4	-	-	1
<u>GRAND TOTAL</u>	29	164	51	158	0	2	105

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
UNION	049	BOISE CASCADE CORP	CYCLONE REPLACEMENT	10/10/85	APPROVED
MULTNOMAH	065	PENNZOIL PRODUCTS CO.	PAINT BOOTH	05/09/85	APPROVED
MARION	080	COLUMBIA HELICOPTERS, INC	HOT VAPOR DEGRASER	10/22/85	APPROVED
LINN	095	WILLAMETTE INDUSTRIES	EQUIPMENT RELOCATION	09/11/85	APPROVED
CLACKAMAS	101	MURPHY PLYWOOD CO.	WASTE SYSTEM AND BAGHOUSE	09/20/85	APPROVED
LINN	112	DURAFLAKE CO	RECONSTR OF EXIST CONTROLS	10/02/85	APPROVED
TOTAL NUMBER QUICK LOOK REPORT LINES			6		

2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October 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
	Month	FY	Month	FY			
<u>Direct Sources</u>							
New	2	10	1	13	15		
Existing	2	5	1	6	10		
Renewals	10	39	21	48	107		
Modifications	<u>0</u>	<u>4</u>	<u>6</u>	<u>25</u>	<u>6</u>		
Total	14	58	29	92	138	1291	1316
<u>Indirect Sources</u>							
New	0	9	5	12	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>0</u>	<u>9</u>	<u>5</u>	<u>12</u>	<u>3</u>	<u>244</u>	<u>247</u>
<u>GRAND TOTALS</u>	14	67	34	104	141	1535	1563

Number of
Pending Permits

Comments

38	To be reviewed by Northwest Region
19	To be reviewed by Willamette Valley Region
19	To be reviewed by Southwest Region
3	To be reviewed by Central Region
4	To be reviewed by Eastern Region
20	To be reviewed by Program Operations Section
33	Awaiting Public Notice
<u>2</u>	Awaiting end of 30-day Public Notice Period
138	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

October 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Multnomah	181st Ave. Park & Ride, 252 Spaces, File No. 26-8512	10/16/85	Final Permit Issued	
Multnomah	Gateway Park & Ride, 310 Spaces, File No. 26-8513	10/16/85	Final Permit Issued	
Multnomah	Gresham City Hall Park & Ride, 285 Spaces, File No. 26-8514	10/16/85	Final Permit Issued	
Multnomah	Cleveland Park & Ride, 377 Spaces, File No. 26-8515	10/16/85	Final Permit Issued	
Washington	Koll Center Creekside Ph V, VI, 540 Spaces, File No. 34-8310	10/16/85	Final Permit Issued	

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<u>Water Quality Division</u>	<u>October 1985</u>
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED (43)

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

MUNICIPAL WASTE SOURCES 36

Lake	Lakeview South Third Street Sewer Extension (John Cogar)	10-25-85	Provisional Approval
Deschutes	Bend Awbrey Butte Homesites Phase II	10-25-85	Provisional Approval
Deschutes	Bend Riverhouse II Phase I Extension	10-24-85	Provisional Approval
Clatsop	Hammond Ridge Road #1 Pump Station (Revised)	10-25-85	Provisional Approval
Tillamook	NTCSA Extension within Sea Forest (A-4-6)	10-18-85	Provisional Approval
Tillamook	NTCSA Sixth Addition to Manzanita Beach (Revised)	10-18-85	Provisional Approval
Jackson	BCVSA Ross Lane/Old Stage Road Area (84-1)	10-18-85	Provisional Approval
Jackson	BCVSA Janney Lane (84-2)	10-18-85	Provisional Approval
Clackamas	Lake Oswego Marcourt	10-18-85	Provisional Approval
Clackamas	Lake Oswego Mountain Park Terrace	10-18-85	Provisional Approval
Clackamas	Lake Oswego Woodside Bryant Woods - PUD	10-18-85	Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1985
(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES (Continued)

Gilliam	Condon Main Street Improvements	10-18-85	Provisional Approval
Josephine	Grants Pass Brentwood Village P.U.D.	10-18-85	Provisional Approval
Deschutes	Sunriver Fairway Point Village V	10-18-85	Provisional Approval
Curry	Harbor Sanitary District Garvin Sewer Extension	10-18-85	Provisional Approval
Clackamas	West Linn Hidden Heights Sewers and Pump Station	10-18-85	Provisional Approval
Clackamas	West Linn Hidden Springs Ranch #8, Phase III Sewers	10-18-85	Provisional Approval
Clackamas	Lake Oswego McNary Highland Condominium Public Sewers	10-18-85	Provisional Approval
Lincoln	Yachats Center Way Service Extension to Emmett B. McCabe Property	10-18-85	Provisional Approval
Hood River	Hood River VanBowe Subdivision	10-18-85	Provisional Approval
Douglas	RUSA Lincoln Street Extension	10-18-85	Provisional Approval
Klamath	South Suburban S.D. Maywood Drive (A1-4 lateral)	10-18-85	Provisional Approval
Klamath	South Suburban S.D. Broadmore Street (A5A Lateral)	10-18-85	Provisional Approval
Jackson	Shady Cove Firehouse Lane Sewer Extension	10-18-85	Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	October 1985
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED

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

MUNICIPAL WASTE SOURCES (Continued)

Jackson	Phoenix Rose Court Apartments	10-18-85	Provisional Approval
Jackson	Ashland Fordyce Street Extension	10-18-85	Provisional Approval
Columbia	St. Helens North Vernonia Road Sanitary Sewer Project	10-18-85	Provisional Approval
Clackamas	Lake Oswego Cumberland Trestle Replacement	10-18-85	Provisional Approval
Clackamas	Canby Clark-Kacalek Addition	10-18-85	Provisional Approval
Curry	Wedderburn S.D. Old Oregon Coast Highway 101 Extension	10-18-85	Provisional Approval
Lane	Junction City Country Campers	10-18-85	Provisional Approval
Klamath	Pyramid Motel Restaurant Sand Filter System 3000 gpd	10-25-85	Provisional Approval
Wasco	The Dalles Industrial Site Improvements	10-25-85	Provisional Approval
Coos	North Bend Revised Storm Sewer Separation	10-09-85	Approved
Douglas	Pete's RV Park On-Site System 6200 gpd	10-29-85	Comments to Region
Douglas	Douglas Co. Galesville Reservoir Recreation Area On-Site System 4050 gpd	10-29-85	Comments to Region

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

October 1985
(Month and Year)

PLAN ACTIONS COMPLETED - 43

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

INDUSTRIAL WASTE SOURCES - 07

Klamath	Pacific Power & Light Oil Containment System Dairy Substation, Dairy	10-18-85	Approved
Clatsop	Pacific Power & Light Oil Containment System Young's Bay Substation Astoria	10-18-85	Approved
Clatsop	Pacific Power & Light Oil Containment System Tongue Point Substation Astoria	10-18-85	Approved
Clatsop	Pacific Power & Light Oil Containment System Seaside Substation	10-18-85	Approved
Klamath	Pacific Power & Light Oil Containment System Eastside Substation Klamath Falls	10-18-85	Approved
Clackamas	Electronic Controls Design Heavy Metal Removal System Mulino	10-22-85	Approved
Jefferson	Precious Metals Recovery, Inc. Cyanide Heap Leach Pad For Gold and Silver Ashwood	10-28-85	Approved

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN OCT 85

4 NOV 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	2	9	0	1	1	0	1	3	1	4	16	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
RWO	3	1	0	9	2	0	1	2	0	5	6	0	25	6	0			
MW	0	0	0	1	0	0	0	0	0	2	0	0	2	1	0			
MWO	3	0	0	8	0	0	2	0	0	4	0	0	8	1	0			
TOTAL	6	4	0	20	11	0	4	3	0	12	9	1	40	24	0	238	147	71
INDUSTRIAL																		
NEW	0	0	4	1	7	11	0	0	5	0	4	10	4	11	4			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	0	3	0	4	7	0	4	0	0	10	5	0	25	15	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
MWO	0	1	0	4	2	0	0	0	0	3	1	0	6	1	0			
TOTAL	0	4	4	9	16	11	4	0	5	13	10	10	36	27	4	169	140	291
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	1	0	0	1	0	0	1	0	0	0	0			
TOTAL	0	0	0	0	1	0	0	1	0	0	1	0	0	0	0	2	10	60
GRAND TOTAL	6	8	4	29	28	11	8	4	5	25	20	11	76	51	4	409	297	422

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-OCT-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
<u>General: Cooling Water</u>								
IND	100	GEN01	NEW	100103	PACIFIC/HOE SAW AND KNIFE COMPANY	PORTLAND	MULTNOMAH/NWR	09-OCT-85 31-DEC-85
<u>General: Placer Mining</u>								
IND	600	GEN06	NEW	100102	STAPLES, KEN		JOSEPHINE/SWR	09-OCT-85 31-JUL-86
IND	600	GEN06	NEW	100108	DIFFERENTIAL ENERGY, INC.		GRANT/ER	24-OCT-85 31-JUL-86
IND	600	GEN06	NEW	93738	WARD, WARREN D.		DOUGLAS/SWR	28-OCT-85 31-JUL-86
IND	600	GEN06	NEW	100105	CRAWFORD, BRUCE W.		JOSEPHINE/SWR	31-OCT-85 31-JUL-86
<u>NPDES</u>								
DOM	3667	NPDES	MWO	82100	SKYLINE WEST SANITARY DISTRICT	CORVALLIS	BENTON/WVR	24-OCT-85 31-MAR-88
DOM	100002	NPDES	MWO	69464	PHILOMATH, CITY OF	PHILOMATH	BENTON/WVR	28-OCT-85 31-JUL-89
DOM	100116	NPDES	NEW	100050	GRAND RONDE SANITARY DISTRICT	GRAND RONDE	POLK/WVR	28-OCT-85 30-JUN-90
DOM	100117	NPDES	RWO	22698	DAMMASCH STATE HOSPITAL	WILSONVILLE	CLACKAMAS/NWR	28-OCT-85 30-JUN-90
IND	100120	NPDES	RWO	84108	STADELMAN FRUIT, INC.	THE DALLES	WASCO/CR	31-OCT-85 30-SEP-90
IND	100121	NPDES	RWO	54370	L. D. MCFARLAND CO., LTD.	EUGENE	LANE/WVR	31-OCT-85 30-NOV-85
IND	100122	NPDES	RWO	26250	KAUFFMAN CRUSHING, INC.	WALDPOR	LINCOLN/WVR	31-OCT-85 30-SEP-90
IND	100123	NPDES	RWO	70200	OREGON STRAND BOARD CO.	BROWNSVILLE	LINN/WVR	31-OCT-85 30-SEP-90

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CAT	PERMIT NUMBER	TYPE	SUB-TYPE	SOURCE ID	LEGAL NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
<hr/>									
<u>WPCF</u>									
AGR	3740	WPCF	MWO	90830	STOLL, H. J. & SONS	LIBERAL	CLACKAMAS/NWR	09-OCT-85	31-OCT-88
DOM	100115	WPCF	NEW	100087	FRED MEYER REAL ESTATE PROPERTIES, LTD.	PORTLAND	MULTNOMAH/NWR	09-OCT-85	31-JUL-90
DOM	100118	WPCF	RWO	44540	JUNIPER UTILITY COMPANY	BEND	DESCHUTES/CR	28-OCT-85	31-AUG-90
DOM	100119	WPCF	RWO	55940	METOLIUS, CITY OF	METOLIUS	JEFFERSON/CR	31-OCT-85	31-AUG-90

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

October 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	-	3	1	2	2		
Closures	-	3	-	1	7		
Renewals	3	24	2	10	45		
Modifications	4	6	3*	57	5		
Total	7	36	6	70	59	178	178
<u>Demolition</u>							
New	-	-	-	-	-		
Closures	-	-	-	-	2		
Renewals	-	1	-	1	1		
Modifications	-	-	-	1	-		
Total	-	1	-	2	3	12	12
<u>Industrial</u>							
New	3	7	2	3	7		
Closures	-	-	2	2	3		
Renewals	3	15	3	4	22		
Modifications	-	-	-	-	1		
Total	6	22	7	9	33	103	103
<u>Sludge Disposal</u>							
New	1	1	-	-	1		
Closures	-	-	-	-	-		
Renewals	-	-	-	-	-		
Modifications	-	-	-	-	-		
Total	1	1	-	-	1	16	16
<u>Hazardous Waste</u>							
New	-	1	-	-	9		
Authorizations	68	261	68	261	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	68	262	68	261	10	14	19
<u>GRAND TOTALS</u>	82	322	81	342	106	323	328

MAR.5S (11/84) (SB5213.B)

*Two amendments were initiated by the Department.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

October 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Benton	Willamette Indus. Inc. Philomath Mill Closed landfill	9/24/85*	Department determined that a closure permit is not required.	*
Jackson	Medford Corporation Rogue River Mill Existing landfill	10/7/85	Permit renewed	*
Lane	Weyerhaeuser Co. Truck Rd. Landfill Closed disposal site	10/7/85	Closure permit issued	*
Lincoln	Agate Beach Balefill Existing facility	10/7/85	Permit amended	*
Yamhill	Riverbend Landfill Existing facility	10/7/85	Permit amended	*
Crook	Clear Pine Moulding New woodwaste site	10/10/85	Letter authorization issued	*
Hood	Diamond Fruit Co. Existing disposal site	10/11/85	Permit renewed	*
Jackson	Boise Cascade Corp. Donna Landfill Existing facility	10/11/85	Permit renewed	*
Clatsop	Astoria Transfer Sta. New facility	10/15/85	Permit issued	*
Columbia	Crown Zellerbach Gunnars Landfill New woodwaste site	10/29/85	Letter authoriza- tion issued	*
Curry	Wridge Creek Transfer Station & Landfill Existing facility	10/31/85	Permit amended	*
Deschutes	Brothers Landfill Existing facility	10/31/85	Permit renewed	*
Lane	Walton Transfer Sta. Existing facility	10/31/85	Permit renewed	*

*Not included on September report.
MAR.6 (5/79) SB5213.D

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
02-OCT-85	TRANSFORMER OIL - PCB GREATER THAN 500 PPM	TRANSPORTATION REG/COAST GUARD	0	300 GALLONS
02-OCT-85	DRAINED TRANSFORMERS LESS THAN 500 PPM	TRANSPORTATION REG/COAST GUARD	0	184.4 CUBIC FEET
02-OCT-85	FULL TRANSFORMERS MORE THAN 500 PPM	TRANSPORTATION REG/COAST GUARD	0	108 GALLONS & 115.9 CUBIC FEET
02-OCT-85	PCB TRANSFORMERS - DRAINED & FLUSHED	TRANSPORTATION REG/COAST GUARD	0	226.7 CUBIC FEET
02-OCT-85	PCB CONTAMINATED CLEAN UP DEBRIS & EQUIPMENT	TRANSPORTATION REG/COAST GUARD	0	3 DRUMS
02-OCT-85	DRAINED OIL FROM TRANSFORMER LESS THAN 500 PPM	TRANSPORTATION REG/COAST GUARD	0	165 GALLONS
03-OCT-85	MAGNIFLOC 1561 C FLOCCULANT	PETROLEUM REFINING (ASPHALT)	6 DRUMS (55 GALLONS EACH)	0

7 Request(s) approved for generators in Alaska

23-OCT-85	INK SLUDGE	PRINTING INK	368 CUBIC FEET	0
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1 Request(s) approved for generators in British Columbia

03-OCT-85	SOIL CONTAMINATED WITH VARIOUS WOOD PRESERVATIVES	WOOD PRESERVING	0	100 TONS
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1 Request(s) approved for generators in California.

03-OCT-85	ELECTROLESS NICKEL & CHROMATES	PLATING & ANODIZING	0	500 DRUMS (55 GALLONS EACH)
09-OCT-85	EMPTY DRUMS, LAST CONTAINED SOLDER OIL	OTHER ELECTRONIC COMPONENTS	1 DRUM	0

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
09-OCT-85	EMPTY DRUM, LAST CONTAINED PHENOL (RED) WASTE.	OTHER ELECTRONIC COMPONENTS	1 DRUM	0
24-OCT-85	PCB.	PAPERBOARD MILLS	0	303 CUBIC YARDS
24-OCT-85	WASTE PCB	PAPERBOARD MILLS	0	106 CUBIC YARDS

5 Request(s) approved for generators in Idaho

03-OCT-85	FUEL ADDITIVE CONTAMINATED SOIL	RCRA SPILL CLEANUP	25 TONS	0
03-OCT-85	NALCO CUPROSE (COPPER SULFATE) ALGICIDE	PETROLEUM REFINING (ASPHALT)	0	1 DRUM (55 GALLONS)
03-OCT-85	OUTDATED BUTYL COATINGS	PETROLEUM REFINING (ASPHALT)	5 DRUMS	0
03-OCT-85	H F NEUTRALIZATION TANK: CALCIUM, FLUORIDE, MOISTURE, ASH, PETROLEUM RESIDUE	PETROLEUM REFINING (ASPHALT)	0	150 CUBIC YARDS

4 Request(s) approved for generators in Montana

03-OCT-85	ELECTRIC ARC FURNACE EMISSION CONTROL DUST.	BLAST FURNACES & STEEL MILLS	0	3300 TONS
04-OCT-85	STODDARD SOLVENT, RUST AND DEBRIS, OIL AND GREASE.	HAZARDOUS WASTE DISPOSAL SITE	0	500 GALLONS
09-OCT-85	SOIL CONTAMINATED WITH FORMALDEHYDE	RCRA SPILL CLEANUP	150 TONS	0
09-OCT-85	CREOSOTE	OTHER AGRICULTURAL CHEMICALS	0	200 DRUMS OR 40 TONS
09-OCT-85	POTASSIUM HYDROXIDE SOLUTION	STEEL FOUNDRIES	0	32400 GALLONS
09-OCT-85	POTASSIUM HYDROXIDE SOLUTION	STEEL FOUNDRIES	0	32400 GALLONS
09-OCT-85	SODIUM HYDROXIDE SOLUTION	STEEL FOUNDRIES	0	132,000 GALLONS
09-OCT-85	SIMAZINE WETTABLE POWDER (CONTAMINATED WITH GOAL HERBICIDE).	LAND & WILDLIFE CONSERVATION	1 DRUM (55 GALLONS)	0

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
09-OCT-85	INSECTICIDE/FUNGICIDE	WOOD PRESERVING	2 DRUMS (55 GALLONS EACH)	0
09-OCT-85	INSECTICIDE/FUNGICIDE	WOOD PRESERVING	4 DRUMS (55 GALLONS EACH)	0
15-OCT-85	SPENT SODIUM HYDROXIDE SOLID	METAL SHIPPING BARRELS, DRUMS	0	5500 GALLONS
23-OCT-85	COMPOUND CLEANING LIQUID: CHLORINATED HYDROCARBON, PHENOL, SODIUM CHROMATE, WATER.	TRANSPORTATION SERVICES	1 DRUM (55 GALLONS)	0
24-OCT-85	CORROSIVE LAB PACK.	OTHER ELECTRONIC COMPONENTS	1 DRUM (55 GALLONS)	0
24-OCT-85	PCB LIGHT BALLASTS.	OTHER ELECTRONIC COMPONENTS	0	200 DRUMS (55 GALLONS EACH)
24-OCT-85	CORROSIVE LAB PACK.	OTHER ELECTRONIC COMPONENTS	1 DRUM (55 GALLONS)	0
29-OCT-85	HEAVY METALS SLUDGE, IMPOUNDMENT CLEAN OUT.	OTHER ELECTRONIC COMPONENTS	0	150 CUBIC YARDS

16 Request(s) approved for generators in Oregon

03-OCT-85	LAB PACKS (ORGANIC ACIDS)	RESEARCH & DEVELOPMENT LABS	0	12 DRUMS
03-OCT-85	OXIDIZERS (LAB PACKS)	RESEARCH & DEVELOPMENT LABS	0	1 DRUM (55 GALLONS)
03-OCT-85	RCRA EMPTY STEEL DRUM LAST CONTAINING LACQUER THINNER	PRIMARY PRODUCTION OF ALUMINUM	0	20 DRUMS (55 GALLONS EACH)
03-OCT-85	RCRA EMPTY STEEL DRUM LAST CONTAINING XYLENE	PRIMARY PRODUCTION OF ALUMINUM	0	15 DRUMS (55 GALLONS EACH)
03-OCT-85	RCRA EMPTY STEEL DRUMS LAST CONTAINING 1,1,1 TRICHLOROETHANE	PRIMARY PRODUCTION OF ALUMINUM	0	40 DRUMS (55 GALLONS EACH)
03-OCT-85	RCRA EMPTY STEEL DRUMS LAST CONTAINING TOLUENE	PRIMARY PRODUCTION OF ALUMINUM	0	15 DRUMS (55 GALLONS EACH)

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
03-OCT-85	RCRA EMPTY STEEL DRUMS LAST CONTAINING VL38 DEGREASER SOLVENT	PRIMARY PRODUCTION OF ALUMINUM	0	20 DRUMS (55 GALLONS EACH)
03-OCT-85	WASTE OIL FILTER BODY 30-60%, FLOOR DRI DITOMACEOUS EARTH 5-30%, ABSORBANT PADS 0-5%, PLASTIC BAGS 0-2%, PAPER TOWELS 0-2%, MISC. MACHINE PARTS 0-2%, AIR FILTERS 0-25%, RUBBER GLOVES 0-2%.	SEMICONDUCTORS	0	26 DRUMS
03-OCT-85	CHLORINATED SOLVENT CONTAMINATED SOLIDS	RCRA SPILL CLEANUP	0	2000 CUBIC YARDS
03-OCT-85	PCB SPILL CLEAN-UP	NON-RCRA SPILL CLEANUP	360 CUBIC YARDS	0
03-OCT-85	PCB SPILL EXCAVATION	NON-RCRA SPILL CLEANUP	720 CUBIC YARDS	0
09-OCT-85	HEAVY METAL CONTAMINATED DIRT: LIME.	RCRA SPILL CLEANUP	500 CUBIC YARDS	0
09-OCT-85	OIL CONTAMINATED SOLIDS	INDUSTRIAL INORGANIC CHEMICALS	0	1200 DRUMS (55 GALLONS EACH)
09-OCT-85	LAB PACK - RED LEAD PRIMER IN CONTAINERS	PETROLEUM REFINING (ASPHALT)	2 DRUMS (55 GALLONS EACH)	0
09-OCT-85	CALCIUM CHLORIDE SOLUTION	SEMICONDUCTORS	0	6000 GALLONS
23-OCT-85	PENTACHLOROPHENOL SOLUTION, TANK BOTTOM SLUDGE-SOLIDIFIED.	WOOD PRESERVING	0	2000 GALLONS
23-OCT-85	DRAINED TRANSFORMERS (LESS THAN 500 PPM PCB)	STEEL FOUNDRIES	0	300 CUBIC FEET
23-OCT-85	PCB OIL LESS THAN 500 PPM.	STEEL FOUNDRIES	0	20 DRUMS (55 GALLONS EACH)
23-OCT-85	WASH SLUDGE	BAGS, EXCEPT TEXTILE BAGS	0	5 DRUMS
23-OCT-85	DEMOLITION MATERIALS (BRICK, CONCRETE FLUE DUST MIXED WITH SOIL, WOOD)	NON-SUPERFUND SITE CLEANUP	10,000 CUBIC YARDS	0
29-OCT-85	WATER, PENTACHLOROPHENOL & MINERAL SPIRIT	INDUSTRIAL INORGANIC CHEMICALS	0	6400 GALLONS
29-OCT-85	OIL & TANK BOTTOM SOLIDS.	INDUSTRIAL INORGANIC CHEMICALS	0	100,000 GALLONS

22 Request(s) approved for generators in Washington

18

56 Requests granted - Grand Total

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

October, 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	11	52	19	34	199	207
Airports			1	2	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program		October, 1985	
(Reporting Unit)		(Month and Year)	
<u>FINAL NOISE CONTROL ACTIONS COMPLETED</u>			
County	Name of Source and Location	Date	Action
Clackamas	ChemLawn Corporation, Lake Oswego	10/85	In Compliance
Columbia	Beaver Lumber Company, Clatskanie	10/85	In Compliance
Multnomah	EMCO Quality Paving, Troutdale	10/85	In Compliance
Multnomah	Ron Tonkin Chevrolet, Portland	10/85	In Compliance
Multnomah	Safeway Store, SE 39th & Powell, Portland	10/85	In Compliance
Multnomah	Western Pacific Construct. Materials Co., Skookum Dredge, Portland	10/85	No Violation
Washington	By-Town Pipe Company, Hillsboro	10/85	In Compliance
Washington	Jim Meier Motors, Beaverton	10/85	No Violation
Benton	Oregon National Guard Adair Weapons Firing Range, Adair Village	10/85	No Violation
Benton	Pacific Hardwoods, Philomath	10/85	Source destroyed by fire. To be rebuilt elsewhere.
Linn	Eagle Steel Company, Scio	10/85	In Compliance
Marion	G & R Auto Wrecking, Salem	10/85	No Violation
Polk	Myers Autobody, Inc., Independence	10/85	In Compliance
Coos	Sun Plywood, Inc., North Bend	10/85	No Violation
Coos	Weyerhaeuser Containerboard Plant, Jordan Point, North Bend	10/85	No Violation
Douglas	Beaver State Sand & Gravel, Winston	10/85	No Violation
Josephine	M & L Wood Products & Co., Grants Pass	10/85	In Compliance
Morrow	Don Jorgensen Trucking Co., Irrigon	10/85	In Compliance
Union	Powder Valley Land Co., North Powder	10/85	In Compliance
Hood River	City Emergency Heliport, Hood River	10/85	Exception Granted

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1985

CIVIL PENALTIES ASSESSED DURING MONTH OF OCTOBER, 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.	WQ-NWR-85-114 Discharged turbid waste water to public waters on 2 days.	10-7-85	\$600	Paid 10/31/85.

GB5204

October, 1985
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	2	2
2 Discovery	0	0
3 Settlement Action	3	2
4 Hearing to be scheduled	1	1
5 Hearing scheduled	8	7
6 HO's Decision Due	1	4
7 Briefing	3	1
8 Inactive	5	5
SUBTOTAL of cases before hearings officer.	<u>23</u>	<u>22</u>
9 HO's Decision Out/Option for EQC Appeal	0	2
10 Appealed to EQC	2	2
11 EQC Appeal Complete/Option for Court Review	1	0
12 Court Review Option Taken	1	1
13 Case Closed	7	1
TOTAL Cases	<u>34</u>	<u>28</u>

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

§ Civil Penalty Amount

ACDP Air Contaminant Discharge Permit

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 Rfr1 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

October 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	Resp	23-AQ-FB-81-15 FB-Civil-Penalty of-\$3,000	<u>No appeal to Court of Appeals. Case Closed.</u>
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	Prtys	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	Decision upholding penalty issued 7/18/85. To be heard Nov. 22, 1985.
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.
CLEARWATER IND., Inc.	10/11/83	10/17/83	<u>12/09/85</u>	Prtys	58-SS-NWR-83-82 SS Civil Penalty of \$1000	Hearing scheduled.

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October 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
CLEARWATER IND., Inc.	01/13/84	01/18/84	<u>12/09/85</u>	Prtys	02-SS-NWR-83-103 SS Civil Penalty of \$500	Hearing scheduled.
BIELENBERG, David	03/28/84	04/05/84	12/11/84	Prtys	09-AQ-FB-83-04 FB Civil Penalty of \$300	Decision upholding penalty appealed to EQC. To be heard Nov. 22, 1985.
TRANSCO Industries, Inc.	06/05/84	06/12/84	<u>11/26/85</u>	Prtys	17-HW-NWR-84-45 HW Civil Penalty of \$2,500	Hearing scheduled.
TRANSCO Industries, Inc.	06/05/84		<u>11/26/85</u>	Prtys	18-HW-NWR-84-46 HW Compliance Order	Hearing scheduled.
25 VANDERVELDE, Roy	06/12/84	06/12/84	08/22/85	<u>Hrgs</u>	20-WQ-WVR-84-01 WQ Civil Penalty of \$2,500	<u>Resp.'s post-hearing brief submitted 10/24/85.</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	<u>Order of Dismissal issued 10/21/85.</u>
CLEARWATER INDUSTRIES, INC.	10/11/84	10/11/84	<u>12/09/85</u>	Prtys	24-SS-NWR-84-P Sewage Disposal Service License Denial	Hearing scheduled.
LAVA DIVERSION PROJECT	12/14/84	12/27/84		Prtys	25-WQ-CR-FERC-5205 Hydroelectric plant certification	EQC certification denial appealed to Court of Appeals.

October 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
UNITED CHROME PRODUCTS, INC.		02/19/85	10/21/85	<u>Dept</u>	02-HW-WQ-WVR-84-158 \$6,000 civil penalty	<u>Dept. to present prima facie support for judgment.</u>
CATHCART, Channing and Douglas	03/11/85	03/11/85	10/8/85	<u>Prtys</u>	04-AQ-FB-84-137 Civil Penalty of \$750	<u>Proposed settlement before EQC 11/22/85.</u>
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	<u>Hrgs</u>	05-AQ-FB-84-141 Civil Penalty of \$500	<u>Respondent's post-hearing reply brief filed 10/28/85.</u>
COOK, Robert	04/10/85	04/16/85	11/15/85	<u>Prtys</u>	11-AQ-FB-84-138 Civil Penalty of \$500	<u>Proposed settlement before EQC 11/22/85.</u>
KANGAS, M. R.	05/02/85	05/03/85	10/01/85	<u>Resp</u>	12-AQ-FB-84-145 Civil Penalty of \$500	<u>Hearings Officer's upholding \$500 civil penalty issued 10/25/85.</u>
JOSEPH FOREST PRODUCTS	05/16/85	05/23/85		<u>Hrgs</u>	13-HW-ER-85-29 Hazardous waste disposal Civil Penalty of \$2,500	<u>Order of Dismissal to be issued.</u>
MAIN ROCK PRODUCTS, INC.		05/31/85	<u>12/03/85</u>	<u>Prtys</u>	14-WQ-SWR-85-31 Violation of NPDES permit conditions Civil Penalty of \$3,500	<u>Hearing postponed to 12/03/85 to allow settlement.</u>
DANT & RUSSELL, INC.	05/31/85	05/31/85		<u>Dept</u>	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	<u>To be scheduled.</u>

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October 1985

DEQ/EQC Contested Case Log

<u>Pet/Resp Name</u>	<u>Hrng Rqst</u>	<u>Hrng Rfrrl</u>	<u>Hrng Date</u>	<u>Resp Code</u>	<u>Case Type & No.</u>	<u>Case Status</u>
ALTHAUSER, GLENN L.	07/08/85	07/16/85	09/20/85	<u>Hrgs</u>	17-SW-NWR-85-77 Unauthorized Waste Disposal	Dept's. post-hearing brief filed 10/15/85.
MERIT OIL & REFINING CO.		07/24/85	<u>11/19/85</u>	Prtys	20-WQ-NWR-85-61 WQ Civil Penalty of \$1,200	Settlement action.
E.J. BARTELLS CO.	10/04/85	10/08/85			21-AQ/WQ/SW-NWR-85-78 <u>\$10,000 Civil Penalty</u>	Preliminary issues.
<u>AMCOAT, INC.</u>	<u>10/15/85</u>	<u>10/23/85</u>			<u>22-HW/WQ-NWR-85-85</u> <u>\$5,000 civil penalty</u>	<u>Preliminary issues.</u>

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality, Water Quality and
 Hazardous and Solid Waste Divisions
 (Reporting Units)

November 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	9	33	7	30	0	0	19
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	9	33	7	30	0	0	19
<u>Water</u>							
Municipal	9	73	6	86	1	3	22
Industrial	5	43	13	46	0	0	7
Total	14	116	19	132	1	3	29
<u>Solid Waste</u>							
Gen. Refuse	2	23	2	15	-	-	32
Demolition	-	1	-	-	-	-	2
Industrial	3	13	2	7	-	-	18
Sludge	-	1	-	-	-	-	1
Total	5	38	4	22	-	-	53
<u>Hazardous Wastes</u>							
	-	5	1	5	-	-	-
<u>GRAND TOTAL</u>	28	192	31	189	1	3	101

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

COUNTY	NUMBER	SOURCE	PROCESS DESCRIPTION	DATE OF ACTION	ACTION
LANE	099	DOW-CORNING CORP.	BAGHOUSE INSTALLATION	08/14/85	APPROVED
MARION	111	BOISE CASCADE CORP	SEPARATOR CYCLONE	10/31/85	APPROVED
MARION	113	OREGON STATE PENITENTIARY	NEW BOILER INSTALLATION	10/31/85	APPROVED
BENTON	114	PUBLISHERS PAPER CO	HIGH EFFICIENCY CYCLONE	11/01/85	APPROVED
DOUGLAS	116	INTERNATIONAL PAPER	MCG HANDLING SYSTEM	11/01/85	APPROVED
	122		LIME KILN MODIFICATIONS	11/12/85	APPROVED
WASHINGTON	990	TEKTRONIX INC	ELECTRONIC PARTS ASSEMBLY	11/01/85	APPROVED
TOTAL NUMBER QUICK LOCK REPORT LINES			7		

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division

(Reporting Unit)

November, 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
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	3	13	2	15	18		
Existing	4	9	0	6	14		
Renewals	9	48	9	57	107		
Modifications	<u>1</u>	<u>5</u>	<u>2</u>	<u>27</u>	<u>6</u>		
Total	17	75	13	105	145	1293	1325
<u>Indirect Sources</u>							
New	1	10	1	13	3		
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	1	10	1	13	3	245	248
<u>GRAND TOTALS</u>	18	85	14	118	148	1538	1573

Number of
Pending Permits

Comments

36	To be reviewed by Northwest Region
21	To be reviewed by Willamette Valley Region
20	To be reviewed by Southwest Region
3	To be reviewed by Central Region
8	To be reviewed by Eastern Region
17	To be reviewed by Program Operations Section
30	Awaiting Public Notice
<u>10</u>	Awaiting end of 30-day Public Notice Period
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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
CLACKAMAS	KAISER FOUNDATION REG LAB	03	2640 07/26/85	PERMIT ISSUED	11/12/85	RNW
CLATSOP	GREENWOOD CEMETERY	04	0043 05/14/85	PERMIT ISSUED	11/12/85	RNW
COOS	MONTMORE TIMBER PRODUCTS	06	0005 00/00/00	PERMIT ISSUED	11/12/85	MOD Y
COOS	DOUGLAS PACIFIC LUMBER	06	0019 08/21/85	PERMIT ISSUED	11/12/85	RNW N
COOS	DOUGLAS PACIFIC LMBR CO	06	0057 08/21/85	PERMIT ISSUED	11/12/85	RNW N
CROCK	LES SCHWAB WAREHOUSE	07	0022 03/29/85	PERMIT ISSUED	11/12/85	NEW Y
JACKSON	EUGENE BURRILL LUMBER CO	15	0011 01/28/85	PERMIT ISSUED	11/12/85	RNW
KLAMATH	TULLIS & ASSOC INC	18	0068 06/18/85	PERMIT ISSUED	11/12/85	RNW Y
MULTNOMAH	LLOYD CENTER	25	2400 10/11/85	PERMIT ISSUED	11/12/85	RNW N
MULTNOMAH	PORTLAND INTNL AIRPORT	26	2914 10/02/85	PERMIT ISSUED	11/12/85	RNW N
WASHINGTON	WESTERN FOUNDRY COMPANY	34	1279 05/10/84	PERMIT ISSUED	11/12/85	RNW
WASHINGTON	TEKTRONIX INC	34	2638 03/03/82	PERMIT ISSUED	11/12/85	MOD Y
WASHINGTON	AMERICAN HARDWOODS INC	34	2693 06/03/85	PERMIT ISSUED	11/12/85	NEW

TOTAL NUMBER QUICK LOOK REPORT LINES 13

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division
(Reporting Unit)

November, 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

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

Indirect Sources

Multnomah	Yellow Freight Terminal, 234 Spaces, File No. 26-8517	11/29/85	Final Permit Issued
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division November 1985
 (Reporting Unit) (Month and Year)

PLAN ACTIONS COMPLETED (20)

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

MUNICIPAL WASTE SOURCES 6

Deschutes	Sunriver Fairway Village Condos Phase I	11-21-85	Provisional Approval
Lincoln	Depoe Bay Collins Street	11-20-85	Rejected
Jackson	Eagle Point Phase I Upgrade, STP	11-06-85	Returned - No Action
Tillamook	Hebo Service District Collection and Treatment	11-12-85	Comments to Engineer
Yamhill	Dundee New Sewer Outfall Line	11-20-85	Provisional Approval
Baker	Baker "H" Street Pump Station Replacement	11-21-85	Provisional Approval
Lincoln	Depoe Bay Pine Court Sewer Addition (Ebbtide Estates)	11-05-85	Provisional Approval

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division	November 1985
(Reporting Unit)	(Month and Year)

PLAN ACTIONS COMPLETED - 20

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action
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INDUSTRIAL WASTE SOURCES - 14

Klamath	Gregory Forest Products Heat Exchanger for Log Conditioning Water Klamath Falls	11-05-85	Approved
Tillamook	Charles Motsinger Manure Control Facility Tillamook	11-05-85	Approved
Lane	Jasper Wood Treating, Inc. Roofed Drip Pad Eugene	11-05-85	Approved
Washington	Tektronix, Inc. Total Organic Halide Analyzer, Gray Water Beaverton	11-07-85	Approved
Washington	Tektronix, Inc. Gray Water Flowmeters Beaverton	11-07-85	Approved
Polk	Willamette Industries Log Pond Fill Dallas	11-18-85	Approved
Clackamas	Portland General Electric PCB Equipment Replacement Clackamas County	11-18-85	Withdrawn
Tillamook	Traskview Farms Manure Control System Tillamook	11-25-85	Approved
Coos	Southwestern Community College Oil/Water Separators Coos Bay	11-26-85	Approved

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Water Quality Division

November 1985

(Reporting Unit)

(Month and Year)

PLAN ACTIONS COMPLETED

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

INDUSTRIAL WASTE SOURCES (Continued)

Coos	Pacific Power & Light Oil Containment System Maple Street Substation Coquille	11-26-85	Approved
Wallowa	Pacific Power & Light Oil Containment System Minam Substation Minam	11-26-85	Approved
Benton	Pacific Power & Light Oil Containment System Marys River Substation Corvallis	11-26-85	Approved
Klamath	Pacific Power & Light Oil Containment System J. C. Boyle Substation Keno	11-26-85	Approved
Linn	Pacific Power & Light Oil Containment System Scio Substation Scio	11-26-85	Approved

LDP:m

SUMMARY OF ACTIONS TAKEN
ON WATER PERMIT APPLICATIONS IN NOV 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	0	0	2	9	0	0	1	0	1	4	1	4	14	0			
RW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
RWO	3	0	0	12	2	0	0	0	0	5	6	0	28	6	0			
MW	0	0	0	1	0	0	0	0	0	2	0	0	2	1	0			
MWO	0	0	0	8	0	0	0	0	0	4	0	0	8	1	0			
TOTAL	3	0	0	23	11	0	0	1	0	12	10	1	43	22	0	238	147	71
INDUSTRIAL																		
NEW	0	0	3	1	7	14	0	3	0	0	7	10	4	8	7			
RW	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
RWO	4	2	0	8	9	0	4	1	0	14	6	0	26	15	0			
MW	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0			
MWO	1	0	0	5	2	0	3	0	0	6	1	0	5	1	0			
TOTAL	5	2	3	14	18	14	7	4	0	20	14	10	36	24	7	171	141	291
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	1	0	0	0	0	0	1	0	0	0	0			
TOTAL	0	0	0	0	1	0	0	0	0	0	1	0	0	0	0	2	11	60
GRAND TOTAL	8	2	3	37	30	14	7	5	0	32	25	11	79	46	7	411	299	422

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-NOV-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
<hr/> <hr/>								
NPDES								
IND	3613	NPDES MWO	15828	DAVIDSON INDUSTRIES, INC.	MAPLETON	LANE/WVR	04-NOV-85	31-JAN-88
IND	100124	NPDES RWO	15810	CHAMPION INTERNATIONAL CORPORATION	DEE	HOOD RIVER/CR	04-NOV-85	31-MAR-90
IND	3359	NPDES MWO	97246	WILLAMETTE POULTRY CO.	CRESWELL	LANE/WVR	20-NOV-85	30-JUN-86
IND	3359	NPDES MWO	97246	WILLAMETTE POULTRY CO.	CRESWELL	LANE/WVR	20-NOV-85	30-JUN-86
IND	100127	NPDES RWO	67100	PAPE' BROS., INC.	EUGENE	LANE/WVR	20-NOV-85	31-OCT-90
IND	100128	NPDES RWO	9274	BOHEMIA INC	CULP CREEK	LANE/WVR	20-NOV-85	31-OCT-90
IND	100133	NPDES RWO	6553	BAXTER, J. H. & CO.	EUGENE	LANE/WVR	20-NOV-85	30-SEP-90
<hr/> <hr/>								
WPCF								
IND	100125	WPCF NEW	100070	QUIMBY TRUCKING, INCORPORATED	HERMISTON	UMATILLA/ER	04-NOV-85	31-OCT-90
DOM	100126	WPCF NEW	100089	NACO WEST CORPORATION OF OREGON	FLORENCE	LANE/WVR	04-NOV-85	30-SEP-90
IND	100130	WPCF NEW	100083	LANDSING DIVERSIFIED PROPERTIES II	PORTLAND	MULTNOMAH/NWR	20-NOV-85	31-OCT-90
IND	100131	WPCF RWO	23465	MORRIS BROS. FARM, INC.	DAYTON	YAMHILL/WVR	20-NOV-85	31-DEC-90
IND	100132	WPCF NEW	100098	MIRASSOU WINERY, INC.	SALEM	POLK/WVR	20-NOV-85	31-OCT-90

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

November 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	-	3	1	3	1		
Closures	1	4	1	2	7		
Renewals	3	27	2	10	46		
Modifications	1	7	2	59	4		
Total	5	41	6	76	58	179	179
<u>Demolition</u>							
New	-	-	-	-	-		
Closures	-	-	-	-	2		
Renewals	-	1	-	1	1		
Modifications	-	-	-	1	-		
Total	-	1	-	2	3	12	12
<u>Industrial</u>							
New	1	8	2	4	6		
Closures	-	-	1	3	2		
Renewals	3	18	1	5	24		
Modifications	-	-	1	1	-		
Total	4	26	5	14	32	104	104
<u>Sludge Disposal</u>							
New	-	1	-	-	1		
Closures	-	-	-	-	-		
Renewals	1	1	-	-	1		
Modifications	-	-	-	-	-		
Total	1	2	-	-	2	16	16
<u>Hazardous Waste</u>							
New	-	1	-	-	9		
Authorizations	75	336	75	336	-		
Renewals	-	-	-	-	1		
Modifications	-	-	-	-	-		
Total	75	337	75	336	10	14	19
<u>GRAND TOTALS</u>	85	406	86	428	105	325	330

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division
(Reporting Unit)

November 1985
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project * /Site and Type of Same	* Date of * Action	* Action	*
Lake	Wilfred Gerlitz New woodwaste site	10-16-85*	Letter authorization issued.	*
Lane	Weyerhaeuser Co. Rail Dike Landfill Existing facility	10-31-85*	Permit renewed	*
Grant	Hendrix Landfill Existing facility	11-5-85	Permit renewed	*
Curry	Rogge Lumber Co. Closed woodwaste site	11-20-85	Closure permit expired	*
Deschutes	Southwest Landfill Existing facility	11-20-85	Permit renewed	*
Jackson	Butte Falls Landfill Closed facility	11-20-85	Closure permit issued	*
Lake	Lakeview Lumber Co. New woodwaste site	11-20-85	Permit issued	*
Lane	Cottage Grove T.S. New facility	11-20-85	Permit issued	*
Yamhill	Newberg Landfill Closed facility	11-20-85	Closure permit amended	*
Lane	Dow Corning Clearwater Landfill Existing facility	11-29-85	Permit amended	*
Lincoln	South Lincoln Landfill Existing facility	11-29-85	Permit amended	*

*Not included on October report

MAR.6 (5/79) (SB5285.D)

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
27-NOV-85	PARTIALLY CURED BAKING VARNISH.	MOTORS AND GENERATORS	300 GALLONS	0
1 Request(s) approved for generators in Alaska				
12-NOV-85	PCB CONTAMINATED RAGS	SIG UNKNOWN	1 DRUMS (55 GALLONS)	0
12-NOV-85	SOIL CONTAMINATED WITH PCB (LESS THAN 50 PPM).	OTHER WOOD PRODUCTS	10 DRUMS (55 GALLONS EACH)	0
12-NOV-85	PENTACHLOROPHENOL SLUDGE	WOOD PRESERVING	72 DRUMS (55 GALLONS EACH)	20 DRUMS (55 GALLONS EACH)
18-NOV-85	ORM-A, LAB PACKS	COLLEGES & UNIVERSITIES	0	150 CUBIC FEET (IN DRUMS)
18-NOV-85	ORM-B, LAB PACKS	COLLEGES & UNIVERSITIES	0	150 CUBIC FEET (IN DRUMS)
18-NOV-85	ORM-E, LAB PACKS	COLLEGES & UNIVERSITIES	0	150 CUBIC FEET (IN DRUMS)
43 6 Request(s) approved for generators in Idaho				
21-NOV-85	PENTACHLOROPHENOL CONTAMINATED DIRT.	WOOD PRESERVING	0	20 DRUMS (55 GALLONS EACH)
1 Request(s) approved for generators in Montana				
04-NOV-85	LAB PACKS - FLAMMABLE	ELEMENTARY & SECONDARY SCHOOLS	0	3 DRUMS (55 GALLONS EACH)
04-NOV-85	WASTE ACID (ACID PICKLING)	OTHER NONFERROUS FOUNDRIES	50 DRUMS	48 DRUMS
04-NOV-85	PCB LIGHT BALLAST	ELEMENTARY & SECONDARY SCHOOLS	0	2 DRUMS

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
04-NOV-85	OUTDATED PESTICIDES	PRIVATE HOUSEHOLDS	5 GALLONS	0
12-NOV-85	DRY PAINT DUST	HEATING EQUIPMENT	20 DRUMS	0
12-NOV-85	USED LUBRICATION FLUIDS	HAZARDOUS WASTE DISPOSAL SITE	0	100 DRUMS (55 GALLONS EACH)
12-NOV-85	TRUCK WASH SUMP WATER/RAIN WATER	HAZARDOUS WASTE DISPOSAL SITE	0	75,000 GALLONS
12-NOV-85	NICKEL STRIPPING SOLUTION	HAND & EDGE TOOLS	0	50 DRUMS (55 GALLONS EACH)
12-NOV-85	PLATING SLUDGE	SHEET METAL WORK	0	24 DRUMS (55 GALLONS EACH)
12-NOV-85	PIT WASTE FROM HERBICIDE MANUFACTURING	OTHER AGRICULTURAL CHEMICALS	0	25 DRUMS (55 GALLONS EACH)
12-NOV-85	STILL SALT	CONVEYORS AND EQUIPMENT	0	500 TONS
12-NOV-85	PCB BALLAST - PCB CLEAN-UP MATERIALS	OTHER GOVERNMENT AGENCY	0	10 DRUMS (55 GALLONS EACH)
14-NOV-85	SOIL CONTAMINATED WITH FORMALDEHYDE	PLASTICS MATERIALS, SYNTHETICS	40 TONS	0
18-NOV-85	LAB PACKS/IGNITABLE	SIC UNKNOWN	3 DRUMS (55 GALLONS EACH)	0
21-NOV-85	NICKEL PLATING SOLUTION	INDUSTRIAL TRUCKS & TRACTORS	0	28 DRUMS (55 GALLONS EACH)
21-NOV-85	HEAVY METAL SLUDGE	RESEARCH & DEVELOPMENT LABS	1 DRUM	0
25-NOV-85	AQUATIC WEED KILLER	OTHER ELECTRONIC COMPONENTS	1 DRUM	0
25-NOV-85	CYGON 2-E SYSTEMIC INSECTICIDE	OTHER ELECTRONIC COMPONENTS	1 DRUM	0
25-NOV-85	DI-SYSTON-15% GRANULAR SYSTEMIC INSECTICIDE POWDER	OTHER ELECTRONIC COMPONENTS	1 DRUM	0
25-NOV-85	DEMOLITION MATERIAL: METALS, REFRACTORY BRICK AS CALCIUM, SILICA.	SECOND. SMELT NONFERROUS METAL	0	50 TONS
25-NOV-85	WOOD TREATMENT SLUDGE	WOOD PRESERVING	0	13 DRUMS (55 GALLONS EACH)

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
25-NOV-85	WASTE TREATMENT SLUDGE	WOOD PRESERVING	0	8 DRUMS (55 GALLONS EACH)
25-NOV-85	WOOD TREATMENT SLUDGE	WOOD PRESERVING	0	9 DRUMS (55 GALLONS EACH)
25-NOV-85	WOOD TREATMENT SLUDGE	WOOD PRESERVING	0	24 DRUMS (55 GALLONS EACH)
25-NOV-85	VOS-BAN INSECTICIDE	OTHER ELECTRONIC COMPONENTS	1 DRUM	0
27-NOV-85	PCB DEBRIS	ELEMENTARY & SECONDARY SCHOOLS	24 DRUMS (55 GALLONS EACH)	0

26 Request(s) approved for generators in Oregon

04-NOV-85	UST PROGRAM WASTE	AIRCRAFT	0	2000 CUBIC YARDS
04-NOV-85	POLYAMIDE (FREE AMINES)	RESEARCH & DEVELOPMENT LABS	3.1 CUBIC YARDS	0
04-NOV-85	NICKEL HYDROXIDE SLUDGE	PLATING & ANODIZING	0	30,000 GALLONS
04-NOV-85	PCB CONTAMINATED SOIL	NON-RCRA SPILL CLEANUP	0	50 CUBIC YARDS
04-NOV-85	ASBESTOS	ELEMENTARY & SECONDARY SCHOOLS	1 CUBIC YARD	0
04-NOV-85	WASTE SULFURIC ACID	METAL COATING, ALLIED SERVICES	0	48,000 GALLONS
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	300,000 POUNDS
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	300,000 POUNDS
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	500,000 POUNDS
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	30,000 POUNDS
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	500,000 POUNDS

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
08-NOV-85	WASTE PLOYCHLORINATED BIPHENYLS	ENV. SERVICES CONTRACTORS	0	10,000 POUNDS
12-NOV-85	PAINT - FLAMMABLE	PAINTS	0	2000 POUNDS
12-NOV-85	SULFATED LIME BAGHOUSE WASTE	PRIMARY PRODUCTION OF ALUMINUM	0	800 CUBIC YARDS
12-NOV-85	PHENOL CONTAMINATED DIRT/DEBRIS	OTHER INDUS. ORGANIC CHEMICALS	0	25 DRUMS (55 GALLONS EACH)
21-NOV-85	CAUSTIC POTASH (KOH)	DEPARTMENT OF DEFENSE	0	10 DRUMS (55 GALLONS EACH)
21-NOV-85	AMMONIUM HYDROXIDE	DEPARTMENT OF DEFENSE	0	200 DRUMS (55 GALLONS EACH)
21-NOV-85	LATEX STAIN SOLID WASTE	PAINTS	0	6 DRUMS (55 GALLONS EACH)
21-NOV-85	WOOD BLOCKS CONTAMINATED WITH MERCURY	DEPARTMENT OF DEFENSE	0	30 DRUMS (55 GALLONS EACH)
21-NOV-85	ANTIMONY TRIOXIDE	DEPARTMENT OF DEFENSE	0	3 DRUMS (55 GALLONS EACH)
21-NOV-85	LEAD DROSS	DEPARTMENT OF DEFENSE	0	100 DRUMS (55 GALLONS EACH)
21-NOV-85	SODIUM DISULFATE	DEPARTMENT OF DEFENSE	0	5 DRUMS (55 GALLONS EACH)
21-NOV-85	SODIUM PHOSPHATE, DIBASIC	DEPARTMENT OF DEFENSE	0	30 DRUMS (55 GALLONS EACH)
21-NOV-85	SODIUM PHOSPHATE, TRIBASIC	DEPARTMENT OF DEFENSE	0	10 DRUMS (55 GALLONS EACH)
21-NOV-85	ACID TANK CONTAINMENT DEBRIS	DEPARTMENT OF DEFENSE	0	50 CUBIC YARDS
21-NOV-85	SODIUM CHROMATE	DEPARTMENT OF DEFENSE	0	15 DRUMS (55 GALLONS EACH)
21-NOV-85	CHLOROANILINES, SOLIDS (MOCO)	DEPARTMENT OF DEFENSE	0	5 DRUMS (55 GALLONS EACH)
21-NOV-85	SODIUM HYDROXIDE, SOLID	DEPARTMENT OF DEFENSE	0	15 DRUMS (55 GALLONS EACH)

DATE	WASTE TYPE	SOURCE	DISPOSE NOW	DISPOSE ANNUALLY
27-NOV-85	DIVRON WEED KILLER	ELECTRIC SERVICES	0	8 DRUMS
27-NOV-85	MERCURY SPILL RESIDUE	ELECTRIC SERVICES	0	80 DRUMS (55 & 85 GALLONS)
27-NOV-85	MERCURIC NITRATE	DEPARTMENT OF DEFENSE	0	2 DRUMS (55 GALLONS EACH)
27-NOV-85	FERRIC CHLORIDE SOLID	DEPARTMENT OF DEFENSE	0	5 DRUMS (55 GALLONS EACH)
27-NOV-85	CAUSTIC SODA	DEPARTMENT OF DEFENSE	0	15 DRUMS (55 GALLONS EACH)

33 Request(s) approved for generators in Washington

67 Requests granted - Grand Total

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program
(Reporting Unit)

November, 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	4	56	5	39	198	199
Airports			2	4	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	November, 1985 (Month and Year)
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FINAL NOISE CONTROL ACTIONS COMPLETED

<u>County</u>	<u>Name of Source and Location</u>	<u>Date</u>	<u>Action</u>
Multnomah	NW Retail Design Center, Portland	11/85	In Compliance
Washington	Harold's Custom Cabinets, Forest Grove	11/85	In Compliance
Washington	Permapost Products Company, Hillsboro	11/85	In Compliance
Tillamook	Grasseth Shake Mill, Nehalem	11/85	Source Closed
Tillamook	Jacobs Rock Crushing, near Tillamook	11/85	In Compliance
Gilliam	Condon State Airport	11/85	Boundary Approved
Clackamas	Pynn Heliport	11/85	Boundary Approved

CIVIL PENALTY ASSESSMENTS
 DEPARTMENT OF ENVIRONMENTAL QUALITY
 1985

CIVIL PENALTIES ASSESSED DURING MONTH OF NOVEMBER, 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>
Willamette Egg Farms, Inc. Canby, Oregon	WQ-NWR-85-136 Discharged waste water to public waters in violation of Water Pollution Control Facilities permit.	11-4-85	\$300	Paid 11/12/85.
Ontario Asphalt and Concrete, Inc. Ontario, Oregon	AQ-ER-85-137 Excessive emissions in violation of Air Contaminant Discharge permit.	11-15-85	\$500	In default.
Rock Creek Country Club, Inc.	WQ-NWR-85-146 Exceeded waste water irrigation limitations and failed to monitor and report, in violation of Water Pollution Control Facility permit. (15 violations at \$50 each)	11-29-85	\$750	Awaiting response to notice.

GB5297

November, 1985
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
1 Preliminary Issues	2	4
2 Discovery	0	0
3 Settlement Action	2	5
4 Hearing to be scheduled	1	0
5 Hearing scheduled	7	3
6 HO's Decision Due	4	4
7 Briefing	1	0
8 Inactive	<u>5</u>	<u>5</u>
SUBTOTAL of cases before hearings officer.	22	21
9 HO's Decision Out/Option for EQC Appeal	2	0
10 Appealed to EQC	2	0
11 EQC Appeal Complete/Option for Court Review	0	2
12 Court Review Option Taken	1	1
13 Case Closed	<u>1</u>	<u>4</u>
TOTAL Cases	28	28

15-AQ-NWR-81-178

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

\$	Civil Penalty Amount
ACDP	Air Contaminant Discharge Permit
AGL	Attorney General l
AQ	Air Quality Division
AQOB	Air Quality, Open Burning
CR	Central Region
DEC Date	Date of either a proposed decision of hearings officer or a decision by Commission
ER	Eastern Region
FB	Field Burning
Hrng Rfrl	Date when Enforcement Section requests Hearing Section schedule a hearing
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
<u>Underlining</u>	New status or new case since last month's contested case log
WQ	Water Quality Division
WVR	Willamette Valley Region

November 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.
HAYWORTH FARMS, INC., and HAYWORTH, John W.	01/14/83	02/28/83	04/04/84	<u>Resp.</u>	50-AQ-FB-82-09 FB Civil Penalty of \$1,000	<u>EQC affirmed \$1,000 penalty</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.
CLEARWATER IND., Inc.	10/11/83	10/17/83	<u>1/03/86</u>	Prtys	58-SS-NWR-83-82 SS Civil Penalty of \$1000	<u>Hearing rescheduled.</u>

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November 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
CLEARWATER IND., Inc.	01/13/84	01/18/84	<u>1/03/86</u>	Prtys	02-SS-NWR-83-103 SS Civil Penalty of \$500	<u>Hearing rescheduled.</u>
BIELENBERG, David	03/28/84	04/05/84	12/11/84	<u>Resp.</u>	09-AQ-FB-83-04 FB Civil Penalty of \$300	<u>EQC reduced penalty to \$50.</u>
TRANSCO Industries, Inc.	06/05/84	06/12/84		Prtys	17-HW-NWR-84-45 HW Civil Penalty of \$2,500	<u>Hearing deferred for settlement action.</u>
TRANSCO Industries, Inc.	06/05/84			Prtys	18-HW-NWR-84-46 HW Compliance Order	<u>Hearing deferred for settlement action.</u>
VANDERVELDE, Roy	06/12/84	06/12/84	08/22/85	Hrgs	20-WQ-WWR-84-01 WQ Civil Penalty of \$2,500	<u>Decision Due</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	<u>No appeal to EQC- case closed.</u>
CLEARWATER INDUSTRIES, INC.	10/11/84	10/11/84	<u>1/03/86</u>	Prtys	24-SS-NWR-84-P Sewage Disposal Service License Denial	<u>Hearing rescheduled.</u>
LAVA DIVERSION PROJECT	12/14/84	12/27/84		Prtys	25-WQ-CR-FERC-5205 Hydroelectric plant certification	EQC certification denial appealed to Court of Appeals.

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November 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
UNITED CHROME PRODUCTS, INC.		02/19/85		Hrgs	02-HW-WQ-WVR-84-158 \$6,000 civil penalty	<u>Dept. requested judgment 12/12/85</u>
CATHCART, Channing and Douglas	03/11/85	03/11/85	10/8/85	Prtys	04-AQ-FB-84-137 Civil Penalty of \$750	<u>EQC reduced penalty to \$450 Case closed.</u>
FUNRUE, Amos	03/15/85	03/19/85	06/20/85	Hrgs	05-AQ-FB-84-141 Civil Penalty of \$500	<u>Decision due.</u>
COOK, Robert	04/10/85	04/16/85	11/15/85	Prtys	11-AQ-FB-84-138 Civil Penalty of \$500	<u>EQC reduced penalty to \$300 Case closed.</u>
KANGAS, M. R.	05/02/85	05/03/85	10/01/85	Resp	12-AQ-FB-84-145 Civil Penalty of \$500	<u>No appeal to EQC Case closed</u>
JOSEPH FOREST PRODUCTS	05/16/85	05/23/85		Hrgs	13-HW-ER-85-29 Hazardous waste disposal Civil Penalty of \$2,500	Order of Dismissal to be issued.
5 6 MAIN ROCK		05/31/85		Prtys	14-WQ-SWR-85-31 Violation of NPDES permit conditions Civil Penalty of \$3,500	<u>Hearing deferred for settlement action.</u>
DANT & RUSSELL, INC.	05/31/85	05/31/85		Prtys	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	<u>Preliminary Issues.</u>

November 1985

DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
ALTHAUSER, GLENN L.	07/08/85	07/16/85	09/20/85	Hrgs	17-SW-NWR-85-77 Unauthorized Waste Disposal	<u>Closing brief filed December 4, 1985. Decision due.</u>
MERIT OIL & REFINING CO.		07/24/85	11/19/85	Prtys	20-WQ-NWR-85-61 WQ Civil Penalty of \$1,200	Settlement action.
E.J. BARTELLS CO.	10/04/85	10/08/85		<u>Prtys</u>	21-AQ/WQ/SW-NWR-85-78 \$10,000 Civil Penalty	Preliminary issues.
AMCOAT, INC.	10/15/85	10/23/85		<u>Prtys</u>	22-HW/WQ-NWR-85-85 \$5,000 civil penalty	Preliminary issues.
<u>BRAZIER FOREST PRODUCTS</u>	<u>11/22/85</u>	<u>12/12/85</u>		<u>Prtys</u>	<u>23-HSW-85 Declaratory Ruling</u>	<u>Preliminary issues.</u>

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

Brand-S Corporation (Leading Plywood Division) (02-2479)	Benton County	Veneer Dryer Stds OAR 340-25-315 (1) (b)	11/2/84	1/1/86	<u>Company is requesting an extension of its variance.</u>
Rajneesh Nee-sannayas International (Funeral-Pyre) (16-0021)	Jefferson County	Opacity Standards OAR 340-21-025 (b)	12/3/82	Permanent	<u>Requested cancellation of variance.</u>
Medply (15-0018)	Jackson County	Opacity Standards OAR 340-21-015 and Grain Loading Stds OAR 340-21-020	9/27/85	12/15/85	<u>Compliance Achievement 12/31/85</u>
International Paper Company (10-0036)	Douglas County	TRS Emission Limits OAR 340-25-165 (1) (a) & (b); OAR 340-25-630 (2) (b) & (e).	1/25/85	9/18/86	On Schedule.
Carnation Can (34-2677)	Washington County	VOC Standards OAR 340-22-170 (4) (a) (D)	10/15/82	12/31/85	<u>Will be exempted by VOC rule modification.</u>
Portland Willamette (26-2435)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	<u>Compliance achieved by switching to complying coatings.</u>
Freightliner Assy. (26-2197)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	<u>Compliance achieved by switching to complying coatings.</u>
Gunderson, Inc. (26-2944)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	<u>Compliance achieved by bubbling.</u>
Pacific Coatings, Inc. (26-3115)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	<u>Compliance achieved by bubbling.</u>

MAR.22 (7/83)
MR320 (1)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

AIR QUALITY (cont.)

These variances were a class variance for industrial painting operations. The variance expires 1/31/86. The sources would become exempt under the proposed VOC rule modifications.

Amcoat (26-3036)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Bingham Willamette (26-2749)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Boeing (26-2204)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Brod & McClung Pace (03-2680)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Cascade Corporation (26-3038)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Chevron (26-2027)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Dura, Inc. (26-3112)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
ESCO (26-2068)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Hearth Craft (26-3037)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

AIR QUALITY (cont.)

Lear Siegler (34-2670)	Washington/ Clackamas County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Myers Drums (26-3035)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Northwest Marine Iron Works (26-3101)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Oregon Steel Mills (26-1865)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Pacific Fireplace Furniture (26-3031)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Reimann and McKenny (26-2572)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Thomas Indus., Inc. (26-2435)	Washington/ Clackamas County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Wade Manufacturing (34-2667)	Washington/ Clackamas County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Wagner Mining (26-3039)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.
Winter Products (26-3033)	Multnomah County	VOC Standards OAR 340-22-170	7/1/85	1/31/86	On schedule.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

NOISE

Murphy Veneer	Coos County	Log Loader Noise OAR 340-35-035	2/24/84	7/1/87	On schedule.
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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

SOLID WASTE DISPOSAL SITES

Powers (160)	Coos County	Open Burning Standards OAR 340-61-040(2)	5/18/84	5/29/86	City is upgrading the system.
Adel (4)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Christmas Valley (9)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Fort Rock (276)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Paisley (178)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Plush (10)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

VARIANCE LOG

January, 1986

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

SOLID WASTE DISPOSAL SITES (cont.)

Silver Lake (184)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Summer Lake (183)	Lake County	Open Burning Standards OAR 340-61-040(2)	9/21/79	7/1/85	Variance expired. Renewal has been requested by permittee. On hold pending action on open burning dumps.
Mitchell (175)	Wheeler County	Open Burning Standards OAR 340-61-040(2)	4/24/81	7/1/86	On schedule.
Butte Falls (205)	Jackson County	Open Burning Standards OAR 340-61-040(2)	7/16/82	7/1/85	Site closed 7/1/85.
Truck Road	Lane County	Discharge of Pollutants into Public Waters OAR 340-61-040(5)a	3/8/85	11/1/85	Construction essentially complete (small portion of liner remains to be installed-installation delayed by cold weather.)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

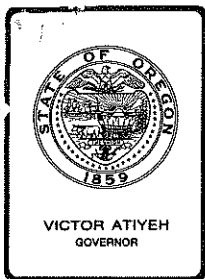
VARIANCE LOG

January, 1986

WATER QUALITY STIPULATED CONSENT ORDERS

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

<u>Source and Permit No.</u>	<u>Location</u>	<u>Purpose</u>	<u>Date Granted</u>	<u>Date Expires</u>	<u>Status</u>
Happy Valley	Clackamas County	Establish time schedule	2/17/78	None	Compliance schedule being negotiated
Silverton (3146-J)	Marion County	Establish time schedule	1/14/83	4/1/85	Compliance achieved November 1984.
Tangent	Linn County	Establish time schedule	11/1/83	1/1/86	Stipulated consent order requires completion of construction by 1/1/86. Land-use decisions caused delays in meeting schedule. Sufficient progress is now being achieved to warrant consideration of incorporating new construction schedule into permit. Facility plan submittal expected in January 1986 and facility design is underway.



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, January 31, 1986, 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 laws:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1759	Portland General Electric	Oil spill containment
T-1762	Teledyne Industries, Inc.	Methyl Isobutyl Ketone steam stripper
T-1763	Teledyne Industries, Inc.	Ammonium chloride spill containment
T-1783	Teledyne Industries, Inc.	Solid waste shredder
T-1785	Teledyne Industries, Inc.	Scrubber and baghouse
T-1787	Teledyne Industries, Inc.	Scrubber system

2. Issue tax credit certificates for facilities subject to the 1982 tax credit laws:

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1743	Rosboro Lumber Co.	Woodwaste transport and holding system
T-1758	Tektronix, Inc.	Chemical spill containment

<u>Appl. No.</u>	<u>Applicant</u>	<u>Facility</u>
T-1761	Delta Engineering & Mfg. Co.	pH neutralization and heavy metal precipitation
T-1772	Publishers Paper Co.	Lumber anti-stain spill control
T-1773	Georgia Pacific Corp.	Wood residue belt conveyors
T-1774	Stayton Canning Co. Coop.	Wastewater storage and treatment
T-1775	Stayton Canning Co. Coop.	Irrigation disposal system
T-1786	Teledyne Industries, Inc.	Baghouse
T-1790	Dunn-LeBlanc, Inc.	Recycling center

3. Revoke certificates 1156 and 1557 issued to Publishers Paper. Letter attached.

Fred Hansen



S. Chew:m
(503) 229-6484
January 14, 1986
MM26 (EQC.C 10/30/85)

Proposed January 31, 1986 Totals:

Air Quality	- \$	627,977.49
Water Quality	-	782,031.81
Hazardous/Solid Waste	-	138,388.22
Noise	-	-0-
		<u>\$1,548,397.52</u>

1985 Calendar Years Totals:

Air Quality	- \$	5,404,128.59
Water Quality	-	1,178,060.53
Hazardous/Solid Waste	-	529,058.00
Noise	-	-0-
		<u>\$7,111,247.12</u>

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

The applicant owns and operates a hydroelectric generating facility 2 miles east of Estacada on the Clackamas River.

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 oil spill containment and separation facility consisting of a concrete slab and retaining wall, 55 feet of 10" diameter PVC pipe, and an oil/water separator.

Request for Preliminary Certification for Tax Credit was made February 10, 1983, and approved February 16, 1983. Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility May 11, 1983, completed July 29, 1983, and the facility was placed into operation July 29, 1983.

Facility Cost: \$58,084.28 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, an oil level alarm on the No. 6 transformer could have notified the operator of an oil release, but there was no method for containment. The transformer contains 4250 gallons of insulating oil which could have entered the Clackamas River. The new facility will catch any releases of oil on the concrete slab where it will be directed to the oil/water separator. The separator will contain the oil until the applicant removes it for disposal. The oil level alarm has been kept in operation. Although this hydroelectric plant has not experienced an oil spill, federal regulations require appropriate containment. There has been no return on investment from this facility.

4. Summation

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

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

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$58,084.28 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1759.

L.D. Patterson, P.E. :h

WH455

(503) 229-5374

October 14, 1985

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Teledyne Industries, Inc.
Teledyne Wah Chang Albany
P.O. Box 460
Albany, OR 97321

The applicant owns and operates a zirconium, hafnium, tantalum, titanium, and niobium production plant at 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 a Methyl Isobutyl Ketone (MIBK) steam stripper consisting of a packed fiberglass stripping column, a vapor condenser, monitoring instrumentation, piping, and valves.

Request for Preliminary Certification for Tax Credit was made April 1977, and approved May 12, 1977. Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility July 1977, completed June 1978, and the facility was placed into operation June 1978.

Facility Cost: \$10,937.89.

3. Evaluation of Application

Prior to installation of the claimed facility, approximately 500 pounds per day of MIBK was discharged to Truax Creek. The applicant's NPDES permit, which was issued on March 26, 1975, required a reduction of the MIBK discharge to 100 pounds per day by October 31, 1978. The steam stripper consistently removes about 98 percent of the chemical such that the discharge to Truax Creek averages 10 pounds per day. Although the recovered MIBK is reused in the zirconium extraction process, steam costs to operate the system far outweigh the value of the recovered MIBK. Thus, there is 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 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 \$10,937.89 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1762.

L.D. Patterson:h
WH514
(503) 229-5374
November 26, 1985

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Teledyne Industries, Inc.
Teledyne Wah Chang Albany
P.O. Box 460
Albany, OR 97321

The applicant owns and operates a zirconium, hafnium, tantalum, and niobium production plant at 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 ammonium chloride spill containment system consisting of a concrete sump and a 5 Hp pump.

Request for Preliminary Certification for Tax Credit was made October 3, 1978, and approved October 13, 1978. Facility is subject to the 1981 tax credit law. Construction was initiated on the claimed facility December 1, 1978, completed February 13, 1979, and the facility was placed into operation February 13, 1979.

Facility Cost: \$8080.

3. Evaluation of Application

Prior to installation of the claimed facility, spillage of ammonium chloride from the V-2 storage tank and berm entered an unlined disposal pond. Seepage from the pond eventually entered Truax Creek. The Department required the applicant by stipulation and final order to eliminate miscellaneous discharges and seepages to Truax Creek. The sump and pump collects the spillage and conveys it to the ammonia recovery plant where it is either reused in the process or sold as fertilizer. The discharge of ammonium chloride to the pond has been eliminated. The cost of steam to strip the ammonia from the waste water far outweighs the value of the recovered ammonia. There is no return on investment from this facility.

4. Summation

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

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

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$8080 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1763.

L.D. Patterson:h
(503) 229-5374
December 9, 1985
WH544

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Teledyne Industries, Inc.
Teledyne Wah Chang Albany
P.O. Box 460
Albany, OR 97321

The applicant owns and operates a zirconium hafnium, tantalum and niobium production plant at Albany, 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 is a Saturn Model 40 150/300 HP solid waste shredder (\$76,800) and installation costs (\$10,430.22). The shredder was required to separate zirconium and magnesium chloride salts from stainless steel liners so that the stainless steel could be recycled.

Request for Preliminary Certification for Tax Credit was made on July 2, 1980, and approved on August 29, 1980.

Construction was initiated on the claimed facility on July 18, 1980, completed in September 1980, and the facility was placed into operation in September 1980.

Facility Cost: \$87,230.22 (Accountant's Certification was provided).

3. Evaluation of Application

The substantial purpose of the facility is to utilize stainless steel liner that would otherwise be solid waste. The shredding of the stainless steel liner frees the zirconium and magnesium chloride from the stainless steel and produces a usable product. The material had previously been taken to Coffin Butte Landfill (Corvallis) and landfilled. The material presented handling problems at the landfill because the zirconium was ignitable. The end product is competitive with an end product produced in another state (stainless steel scrap). Approximately 366,000 lbs./year of stainless steel is recovered through the process.

The facility was constructed prior to December 31, 1980 and is subject to the 1979 tax credit statutes which requires that the substantial purpose of the facility is to utilize material that would otherwise be solid waste. It is not subject to ORS 468.170(9)(b) which became effective December 31, 1980.

The facility is not subject to percentage allocable (prior to January 1, 1984 solid waste tax credits were 100% eligible).

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 by mechanical process through the production, processing, or use 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.
- c. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, and the rules adopted under that chapter.
- d. The portion of the facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$87,230.22 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1783.

Ernest A. Schmidt:b
(503) 229-5157
12/31/85
SB5334

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

1. Applicant

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

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

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 venturi scrubber installation and a baghouse installation.

Request for Preliminary Certification for Tax Credit was made on June 1, 1981 and approved on June 23, 1981.

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

Construction was initiated on the claimed facility in June 1981, completed in September 1981, and the facility was placed into operation in September 1981.

Facility Cost: \$85,369 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility, which was required by the Department, consists of two separate installations. The first is a baghouse installation to control particulate emissions from the pneumatic transfer of sand and coke. The second is a venturi scrubber installation for control of fine sand and coke dust generated by the sand and coke drier. The claimed facility replaced a rotoclone scrubber and cyclone, which were used to control emissions from the drier, and for the transfer of sand and coke particles respectively. The replaced items, which were undersized and inadequately designed, were never certified for pollution control tax credit.

The claimed facility was inspected by Departmental personnel and was found to be operating in compliance with Department regulations and permit conditions. The material collected in approximately 10,000 to 12,000 pounds annually.

The value of the material collected is approximately \$0.05 per pound. This represents a return on investment in the facility of \$600 per year.

Based upon an annual cash flow of \$600, 5-year life, and a claimed facility cost of \$85,369 there is a negligible rate of return on the investment in the facility and 80 percent or more of the facility cost is allocable to pollution control.

The application was received on December 3, 1985, and the application was considered complete on December 3, 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 to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- 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 \$85,369 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1785.

W. J. Fuller:s
AS2112
(503) 229-5749
December 10, 1985

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

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

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

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

2. Description of Claimed Facility

The facility described in this application is a scrubber system.

Request for Preliminary Certification for Tax Credit was made on April 15, 1983, and approved on June 3, 1983.

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

Construction was initiated on the claimed facility in May 1983, completed in November 1983, and the facility was placed into operation in November 1983.

Facility Cost: \$228,608 (Accountant's Certification was provided).

3. Evaluation of Application

The claimed facility is a caustic scrubber installation used to control emissions of particulate, chlorine and chloride generated by the sand chlorination process. This installation consisting of two individual packed bed scrubbers, pumps, ductwork, valves, blowers, controls and supporting structural components replaces an existing system which had never been certified for pollution control. The previous system was inadequate to maintain continual compliance and required extensive reconstruction. The claimed facility is a much improved design and was installed to improve collection efficiency and to prevent a major incident resulting from equipment failure.

The installation was inspected by Department personnel and was found to be installed in accordance with the notice of construction and specifications furnished. The installation has reduced the number of chlorine odor complaints and chloride emission violations by approximately 70 percent. Remaining exceedances are generally a result of upset conditions and operational error.

The claimed facility was installed solely for air pollution control and there is no economic return on the investment in the facility. Therefore, in accordance with the guidelines on cost allocation, 80 percent or more of the facility costs are allocable to pollution control.

The application was received on December 3, 1985, and the application was considered complete on December 3, 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 to a substantial extent for the purpose of preventing, controlling, or reducing air pollution.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 468 and the rules adopted under that chapter.
- e. The portion of the facility cost that is properly allocable to pollution control is 80 percent or more.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$228,608 with 80 percent or more allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1787.

W. J. Fuller:s
AS2121
(503) 229-5249
December 12, 1985

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

1. Applicant

Rosboro Lumber Co.
PO Box 20
Springfield, OR 97477

The applicant owns and operates a wood products manufacturing complex at Springfield, Oregon.

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

2. Description of Claimed Facility

The facility described in this application is the revision of a woodwaste transport and holding system including installation of a bag filter.

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

Request for Preliminary Certification for Tax Credit was made on November 13, 1984 and approved on December 28, 1984.

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 November 19, 1984, completed on February 28, 1985, and the facility was initially placed into operation on January 2, 1985.

Facility Cost: \$98,520.45 (Accountant's Certification was provided).

3. Evaluation of Application

The Lane Regional Air Pollution Authority, required Rosboro Lumber Company to install a facility to control sanderdust emissions. The project included modifying the woodwaste transport systems from four sources. In accordance with permit conditions issued on October 20, 1984, emission control was to be achieved by no later than December 31, 1984. Baghouse controls were installed and were placed into operation on January 2, 1985 and have been certified in compliance by LRAPA with applicable emission standards.

The requirements for filing of an application for preliminary certifications were not fully met because of special circumstances. The company did make application to the Department of Environmental Quality for preliminary certification on November 13, 1984. Rules in effect at that time (OAR 340-16-015(1)) required that an application for preliminary tax credit certification must be received by DEQ at least 30 days before commencement of construction of a pollution control facility. To complete the pollution abatement project within the time frame required by LRAPA, the company commenced construction on November 19, 1984, six days after the Department received the application. The revised rules (OAR 340-16-015(1)(b), effective March 12, 1985) would have allowed the Department to find the application complete and notify the applicant that they may proceed with construction without waiting the 30 days.

OAR 340-16-015(c) states: "The Commission may waive the filing of the application if it finds the filing inappropriate because special circumstances render the filing unreasonable and if it finds such facility would otherwise qualify for tax credit certification pursuant to ORS 468.150 to 468.190."

The applicant stated that construction was completed on the facility on February 28, 1985 and that it was placed into operation on January 2, 1985. The company explained that the project was operationally complete by January 2, 1985, but that "incidental" work proceeded until February 28, 1985.

Based on expenditures of \$13,600 for replacement of an existing sanderdust transport line and painting of existing cyclones, the eligible costs have been adjusted to \$84,920.45. There is no net economic benefit to the company from operating the facility, therefore the adjusted cost of \$84,920.45 should be allocated as 100 percent pollution control.

The application was received on June 7, 1985 and additional information was received on December 20, 1985.

4. Summation

- a. Special circumstances exist (by permit issued by LRAPA in October 1984 the project was to be complete by December 31, 1984) which made the filing of an application for preliminary certification in conformance with the 30 day advance notice requirement in effect at that time unreasonable, and the facility would otherwise be eligible for tax credit.
- 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 Lane Regional Air Pollution Authority.

- 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 adjusted facility cost that is properly allocable to pollution control is 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$84,920.45 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1743.

D. Neff:s
AS1818
(503) 229-6480
January 14, 1986

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Tektronix, Inc.
P.O. Box 500
Beaverton, Oregon 97077

The applicant owns and operates a printed circuit board manufacturing facility in Forest Grove, 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 chemical spill containment system consisting of concrete ramps, containment walls, and curbing.

Request for Preliminary Certification for Tax Credit was made May 9, 1984, and approved August 9, 1984.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility May 14, 1984, completed July 12, 1984, and the facility was placed into operation July 12, 1984.

Facility Cost: \$72,467.00 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, a spill of copper solution from the chemical loading/unloading area entered a nearby storm drain. Many of the chemicals handled in this area contain heavy metals. OAR 340-104-031 requires that facilities must be maintained and operated to minimize the possibility of sudden or non-sudden releases of hazardous waste constituents to soil or surface water. The claimed facility consists of sloped concrete pads with concrete retaining walls which join revamped concrete unloading docks. The docks have concrete curbing to contain spills. Sumps located in the area were replumbed to the industrial waste treatment plant. The new facility eliminates potential spills in the chemical loading area from threatening soils and surface waters. This facility provides no return on investment.

4. Summation

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

- c. Facility is designed for and is being operated for the principal purpose of preventing, controlling or reducing water 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 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 \$72,467.00, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1758.

Larry D. Patterson, P.E. :h
229-5374
January 15, 1985
WH452

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Delta Engineering & Mfg. Co.
19500 S. W. Teton
Tualatin, Oregon 97062

The applicant owns and operates an electronic metal plating facility in Tualatin, 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 pH neutralization and heavy metal precipitation system consisting of tanks, chemical feeder and controller valves, mixers, electrical control equipment, and a solids filter press.

Request for Preliminary Certification for Tax Credit was made September 13, 1984 and approved December 13, 1984.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility October 1984 completed May 1985, and the facility was placed into operation May 1985.

Facility Cost: \$61,007 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant constructed a new plant in Tualatin to plate metal products for the electronics industry. To comply with the sewerage requirements of the Unified Sewerage Agency and the U. S. Environmental Protection Agency, the applicant was required to install pretreatment facilities. Prior to discharge to the sewer, heavy metals (chromium and zinc) are precipitated and settled out of the waste water, and a neutralization system controls the pH. The treated effluent consistently meets U.S.A.'s sewer connection permit requirements. The precipitated metals are dewatered in a filter press prior to shipping the solid wastes to the Arlington Disposal Site. There is 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 468.165(1)(a).
- c. Facility is designed for and is being operated for the principal purpose of preventing, controlling or reducing water pollution and was required by U.S. EPA.
- 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 \$61,007, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1761.

L. D. Patterson:m
229-5374
November 25, 1985
WM877

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

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

The applicant owns and operates a lumber mill in Oregon City, 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 spill control facility for a lumber antistain chemical application operation. The system consists of a sealed concrete drip pad, return pump, and metal building enclosure.

Request for Preliminary Certification for Tax Credit was made December 19, 1983, and approved December 27, 1983.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility January 1, 1984, completed July 31, 1984 and the facility was placed into operation July 31, 1984.

Facility Cost: \$50,220 (Accountant's Certification was provided).

3. Evaluation of Application

The applicant dips lumber in chlorophenolic antistain chemicals to prevent fungal growth on the surface of the wood. This antistain operation is a new installation. To comply with the Department's Best Management Practice requirements, a sealed drip pad was constructed that would contain the dip tank, and would provide enough space to allow dipped lumber at least 30 minutes drippage in the contained facility. Drippings collect in a sump where they are pumped back to the dip tank. The metal building enclosure prevents rainwater from accumulating in the containment area. The spill control facility protects both surface and groundwaters. The volume of drippings collected for reuse is extremely small compared to the quantity of chemical used. There is no return on investment from this facility.

4. Summation

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

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$50,220, with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1772.

L.D. Patterson:h
229-5374
December 9, 1985
WH545

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Georgia Pacific Corporation
Prairie Road Plant
PO Box 1608
Eugene, OR 97440

The applicant owns and operates a plywood manufacturing plant in Eugene.

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

2. Description of Claimed Facility

The facility described in this application is a system of wood residue belt conveyors to replace an existing pneumatic transport system.

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

Request for Preliminary Certification for Tax Credit was made on June 8, 1983 and approved on September 29, 1983.

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 in September 1983, completed in September 1984, and the facility was placed into operation on September 15, 1984.

Facility Cost: \$195,746.58 (Accountant's Certification was provided.)
(Subsequently, the company revised the claimed cost to \$116,242.04.)

3. Evaluation of Application

Georgia Pacific Corporation redesigned and constructed a hogged wood transport facility at their Prairie Road plywood plant in Eugene. The company claimed the new facility was undertaken to attain compliance with air emission standards imposed by Lane Regional Air Pollution Authority. The facility is in compliance with emission standards.

A portion of the facility is a covered material conveyor to replace a pneumatic transport system with a "non-controlled" cyclone which was not in compliance with emission standards. In addition, a covered conveyor was installed to allow the diversion of the hogged wood to a fuel storage building.

The Department does not consider the section of conveyor which transports wood residue to the fuel storage building eligible for pollution control tax credit. This part of the project does not meet the criterion of having a sole purpose for pollution control nor was it required by the pollution control agency.

Subsequent to the original application, the company submitted a revised claim of \$116,242.04 for all conveyors which excluded non-structural items such as fans, motors, conveyor belts, etc., from the total facility cost. As a means of establishing a percentage of cost for that section of conveyor which replaced the pneumatic system, the total revised claimed cost was multiplied by the ratio of conveyor lengths.

Length of conveyor for replaced system:	247 feet
New conveyor length:	<u>136 feet</u>
Total length:	383 feet

$$247 \text{ ft} / 383 \text{ ft} \times 100 = 64.5\%$$

The resulting pollution control cost allocation is:

$$\$116,242.04 \times 0.645 = \$74,976.12$$

This is compared to the company's estimate of \$65,000 for a bag filter as an alternative method of control. Therefore, 64.5 percent of the claimed project cost may be reasonably allocable to pollution control.

The application was received on October 1, 1985, and additional information was received on October 2, 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 Lane Regional Air Pollution Authority.

- 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 64.5 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$116,242.04 with 64.5 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1773.

D. Neff:s
AS2171
(503) 229-6480
December 20, 1985

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Stayton Canning Company Cooperative
Stayton Plant #1
930 West Washington Street
Stayton, Oregon 97383

The applicant owns and operates a vegetable processing facility in Stayton, 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 waste water storage and treatment facility consisting of 2 bentonite sealed earthen ponds (35 million gallon capacity), 6 floating 40 Hp aerators, inlet and effluent piping, and associated electrical equipment.

Request for Preliminary Certification for Tax Credit was made April 26, 1984, and approved July 5, 1984.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility July 11, 1984, completed November 26, 1984, and the facility was placed into operation November 26, 1984.

Facility Cost: \$475,493 (Accountant's Certification was provided).

3. Evaluation of Application

Prior to installation of the claimed facility, the applicant had inadequate waste water storage facilities which forced daily irrigation of waste water. During the wet weather months, this resulted in disposal operations with a high potential for groundwater contamination. The new facilities allow the applicant to irrigate waste water during dry weather when the crops are more capable of utilizing the nutrients in the wastewater. The aerators control potential odor releases from the ponds and aid in lowering the organic content of the stored waste water. This system should be adequate to protect the quality of the groundwater. The sole purpose of this facility is pollution control. There is no return on investment from this project.

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 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 \$475,493, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1774.

L. D. Patterson
229-5374
December 13, 1985
WM923

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Stayton Canning Company Cooperative
Stayton Plant
930 W. Washington Street
Stayton, Oregon 97383

The applicant owns and operates a vegetable processing facility in Stayton, 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 irrigation disposal system consisting of 2,000 feet of 12" PVC pipe, 2,700 feet of 6 and 8" distribution piping, 4 solid set irrigation guns, and a site access bridge.

Request for Preliminary Certification for Tax Credit was made March 5, 1985 and approved April 8, 1985.

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility April 10, 1985, completed July 2, 1985, and the facility was placed into operation July 2, 1985.

Facility Cost: \$45,742.64 (Accountant's Certification was provided).

3. Evaluation of Application

After development of a Waste Water Management Plan, it was apparent the applicant needed to lower the hydraulic loading on their irrigation disposal fields. The piping and irrigation guns allowed the development of a new 27-acre disposal site on an island the applicant owns in the North Santiam River. To allow easy access to the area, a small foot bridge was installed. This site is utilized for the disposal of relatively clean waste water which lessens the load on the older, more heavily used disposal sites. This system is an integral part of the applicant's plan to manage waste waters for the protection of surface and groundwater. The sole purpose of this facility is pollution control. There is no crop taken from the disposal site. There is no return on investment from this project.

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 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 \$45,742.64, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1775.

L. D. Patterson
229-5374
December 13, 1985
WM924

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

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

The applicant owns and operates a zirconium, hafnium, tantalum and niobium production plant at 1600 Old Salem Road, Albany, 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 baghouse installation.

Request for Preliminary Certification for Tax Credit was made on August 31, 1983 and approved on September 12, 1983.

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 in October 1983, completed in December 1984, and the facility was placed into operation in December 1984.

Facility Cost: \$112,838 (Accountant's Certification was provided.)

3. Evaluation of Application

The claimed facility consisting of a baghouse installation was required to collect particulate emissions generated by the columbium and vanadium metal thermite operations. The materials collected are generally oxides of aluminum and columbium with some barium compounds. All material collected is disposed of at an approved hazardous waste landfill.

The claimed facility has been inspected and was found to be installed in accordance with the Notice of Construction and specifications furnished. The installation has reduced emissions to the atmosphere by more than 99 percent.

The claimed facility was installed solely for air pollution control and there is no economic return on the investment in the facility. Therefore, in accordance with the guidelines on cost allocation 100 percent of the facility costs are allocable to pollution control.

The application was received on December 3, 1985, and the application was considered complete on December 3, 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 sole purpose of preventing, controlling or reducing a substantial quantity of 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 100 percent.

5. Director's Recommendation

Based upon the findings in the Summation, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$112,838 with 100 percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1786.

W. J. Fuller:s
AS2172
(503) 229-5749
December 18, 1985

STATE OF OREGON - DEPARTMENT OF ENVIRONMENTAL QUALITY

Tax Relief Application Review Report

1. Applicant

Dunn-LeBlanc, Inc.
dba/North Lincoln Sanitary Service
1726 S.E. Highway 101
Lincoln City, OR 97367

The applicant owns and operates a recycling center at Lincoln City, Oregon.

Application was made for tax credit for a solid waste recycling facility.

2. Description of Claimed Facility

The facility described in this application is a full-line recycling center which accepts cardboard, newsprint, glass, tin cans, aluminum and used motor oil from the public.

Request for Preliminary Certification for Tax Credit was made February 27, 1985, and approved on April 1, 1985 (approval to begin construction was granted on March 19, 1985).

The facility is subject to the 1983 tax credit legislation.

Construction was initiated on the claimed facility March 22, 1985, completed September 15, 1985, and the facility was placed into operation September 15, 1985.

Facility Cost: \$51,158.00 (Accountant's Certification was provided).

3. Evaluation of Application

The sole purpose of the facility is to recycle materials which would otherwise be solid waste and landfilled. Materials are received from the public and recycling businesses and stored until marketable quantities are accumulated. The facility is in compliance with Department's rules. It is estimated that the facility will process 291 tons of recyclable material per year. It is anticipated by Department staff that this figure will increase with full implementation of the Opportunity to Recycle Act.

Percentage allocable was figured as follows: Total cost of facility - \$51,158 divided by average annual cost flow - \$2,026 equal return on investment factor of 25.25. Using Table 1 of rule OAR 340-16-030, 20-year life expectancy and return on investment factor over 20 equals 0 return on investment. With a 0 return on investment percentage allocable equals 100%.

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 sole purpose of the facility is to utilize material that would otherwise be solid waste, by mechanical process, use of materials which have useful chemical or physical properties and which may be used for the same or other purposes.
 - (2) The end product of the utilization, other than a usable source of power, is competitive with an end product produced in another state; and
 - (3) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.
- c. Facility is designed for and is being operated for the sole purpose of preventing, controlling or reducing a substantial quantity of solid waste.
- d. The facility is necessary to satisfy the intents and purposes of ORS Chapter 459, 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 \$51,158, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-1790.

Ernest A. Schmidt:b
229-5157
December 31, 1985
SB5332

State of Oregon
Department of Environmental Quality

Revocation of Pollution Control Facility Certificates

1. Certificates issued to:

Publishers Paper Company
Oregon City Division
419 Main Street
Oregon City, Oregon 97045

and

Publishers Paper Company
4000 Kruse Way Place
Lake Oswego, Oregon 97034

The certificates were issued for air pollution control facilities.

2. The Environmental Quality Commission issued two certificates to Publishers Paper Company for a sulfite pulping process at the Newberg division of their company. The sulfite portion of that division has been permanently shut down. The company has notified the Department of this action and has requested that the two certificates be revoked. (letter attached)
3. It is recommended that Pollution Control Certificate Nos. 1156 and 1557 be revoked. (certificates attached)

SChew
229-6484
1/9/86



December 26, 1985

Ms. Sherry Chew
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207

Dear Ms. Chew:

The sulfite pulping process at the Newberg division of Publishers Paper was shutdown permanently in 1984. Hence, Publishers will not be claiming 1985 tax credit for two certified pollution control facilities associated with the sulfite operation. Furthermore, we request a revocation of the tax credit certifications. The facilities are:

Certificate No. 1156 (11/21/80): Recovery Furnace
SO₂ Absorption System

Certificate No. 1557 (02/25/83): SO₂ Recovery System

Please call if you have any questions.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. A. Schmall'. The signature is fluid and cursive, with a long horizontal stroke at the end.

R. A. Schmall
Corporate Manager,
Environmental & Energy Services

RAS/lew

cc: Fritz Skirvin, DEQ - Salem
Russ Smith, Dept. of Revenue
G. Norton
W. Barlow
W. Buxton



OREGON C.U.P. AWARD
Publishers Paper Co. was named in 1972 as the first recipient of the Oregon C.U.P. (Cleaning Up Pollution) Award for outstanding achievements in protecting the environment.

4000 KRUSE WAY PLACE, LAKE OSWEGO, OREGON 97034 PH: (503) 635-9711

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1156
Date of Issue 11/21/80
Application No. T-1274

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Publishers Paper Company Oregon City Division 419 Main Street Oregon City, Oregon 97045	Location of Pollution Control Facility: Wynooski Road Newberg, Oregon
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Venturi-type sulfur dioxide absorption system installed on the recovery furnace	
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>9/4/79</u> Placed into operation: <u>9/4/79</u>	
Actual Cost of Pollution Control Facility: \$ <u>961,513.00</u>	
Percent of actual cost properly allocable to pollution control: 40% or more but less than 60%	

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 21st day of November, 1980

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate No. 1557

Date of Issue 2/25/83

Application No. T-1575

POLLUTION CONTROL FACILITY CERTIFICATE

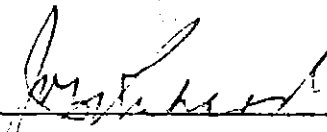
Issued To: Publishers Paper Co. 4000 Kruse Way Place Lake Oswego, OR 97034	Location of Pollution Control Facility: Wynooski Street Newberg, OR
As: <input type="checkbox"/> Lessee <input checked="" type="checkbox"/> Owner	
Description of Pollution Control Facility: Reconstruction of cooling venturi-type gas scrubber and collection sump with corrosion resistant liner, loops, and associated piping which are elements of the overall SO ₂ absorption system for existing sulfite recovery furnace.	
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: July 10, 1982 Placed into operation: July 10, 1982	
Actual Cost of Pollution Control Facility: \$ 355,941.00	
Percent of actual cost properly allocable to pollution control: less than 20%	

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.

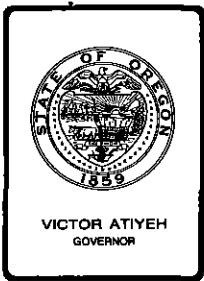
Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

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 25th day of February, 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. D, January 31, 1986, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Amendments to the State Implementation Plan Regarding Stack Heights and Dispersion Techniques, Deleting Rules OAR 340-20-340 and 340-20-345, Adding Replacement Rule 340-20-037

Background

In the past, extremely tall stacks were employed to provide dilution so that air pollution levels would not exceed standards at ground level. Since the practice has resulted in the formation of acid rain, steps were taken to mitigate the use of excessive stack heights as an emission control strategy.

The Clean Air Act of 1977 forbids the use of excessive stack heights when computing whether ambient air quality standards will be violated when the plume from a stack drifts down to ground level. The Act also forbids using dispersion techniques or temporary shut-down for the same purpose. The Federal Environmental Protection Agency (EPA) stack height rules were written to provide the necessary details and definitions to carry out the law's requirements. The Department adopted a comparable rule in 1983 in order to administer the federal program in Oregon. EPA revised their stack height rule on July 8, 1985 as a result of a recent court decision.

Problem Statement

Revised EPA Rules require states to revise their comparable rules by March 27, 1986 in order to allow states to continue administration of the program.

The Department has completed its comparison of the July 8, 1985 federal rule and the existing Oregon stack height and dispersion technique rule. Oregon's rule has the following differences from the new July 1985 federal rule:

1. The present Oregon rule is more stringent because the new federal rule of July 1985 adds an exemption for sources emitting less than 5,000 tons/year of sulfur oxides (SO_x). The Oregon rule does not have this exemption, so it applies to all sources of SO_x.
2. The July 1985 federal rule is more stringent because it does not allow excess height to be credited as a way of reducing pollutant impacts caused by elevated terrain unless that terrain begins within 1/2 mile of the stack. The DEQ rule allows consideration of any elevated terrain feature, no matter how distant.
3. The July 1985 federal rule is more stringent because it does not allow the consideration of other factors affecting plume rise (i.e. process manipulation, combining of plume, etc.) in the modeling process. For instance, the new federal rule forbids increasing the final exhaust gas plume rise by combining exhaust gases from several existing stacks into one stack.
4. The July 1985 federal rule added an exemption for using dispersion techniques to control residential woodburning impacts. This exemption is needed to clearly allow federal approval of curtailment programs such as the one for the Medford particulate control strategy. The July 1985 federal rule specifically allows episodic restrictions on residential woodburning.

EPA has reviewed and concurred with the Department's analysis of the deficiencies of the present Oregon rule. EPA has also approved the rule proposed for adoption.

Authority to Act

Authority for the Environmental Quality Commission to act is statute ORS 468.295(3) as shown in the Rulemaking Statements appended to the Notice of Public Hearing, Attachment 4.

Evaluation and Alternatives

A first alternative would be to amend the Oregon rule wherever it was less stringent and less detailed than the federal rule. This action would result in a rule unique to Oregon. As this is an infrequently used rule in Oregon and considering that such a rule would not be consistent with the EPA rule, it could be quite confusing for those who will have to eventually interpret these rules.

A second alternative would be no action. In that case, EPA would have to retract delegation of review of new sources where stacks over 65 meters high were involved. This would result in dual jurisdiction, with applicants going through two simultaneous reviews. Applicants would need two construction permits. Oregon has sought to avoid such dual jurisdiction.

A third alternative is to adopt EPA's new rule word-for-word and delete Oregon's existing stack height rule. This alternative naturally would have EPA's approval, would avoid the difficulties and confusion of the first-mentioned alternative, and would avoid the dual review of the second-mentioned alternative. However, it burdens the Oregon Administrative rules with many inapplicable details which apply only to many plants outside Oregon.

A fourth alternative is to adopt the federal rule by reference, deleting the present Oregon stack height and dispersion technique rule. This is a minimal effort alternative and keeps many inapplicable details out of the Oregon rules.

The adopt-by-reference alternative is recommended because of the rule's minimal use, the likelihood of EPA revision, and the brevity of this solution.

Rule Description

The July 8, 1985 EPA rule and the existing Oregon stack height rules are Attachments 1 and 2. The adopt-by-reference rule is shown in Attachment 3.

The amendments to the stack height rule, made by EPA on July 8, 1985, do not currently affect any existing tall stacks in Oregon. The amendments generally apply to new stacks, modifications to plants with existing tall stacks, and to one existing plant built after 1970 with a stack greater than 65 meters high. This one existing plant is PGE's Boardman 550 megawatt coal-fired steam-electric plant. Its 656 foot stack complies with the federal rule. These amendments may cause a reduction of about 1,700,000 ton of SO_x per year from power plants and smelters outside of Oregon. Therefore considerable interest in this rule exists in parts of the United States where most electricity is generated from coal-fired utility boilers, especially in the Ohio Valley. The proposed rule change would cause two needed changes in Oregon's rules and in its State Implementation Plan. First, it would add a needed exemption for episodic restrictions on residential woodburning; and second, it would protect Oregon from excessively tall stack emissions from new plants. The proposed rule change would avert a dual jurisdiction probably caused by Oregon not keeping its own stack height rule up-to-date with EPA's Rule.

EPA's deadline for adopting the subject rule is March 27, 1986. If the Commission authorizes the Department to conduct a hearing in March and adopt the amendments at its April 25, 1986 meeting, Oregon will be a month late for the deadline. EPA Region X has agreed to this timetable, if we will write them a letter showing our schedule.

Summation

1. EPA and DEQ stack height and dispersion technique rules forbid excessive stack heights or dispersion techniques in computing compliance with ambient air standards. Stack height rules do not prevent firms from building and using excessively tall stacks.
2. A recent court suit has caused EPA to revise its stack height and dispersion technique rule and EPA requires revisions to State Rules by March 27, 1986.
3. The Department, in conjunction with EPA, has determined that Oregon's stack height rule is less stringent than EPA's new rule in some respects.
4. The Department prefers to adopt EPA's new federal rule by reference into Oregon Administrative Rules, deleting the Oregon's present stack height rule as the most expedient and simplistic approach.
5. EPA Region X has agreed to the Department's schedule of authorization at this meeting, hearing March, and adoption on April 25, 1986 even though the March 27, 1986 deadline would be missed.

Director's Recommendation

It is recommended that the Commission authorize a hearing to consider adoption of the new federal stack height rule by reference in OAR 340-20-037 and repealing the present Oregon stack height rule OAR 340-20-340 and -345 as amendments to the State Implementation Plan.



Fred Hansen

- Attachments:
1. Federal Stack Height rule
 2. Existing Oregon Stack Height rule, 340-20-340 and -345
 3. Proposed adopt-by-reference rule 340-20-037
 4. Notice of Public Hearing with attached Rulemaking Statement

PETER B. BOSSERMAN:s
229-6278
January 16, 1986
AS2318

FEDERAL STACK HEIGHT RULE

Stack Heights and Dispersion Techniques

Definitions

40 CFR 51.1(ff) "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(gg) "A stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

(hh) (1) "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by:

(i) Using that portion of a stack which exceeds good engineering practice stack height;

(ii) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

(iii) Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

(2) The preceding sentence does not include:

(i) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of exhaust gas streams where:

(A) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(B) After July 8, 1983, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

(iii) Smoke management in agricultural or silvicultural prescribed burning programs;

(iv) Episodic restrictions on residential woodburning and open burning; or

(v) Techniques under 51.1(hh)(1)(iii) which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

(ii) "Good engineering practice" (GEP) stack height means the greater of:

(1) 65 meters, measured from the ground-level elevation at the base of the stack;

(2) (i) for stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR Parts 51 and 52.

$$H_g = 2.5H$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

(ii) For all other stacks.

$$H_g = H + 1.5L,$$

where

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H_g = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L= lesser dimension, height or projected width, of nearby structure(s) provided that the EPA, State, or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or

(3) The height demonstrated by a fluid model or a field study approved by the EPA, State, or local control agency which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(jj) "Nearby" as used in 51.1(ii) is defined for a specific structure or terrain feature and:

(1) for purposes of applying the formulae provided in 51.1(ii)(2) means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile), and

(2) for conducting demonstrations under 51.1(ii)(3) means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H_t) of the feature, not to exceed 2 miles if such feature achieves a height (H_t) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formulae provided in 51.1(ii)(2) (ii) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(kk) "Excessive concentration" is defined for the purpose of determining good engineering practice stack height under 51.1(ii)(3) and means:

(1) for sources seeking credit for stack height exceeding that established under 51.1(ii)(2); a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (40 CFR 51.24 and 52.21), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the authority administering the State implementation plan, an alternative emission rate shall be established in consultation with the source owner or operator;

(2) for sources seeking credit after October 1, 1983, for increases in existing stack heights up to the heights established under 51.1(ii)(2)

either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in (kk)(1) above, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the authority administering the State implementation plan; and

(3) for sources seeking credit after January 12, 1979 for a stack height determined under 51.1(ii)(2) where the authority administering the State implementation plan requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in 51.1(ii)(2), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

40 CFR 51.12(j) The plan must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in 51.12(k). The plan must provide that before a State submits to

EPA a new or revised emission limitation that is based on a good engineering practice stack height that exceeds the height allowed by 51.1(ii)(1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This Section does not require the plan to restrict, in any manner, the actual stack height of any source.

(k) The provisions of 51.12(j) shall not apply to:

(1) stack heights in existence, or dispersion techniques implemented on or before December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources, as defined in Section 111(a)(3) of the Clean Air Act, which were constructed, or reconstructed, or for which major modifications, as defined in 51.18(j)(1)(v)(a), 51.24(b)(2)(i) and 52.21(b)(2)(i), were carried out after December 31, 1970; or

(2) coal-fired steam electric generating units subject to the provisions of Section 118 of the Clean Air Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

40 CFR 51.18 (1) Such procedures must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in 51.12(k). Such procedures must provide that before a State

issues a permit to a source based on a good engineering practice stack height that exceeds the height allowed by 51.1(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This section does not require such procedures to restrict, in any manner, the actual stack height of any source.

[Taken from 40 CFR 51.1(ff) thru (kk); 51.12(j) & (k); 51.18(1) and the July 8, 1985 federal register, 50 FR 27892-27907.]

AA5018

OREGON ADMINISTRATIVE RULES

[Stack Heights and Dispersion Techniques**Definitions**

340-20-340 (1) "Dispersion Technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to ambient concentrations of that pollutant, or by addition of a fan or a reheater to obtain a less stringent emission limitation. The preceding sentence does not include:

(a) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.

(b) The use of smoke management in agricultural or silvicultural programs;
or

(c) Combining the exhaust gases from several stacks into one stack.

(2) "Excessive Concentrations" for the purpose of determining good engineering practice stack height in a fluid modeling evaluation or field study means a maximum concentration due to downwash, wakes, or eddy effects produced by structures or terrain features which is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

(3) "Good Engineering Practice (GEP) Stack Height" means the greater of;

(a) 65 meters;

(b) $H_g = H + 1.5L$, where

H_g = good engineering practice stack height, measured from the ground level elevation at the base of the stack;

H = height of nearby structure or structures measured from ground level elevation at the base of the stack;

L = lesser dimension (height or width) of the nearby structure or structures;

(c) The height demonstrated by a fluid modeling evaluation or a field study which is approved by the Department and ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of downwash, wakes, or eddy effects created by the source itself, nearby structures, or terrain obstacles.

(4) "Nearby Structures" means those structures within a distance of five times the lesser of the height or the width dimension of a structure but not greater than one-half mile. The height of the structure is measured from the ground level elevation at the base of the stack.

Stat. Auth.: ORS Ch. 468

Hist: DEQ 5-1983, f. & ef. 4-18-83

Limitations

340-20-345 (1) The degree of emission limitation required for any source shall not be affected in any manner by so much of the stack height as exceeds good engineering practice (GEP) or by any other dispersion technique. This provision applies to new sources and, modifications of

sources, and to existing sources proposing to increase stack heights.

(2) An emission limitation established pursuant to the proposed construction of a stack under the criteria established in **OAR 340-20-340(3)(c)** shall be subject to notice and opportunity for public comment concerning the fluid modeling evaluation or field study that was used to demonstrate the need for the increased stack height.]

Stat. Auth.: ORS Ch. 468

Hist. DEQ 5-1983, f. & ef. 4-18-83

AA5019

Stack Heights and Dispersion Techniques

340-20-037 Title 40, Code of Federal Regulation, Parts 51.1(ff) thru (kk), 51.12(j) and (k), and 51.18(1), as amended on July 8, 1985 in the Federal Register (50 FR 27892), is by this reference adopted and incorporated herein, concerning stack heights and dispersion techniques.

In general, the rule prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule does not forbid the construction and actual use of excessively tall stacks, nor use of dispersion techniques; it only forbids their use in calculations as noted above.

The rule has the following general applicability. With respect to the use of excessive stack height, stacks 65 meters high or greater, constructed after December 31, 1970, and major modifications to existing plants after December 31, 1970 with stacks 65 meters high or greater which were constructed before that date, are subject to this rule, with the exception that certain stacks at federally-owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974, are exempt. With respect to the use of dispersion techniques, any technique implemented after December 31, 1970, at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion

techniques to increase final exhaust gas plume rise are permitted to be used when calculating compliance with ambient air quality standards for sulfur dioxide.

(1) Where found in the federal rule, the term "reviewing agency" means the Department of Environmental Quality (DEQ), Lane Regional Air Pollution Authority (LRAPA), or the U.S. Environmental Protection Agency (EPA), as applicable.

(2) Where found in the federal rule, the term "authority administering the State Implementation Plan" means DEQ, LRAPA, or EPA.

(3) The "procedures" referred to in 40 CFR 51.18(1) are the New Source Review procedures at DEQ (340-20-220 to -276) or at LRAPA (Title 38), and the review procedures for new, or modifications to, minor sources, at DEQ (340-20-020 to -030, -140 to -185) or at LRAPA (Title 34 and rule 38-045).

(4) Where "the State" or "State, or local control agency" is referred to in 40 CFR 51.12(j), it means DEQ or LRAPA.

(5) Where 40 CFR 51.1(kk) refers to the prevention of significant deterioration program and cites 40 CFR 51.24, it means the EPA-approved new source review rules of DEQ or LRAPA (see 40 CFR 52.1987), where they cover prevention of significant deterioration.

(6) Where found in the federal rule, the terms "applicable state implementation plan" and "plan" refer to the programs and rules of DEQ or LRAPA, as approved by EPA, or any EPA-promulgated regulations (see 40 CFR Part 52, Subpart MM).

[Publications incorporated by reference in this rule are available from the office of the Department of Environmental Quality, Air Quality Division, in Portland.]

AA5019.1

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

**Stack Height & Dispersion Technique Rule Revision
NOTICE OF PUBLIC HEARING**

Date Prepared: 01/16/86
Hearing Date: 03/17/86
Comments Due: 03/18/86

**WHO IS
AFFECTED:**

Future builders of high (65 meters or greater) stacks which emit air pollution in Oregon. Existing high stacks in Oregon are not affected.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340-20-340 and 340-20-345. This rule, adopted in 1983, is a copy of federal rules 40 CFR 51.1, 51.12 and 51.18. The federal rule was changed on July 8, 1985, adding considerable detail to the rule. The Department proposes to keep up with the July 8, 1985 change by deleting its present "stack height and dispersion technique" rules, and adopting the federal rule by reference in new OAR 340-20-037.

The stack height rules forbid excessive stack heights from being used during computer modeling when trying to predict exceedences of ambient air standards. Stack height rules do not forbid plants from building and using excessively tall stacks. Stack height rules also do not allow credit for other dispersion techniques.

**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 Bosserman at 229-6278.

A public hearing will be held at:

10:00 a.m.
March 17, 1986
Yeon Building, Room 4B
522 S.W. 5th 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 March 18, 1986.



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 ~~1-800-452-7812~~ and ask for the Department of Environmental Quality.

1-800-452-4011



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 on April 25, 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.

AA5050

RULEMAKING STATEMENTS

for Stack Heights and Dispersion Techniques Rule

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

STATEMENT OF NEED:

Legal Authority

This proposal would amend OAR 340-20-340 and 340-20-345 by deleting them and adding a replacement rule in 340-20-037. It is proposed under authority of ORS 468.295(3).

Need for the Rule

If Oregon does not keep its stack height rule up-to-date with the federal rule, then the Federal EPA would revoke approval of that part of Oregon's State Implementation Plan. Next, EPA would promulgate their new stack height rule in Oregon. This would result in both a federal and state review of new sources with tall stacks because of the differences between the state and the federal rules. This would be a case of undesired dual jurisdiction.

Principal Documents Relied Upon

1. Memorandum June 21, 1985, George Abel of Region X EPA to Oregon Operations Office, transmitted to John Kowalczyk, DEQ, "Implementation of Revised Stack Height Regulations."
2. Federal Register, Vol. 50, pages 27892 to 27907, July 8, 1985 "Stack Height Regulations," and Code of Federal Regulations, 40 CFR 51.
3. Letter July 11, 1985, Thomas Bispham of DEQ to Jim Herlihy of EPA, Oregon Operations Office, re: Stack Height Rules.
4. Letter October 4, 1985, Dennis Norton of PGE to Peter Bosserman of DEQ, compliance of PGE-Boardman with Stack Height Rule.
5. Letter December 24, 1985, DEQ to EPA (Region X) listing every stack in Oregon over 213 feet high and why it is in compliance with the new federal rule.
6. Letter January 7, 1986, EPA to DEQ with comments on proposed stack height rule.

FISCAL AND ECONOMIC IMPACT STATEMENT:

There is no effect on existing high stacks in Oregon, as they are in compliance with the revised federal stack height regulation. If the revised Oregon rule is adopted, new sources with tall stacks will be regulated only by the DEQ and not by the Federal EPA also.

LAND USE CONSISTENCY STATEMENT:

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

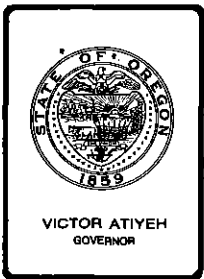
With regard to Goal 6 (air, water, and land resources quality) the rules are designed to enhance and preserve air quality in the affected area and are considered consistent with the goal.

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.



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 E, January 31, 1986, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Consolidation and Updating of the Oregon State Clean Air Act Implementation Plan, OAR 340-20-047

Background

The Clean Air Act of 1970 required states to submit plans to the EPA which provide for "implementation, maintenance, and enforcement" of national ambient air quality standards. In January of 1972 the Environmental Quality Commission adopted the Oregon State Implementation Plan (SIP). Since that time the Department of Environmental Quality has been responsible for developing revisions and additions to the SIP as needed. Numerous revisions have occurred during the past 14 years.

These revisions have led to the development of a number of problems with the SIP. The Department has been aware of these developing problems for several years but has not been able to tend to them due to the workloads and priorities. The EPA has also noticed some of these problems and has expressed interest in a consolidation of Oregon SIP documents.

The SIP contains statutes, rules, strategies and programs which demonstrate the State's ability to attain and/or maintain compliance with national ambient air quality standards in all areas of the state. Included are control strategies for all areas exceeding standards, plans for protection of visibility in Class I areas and plans for prevention of significant deterioration (PSD) of air quality in those areas of the state which are already in compliance with national standards. The SIP is intended to contain only those rules and statutes which are necessary to meet federal requirements. Once approved by EPA the SIP is enforceable as federal law.

Authority to Act

Oregon Revised Statute 468.305 authorizes the Commission to adopt a plan for the "control or abatement of existing air pollution and for the control or prevention of new air pollution in any area of the state."

Problem Statement

Since its adoption in 1972 the SIP has been amended numerous times in response to amendments to the Clean Air Act, to additions and revisions to EPA regulations, and to changes in technology and local conditions. As a result of these revisions a number of problems have developed.

First, the SIP has become fragmented. At present it consists of the original document adopted in 1972, major revisions adopted in 1979, and nonattainment area control strategies, numerous rule revisions, permits and other amendments adopted since 1979. This fragmentation has resulted in a SIP which is cumbersome and difficult to use, both by the agency and by the public. It is difficult to ascertain what portions of Oregon's environmental rules, regulations and programs are included in the EPA approved, federally enforceable Clean Air Act State Implementation Plan (SIP).

Another problem is that some portions of the original 1972 SIP have become obsolete due to changes in Oregon statutes, rules and procedures. In particular, discussions on legal authority, intergovernmental cooperation and public involvement need to be updated.

In addition, some amendments to state regulations which were submitted to EPA as SIP revisions were never acted on by EPA because in their opinion there was inadequate public notice prior to adoption of the amendment. The result of the lack of approval by EPA of these submittals is that the regulations in the SIP are not entirely consistent with those the State is currently enforcing.

Several other rules and statutes need to be removed from the EPA approved SIP. This is due to obsolescence, replacement or irrelevance. Several rules currently included in the SIP are not required for attaining or maintaining national ambient air quality standards and so are not mandatory in the EPA approved SIP. Their removal would give the Department greater flexibility in developing, revising and enforcing Oregon's air quality program.

Finally, some existing State rules need to be submitted for incorporation into the SIP in order to satisfy EPA requirements.

The development of these problems was a gradual process occurring over several years. Each individual problem is relatively minor; however, they add up to a serious need for consolidation and housecleaning of the SIP. The problems were not dealt with individually as they arose because of lack of staff time and the existence of many projects with higher priorities.

In summary, major revisions to the SIP are needed to consolidate and update the documents. These can be categorized as follows:

1. Deletions and updates of parts of the original 1972 SIP;
2. Deletions and updates of certain SIP amendments made since 1972;
3. Addition of certain existing State rules to the SIP;
4. Addition of certain existing LRAPA rules to the SIP;
5. Readoption of certain State rules as SIP revisions (to satisfy inadequate public notice);
6. Withdrawal of certain State rules submitted as SIP revisions.

Attachment B contains a specific list of needed changes in the SIP tabulated in the above categories.

Alternatives and Evaluation

The Department is proposing to revise the format and organization of the State Implementation Plan (SIP) by consolidating all SIP documents and regulations along with all State rules, regulations and other documents that relate to Oregon's Air Quality Control Program. All such documents would then be included in one comprehensive set of four volumes.

The volumes of the State of Oregon Air Quality Control Program would be:
1. State Implementation Plan Summary (a public information document); 2. The Federal Clean Air Act State Implementation Plan (and other State Rules); 3. State Implementation Plan Appendices (a part of the federally enforceable SIP); 4. State Implementation Plan Reference Material. This consolidation would be accomplished by repealing the entire "State of Oregon Clean Air Act, Implementation Plan" (OAR 340-20-047) and replacing it with Volumes 2 and 3 of the State of Oregon Air Quality Control Program.

Volume 1 would summarize the EPA approved SIP but would not itself be part of the SIP. Volume 2 would constitute the text of the revised OAR 340-20-047, State of Oregon Clean Air Act, Implementation Plan (except for specified State regulations which would not be part of the SIP). Volume 3 would contain the appendices to the SIP. It would include such documents as smoke management plans and legal definitions of nonattainment area boundaries. These documents would have EPA approval and would be part of the federally enforceable SIP but would not be part of the text of OAR 340-20-047. Volume 4 would contain additional reference material which was used in developing the control strategies contained in Volume 2; it would not be part of the EPA approved SIP.

The advantage to such organization is that the public, as well as agency staff, will be able to quickly find, in a single location, all rules, regulations, program descriptions, etc., which relate to air quality control in Oregon. Those state statutes and rules which are not included in the EPA approved SIP will be clearly identified so that individuals can quickly determine which regulations are federally enforceable. Other programs and plans (e.g., smoke management plans) which have received EPA approval and are considered part of the SIP will also be identified. A second advantage to this organization is that it will have a looseleaf format that will allow for easy and continuous updating so that a current copy can always be available.

It is also proposed that several "housecleaning" functions be performed on the SIP with the same EQC action. All actions which would occur under this proposed revision are listed in Attachment B. This attachment is organized into six sections which are discussed individually below.

Attachment B, Section I

Oregon State Implementation Plan as Submitted January 25, 1972

This section lists all of the parts of the original 1972 SIP and identifies which parts would be updated, retained, or eliminated. Most significant is the replacement of the outdated Water and Air Pollution Control Statutes (ORS 449) with the current ORS Chapter 468, Pollution Control. This change was made on the state level in 1973 when the Oregon Legislature enacted ORS 468 and repealed 449. The action was submitted to EPA as a SIP revision but was never acted on because public hearings were not held prior to submittal. Also important is the updating of much of the descriptive text (e.g., discussions of legal authority, emergency action plan, resources, etc.) and the removal of several unnecessary or obsolete rules. For example, OAR 340-20-050 to 20-070, Rules for Parking Facilities & Highways, have been repealed and replaced at the State level by indirect source regulations which are not required in the SIP. However, the original rules, which were included in the 1972 SIP submitted, have never been removed from the SIP; OAR 340-31-045, Particle Fallout Standard, is not required by the Clean Air Act and so should be removed from the SIP but retained as a State rule; OAR 340-12-005 to 12-025, Civil Penalties, were replaced in 1974 with updated rules which are in the SIP, but the original rules have not been removed from the SIP.

Attachment B, Section II

Revisions to the Oregon State Implementation Plan Since January 25, 1972

Since the original SIP was approved in 1972, there have been over 70 revisions to it. This section of Attachment B lists all of these revisions in the order they appear in the Code of Federal Regulations (40 CFR 52.1970) and identifies which would be retained and which would be omitted from the proposed consolidated SIP. The most significant action here is the removal of several rules from the SIP which are not required by EPA. These rules would be retained as State rules. Their removal from the SIP would allow the Department greater flexibility in administering Oregon's Air Quality Control Program. The rules involved are: OAR 340-11-005 to 11-045, Rules of Practice and Procedure; OAR 340-13-005 to 13-035, Wilderness, Recreational and Scenic Area Rules; OAR 340-24-005 to 24-040, Motor Vehicle Visible Emission; OAR 340-25-055 to 25-080, Reduction of Animal Matter; and OAR 340-20-100 to 20-135, Rules for Indirect Sources. In addition, several obsolete compliance schedules would be removed.

Attachment B, Section III

Proposed Additions of Existing State Rules/Statutes to the Oregon SIP

This section lists state regulations which have already been adopted by the EQC but have not yet been acted on by EPA. These rules need to be included in the SIP in order to satisfy EPA requirements. During the proposed consolidation all of the rules listed in this section would be resubmitted for inclusion in the EPA approved SIP.

Attachment B, Section IV

Proposed Additions of Existing LRAPA Rules to the Oregon SIP

This section lists rules which have already been adopted by the Lane Regional Air Pollution Authority and have been approved by the EQC but have not yet been acted on by EPA. During the proposed updating and consolidation these rules would be resubmitted for inclusion in the EPA approved SIP.

Attachment B, Section V

Readoption of State Rules and Submittal as SIP Revisions

This section lists state regulations which have already been adopted by the EQC and submitted to EPA but were never acted on by EPA because of inadequate public notice (in EPA's opinion) prior to adoption. During the consideration of the proposed updating and consolidation of the SIP the public comment period for these rules would be reopened. If readopted, these rules would be resubmitted to EPA for inclusion in the SIP. The EPA has indicated that this process would satisfy their concerns relative to public notice on these rules.

Attachment B, Section VI

Withdrawal of State Rules From Submission as SIP Revisions

This section lists rules which were adopted by the EQC and submitted to EPA as SIP revisions. The EPA has not yet acted on these submittals because of inadequate public notice. These rules are not required by the Clean Air Act and so are not necessary in the SIP. It is proposed that their submission as SIP revisions be withdrawn but that they be retained as State rules.

It is important to recognize that the proposed consolidation and updating does not create new regulations nor does it relax or repeal any existing state or local regulations. It simply consolidates the fragmented Oregon Air Quality Control Program, clarifies what portions of that program are in the EPA approved State Implementation Plan and performs several "house-cleaning" functions to remove obsolete and unnecessary material from the SIP. Any regulations removed from the SIP would remain as state or local regulations.

As an alternative to the proposed action the Commission could choose to keep the SIP in its present form and authorize individual hearings to delete rules that are obsolete, irrelevant or not needed in the SIP. Individual hearings would also have to be held to correct the public hearing deficiencies on several rules which have already been adopted. This process would be very time consuming and expensive, and would not produce a consolidated, easy to use document.

Attempting to consolidate air quality control documents without removing obsolete, irrelevant and unnecessary regulations and text would result in a much larger set of volumes which would be difficult to use because of considerable duplication and confusion over what portions are most current and what version of duplicated rules are federally enforceable.

If the Commission chooses not to authorize public hearings for consolidating Oregon's Air Quality Control Program and updating the Oregon State Implementation Plan, the SIP will remain cumbersome, difficult to understand, and several inconsistencies between current State rules and EPA recognized SIP rules would remain. The exact contents of the Oregon SIP would remain difficult to determine.

Summation

1. The State Clean Air Act Implementation Plan (SIP), originally adopted in 1972, has been revised numerous times, resulting in a document which is fragmented, cumbersome, and difficult to use and understand. These problems have developed over a long period of time and have not been dealt with because of lack of staff time and higher priority of other projects.
2. Parts of the SIP have become obsolete and portions are irrelevant to air quality control. There are several inconsistencies between EPA-recognized SIP regulations and regulations the State is currently enforcing. As a result, it has become difficult to determine the exact contents of the Oregon SIP.
3. The Department is proposing to repeal the existing SIP and replace it with an updated State Implementation Plan. In the proposed organization all state regulations and other documents that relate to air quality control in Oregon would be contained in one comprehensive set of volumes. Those regulations and programs which are included in the EPA approved SIP would be identified. No regulations would be created, repealed, or relaxed by this action.
4. The EPA has not acted on several SIP revisions because they considered the public notice prior to adoption to be deficient. The Department proposes to resolve this issue by reopening the public comment period for those rules along with the comment period for the proposed updating of the SIP. These rules, along with several other regulations which have been submitted but have not yet been acted on by EPA, would simultaneously be submitted with the updated SIP for EPA approval.

5. The Department further proposes to remove certain rules, statutes, permits and compliance schedules from the Oregon SIP because they are either obsolete, irrelevant, or not required in the SIP by the Clean Air Act. This will give the Department greater flexibility in developing, revising and enforcing Oregon's Air Quality Control Program.
6. The Department is now requesting authorization to hold a public hearing on the proposed consolidation and updating of Air Quality Program documents, including the Oregon SIP. This will give the public the opportunity to comment on the entire SIP document prior to submittal to EPA.
7. The Commission could choose not to authorize public hearings, keep the SIP in its present form, and subsequently authorize individual hearings to correct inconsistencies, add necessary rules and delete unnecessary rules from the SIP.

Recommendation

Based on the Summation, it is recommended that the Commission authorize public hearings to accept testimony on repealing the existing Oregon State Implementation Plan, OAR 340-20-047, and adoption of an updated SIP consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program.



Fred Hansen

Attachments:

- A. Draft Public Notice, Including Statement of Need and Fiscal and Economic Impact Statement.
- B. Proposed Consolidated SIP Actions.
- C. Proposed Oregon State Implementation Plan, OAR 340-20-047 (Volumes 2 and 3 of the State of Oregon Air Quality Control Program). Copies to EQC Chair only.

M. Wolgamott:s
229-5713
January 14, 1986

AS2028

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Consolidation and Updating of the Oregon State

Clean Air Act Implementation Plan

NOTICE OF PUBLIC HEARING

Date Prepared: December 20, 1985
Hearing Date: March 19, 1986
Comments Due: March 20, 1986

**WHO IS
AFFECTED:**

Residents, businesses, industries and government agencies throughout Oregon.

**WHAT IS
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340-20-047, State of Oregon Clean Air Act, Implementation Plan (SIP), by repealing the existing SIP and adopting the proposed consolidated State Implementation Plan which would consist of Volumes 2 and 3 of the State of Oregon Air Quality Control Program. The proposed organization would create a single set of volumes that contain all of Oregon's regulations, strategies, program descriptions and plans that relate to air quality control. Those portions of the consolidated document which are part of the federally enforceable SIP would be clearly identified.

**WHAT ARE THE
HIGHLIGHTS:**

The proposed consolidation and updating would produce a document which would provide both the public and agency staff with quick access to all regulations relevant to air quality and make it easy to determine which of these regulations are included in the SIP.

The following necessary "housecleaning" functions would be accomplished with the same action:

1. Updating or removing obsolete material from the SIP.
2. Removing certain rules, statutes and permits from the EPA approved SIP. These regulations are either irrelevant or are not required in the SIP. Any regulations removed from the SIP would be retained as state or local regulations.
3. Adding to the SIP certain existing state and local regulations which are necessary and already have been adopted but have not been acted on by EPA.



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 ~~1-800-452-7812~~ and ask for the Department of Environmental Quality.

1-800-452-4011



4. Re-open public comment on existing state regulations which were not acted on by EPA due to insufficient public notice before adoption. If re-adopted, these rules would become part of the SIP. Included are: OAR 340-25-305 to 315, Rules for Board Products Industries; OAR 340-25-150 to 200, Rules for Kraft Pulp Mills; OAR 340-20-200 to 215, Rules Relating to Conflict of Interest; ORS 468, Pollution Control.

No new regulations are created; no existing state or local regulations are repealed or relaxed; some rules would be removed from the SIP but would be retained as state or local rules. A detailed listing of all actions which would result from this action is available from DEQ Air Quality Division.

**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 Mitch Wolgamott at 229-5713.

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

10:00 a.m.
March 19, 1986
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 March 20, 1986.

**WHAT IS THE
NEXT STEP:**

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

RULEMAKING STATEMENTS

for

The Proposed Consolidation and Updating of the Oregon State Clean Air Act Implementation Plan

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. It is proposed under authority of ORS Chapter 468, including Section 305, which authorizes the Commission to adopt a comprehensive plan for control and abatement of pollution statewide.

Need for the Rule

The existing SIP document has become fragmented. Its format is cumbersome to use and difficult to revise. It has become difficult for the layman to determine the exact contents of the SIP. In many cases, the EPA-approved SIP rules and statutes differ from those the state is enforcing. The proposed revised SIP document will incorporate all sections of the SIP into one document consisting of four volumes, which will be easy to use and easy to revise as needed in the future. The exact contents of the SIP, including the rules, would be clarified and updated. No changes to the text or contents of the rules or control strategies are proposed.

Principal Documents Relied Upon

1. The Oregon State Implementation Plan, as adopted by the Environmental Quality Commission in OAR 340-20-047.
2. The Oregon State Implementation Plan, as approved and promulgated by the U.S. Environmental Protection Agency in 40 CFR 52.1970 through 52.1987.
3. The Federal Clean Air Act as Amended, P.L. 95-95.
4. Requirements for Preparation, Adoption and Submittal of Implementation Plans, 40 CFR Part 51.

FISCAL AND ECONOMIC IMPACT STATEMENT:

The proposed consolidation and updating of the SIP would have no significant fiscal impact. Clarifying the exact contents of the SIP would reduce the time and expense required to ascertain the exact contents of the SIP. Removal of unnecessary rules from the SIP would save DEQ administrative costs on future revisions and would benefit industries by clarifying their responsibilities under State and Federal law. Small businesses would not be affected.

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.

AS2031.B

CONSOLIDATED SIP ACTIONS

I Oregon State Implementation Plan as Submitted 1/25/72

<u>Item</u>	<u>Proposed Action</u>
(40 CFR 52.1970(b))	
Introduction	Replace with updated section
1. Legal Authority	Replace with updated section
Appendix 1-A Attorney General's Opinion on Legal Authority	Replace with an updated Attorney General's Opinion on Legal Authority
Appendix 1-B Oregon Revised Statutes, Chapter 449 Water and Air Pollution Control	Replace with ORS Chapter 468, Pollution Control
Appendix 1-C Chapters of Oregon Laws 1971 Relating to Air Pollution Control	Replace with ORS Chapter 468, Pollution Control
Appendix 1-D EPA Letter Regarding Legal Authority	Replace with ORS Chapter 468, Pollution Control
Appendix 1-E Oregon Revised Statutes, Chapter 192, Public Information Act	Replace with ORS Chapter 468, Pollution Control
2. Emission Limitations and Other Measures	
Appendix 2-A New Environmental Quality Commission Rules Adopted with the Implementation Plan:	

AIR POLLUTION CONTROL

**DIVISION 20
GENERAL**

340-20-003	Exceptions (Amendments to)	Retain in SIP
Notice of Construction and Approval of Plans		
340-20-025	Scope (Amendments to)	Retain in SIP
340-20-050	Parking Facilities & Highways to (Amendments to)	Repeal, amended by indirect source regulations which were never incorporated into the SIP
340-20-070		
340-20-032	Compliance Schedules (Addition to)	Retain in SIP

CONSOLIDATED SIP ACTIONS

<u>Item</u>		<u>Proposed Action</u>
DIVISION 21		
340-21-035 to 340-21-045 340-21-030	Particulate Emissions from Process Equipment (Amendment to)	Retain in SIP
340-21-050 to 340-21-060 340-21-065 to 340-21-075	Particulate Emission Limitations for Sources Other Than Fuel Burning and Refuse Burning Equipment (Addition to) Fugitive Emissions (Addition to) Upset Conditions (Addition to)	Retain in SIP Retain in SIP Retain in SIP
DIVISION 22		
340-22-005 to 340-22-025 340-22-050 to 340-22-055	Sulfur Content of Fuels (Addition to) General Emission Standards for Sulfur Dioxide (Addition to)	Retain in SIP Retain in SIP
DIVISION 23		
340-23-005 to 340-23-120	Open Burning (Addition to)	Retain in SIP as revised, see 6/5/84 submittal
DIVISION 25		
340-25-005 to 340-25-025 340-25-315	Construction and Operation of Wigwam Waste Burners (Amendments to) Establishing Emission Standards for Veneer Dryers (Amendments to)	Retain in SIP Retain in SIP as revised 5/1/73, 2/25/75, 4/11/77, and 4/20/79
340-25-405 to 340-25-430	Laterite Ore Production of Ferronickel (Addition to)	Retain in SIP
DIVISION 27		
340-27-005 to 340-27-030	Air Pollution Emergencies	Retain in SIP as revised, see 10/26/83 submittal
DIVISION 31		
340-31-005 to 340-31-025	Ambient Air Quality Standards (Amendments to)	Retain in SIP

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
340-31-030 Photochemical Oxidants	Retain in SIP as revised, see #50*
340-31-035 Hydrocarbons	Retain in SIP
340-31-040 Nitrogen Dioxide	Retain in SIP
340-31-045 Particle Fallout	Delete from SIP, not required, retain as State Rule
340-31-050 Calcium Oxide (Lime Dust)	Delete from SIP, not required, retain as State Rule

DIVISION 20

340-20-001 Highest and Best Practicable Treatment and Control Required (Addition to)	Retain in SIP
340-20-140 Air Contaminant Discharge Permits to	Retain in SIP as revised, see #51* and #64*
340-20-185	

Appendix 2-B Environmental Quality Commission Rules Existing Prior to Adoption of State Implementation Plan:

DIVISION 12

340-12-005 Civil Penalties Schedule and to	Repeal, rules were replaced in 1974 but never removed from SIP, see #17* and #43*
340-12-025 Air & Water Pollution and Solid Waste Management	

DIVISION 20

340-20-003 Exceptions	Retain in SIP
340-20-005 Registration to	Retain in SIP
340-20-015	
340-20-020 Notice of Construction and to	Retain in SIP
340-20-030 Approval of Plans	
340-20-035 Sampling, Testing and to	Retain in SIP
340-20-045 Measurement of Air Contaminant Emissions	

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
DIVISION 21	
340-21-005 to 340-21-015	General Emission Standards for Particulate Matter Retain in SIP
340-21-020	Fuel Burning Equipment Limitations Retain in SIP as revised, see #58*
340-21-025	Refuse Burning Equipment Limitations Retain in SIP as revised, see #69*
DIVISION 23	
340-23-005 to 340-23-016	Open Burning Retain in SIP as revised, see 6/5/84 submittal
DIVISION 24	
340-24-005 to 340-24-040	Motor Vehicles Visible Emission Delete from SIP, not required in SIP, retain as State Rule
DIVISION 25	
340-25-005 to 340-25-025	Construction and Operation of Wigwam Waste Burners Retain in SIP
340-25-055 to 340-25-080	Reduction of Animal Matter Delete from SIP, not required in SIP, retain as State Rule
340-25-115	Other Established Air Quality Limitations Retain in SIP as revised 3/1/73
340-25-105 to 340-25-125	Hot Mix Asphalt Plants Retain in SIP as revised 3/1/73 and 5/5/83
340-25-150 to 340-25-200	Rules for Kraft Pulp Mills Retain in SIP as revised 3/1/73 and 6/10/77
340-25-255 to 340-25-290	Primary Aluminum Plants Retain in SIP as revised, see #57*
340-25-305 to 340-25-325	Board Products Industries Retain in SIP as revised 8/15/77 and 5/10/79

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

	<u>Item</u>	<u>Proposed Action</u>
340-25-350	Sulfite Pulp Mills	Retain in SIP as revised, see #42*
to		
340-25-390		
340-26-005	Field Burning	Retain in SIP as revised, see #41* and 3/14/84 sub- mittal
to		
340-26-025		
340-20-100	Rules for Indirect Sources (revisions adopted 8/11/76 and 12/4/78)	Withdrawn from submission as SIP revision, not required in SIP, retain as State Rules
to		
340-20-135		
Appendix 2-C	Rules of the Columbia - Willamette Air Pollution Authority	Previously Repealed (see #16)*
Appendix 2-D	Rules of the Mid-Willamette Valley Air Pollution Authority	Previously Repealed (see #56*)
Appendix 2-E	Rules of the Lane Regional Air Pollution Authority	Retain in SIP as revised
Appendix 2-F	Forms Used by DEQ in Review of Plans for New Sources	Repeal, not required in SIP
3.	Adequacy of the Control Strategy	Replaced with Volume 2, Sections 4 and 5, Control Strategies, in New Plan
Appendix 3-A	Estimation of Sulfur Dioxide	Repeal, obsolete
Appendix 3-B	Suspended Particulate Background Values for Oregon Air Quality Control Regions	Repeal, obsolete
Appendix 3-C	Western Oregon Pollution Potential Data	Repeal, obsolete
4.	Air Quality Measurements and Emission Data	Repeal, obsolete
Appendix 4-A through Appendix 4-J		Repeal, obsolete

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
5. Air Quality Surveillance	Replace with Volume 2, Section 6, Ambient Air Quality Monitoring, in New Plan
6. Emergency Action Plan	Replace with updated Emergency Action Plan (Volume 2, Section 7)
Appendix 6-A Emergency Action Plan Regulation	Retain in SIP as revised, see #65*
Appendix 6-B Guidelines for Pre-Planned Strategies - Point Sources	Repeal, not necessary, included in Emergency Action Plan
Appendix 6-C Guidelines for Pre-Planned Strategies - Motor Vehicles and Airports	Repeal, not necessary, included in Emergency Action Plan
Appendix 6-D Technical Procedure: Monitoring Schedules and Declaration Criteria	Repeal, not necessary, included in Emergency Action Plan
7. Resources	Replace with updated version (Volume 2, Section 2.3)
8. Intergovernmental Cooperation	Replace with updated section (Volume 2, Section 2.4)
9. Revisions and Public Participation	Replace with updated section (Volume 2, Section 8 and 9)

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

II Revisions to the Oregon State Implementation Plan Since 1/25/72

<u>Item</u>	<u>Proposed Action</u>
(40 CFR 52.1970(c))	
1. * Amendments to the implementation plan including ORS Chapters 449, 192, and 340 submitted on May 3, 1972, by the Governor	
ORS Chapter 449 , Water and Air Pollution Control	Replaced by ORS Chapter 468, Pollution Control
ORS Chapter 192	Replaced by ORS Chapter 468, Pollution Control
OAR 340-11-005 to 340-11-045 Rules of Practice and Procedure	Delete from SIP, not required in SIP, retain as State Rules
OAR 340-13-005 to 340-13-035 Wilderness, Recreational and Scenic Area Rules	Delete from SIP, not required in SIP, retain as State Rules
OAR 340-24-005 to 340-24-040 Motor Vehicles Visible Emissions	Delete from SIP, not required in SIP, retain as State Rules
OAR 340-25-055 to 340-25-080 Reduction of Animal Matter	Delete from SIP, not required in SIP, retain as State Rules
OAR 340-25-255 to 340-25-290 Primary Aluminum Plants	Retain in SIP as revised, see #57*
OAR 340-25-305 to 340-25-325 Board Products Industries	Retain in SIP as revised
OAR 340-25-350 to 340-25-390 Sulfite Pulp Mills	Retain in SIP as revised, see #42*
2. Transportation control strategy for oxidants and carbon monoxide in the Oregon portion of the Portland Interstate Region submitted on October 26, 1972 by the Governor.	Repeal, replaced by #55*

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
3. Compliance schedules submitted on February 9, 1973, by the Department of Environmental Quality.	Repeal, obsolete
4. Revision to the transportation control plan submitted on April 13, 1973 by the Governor.	Repeal, replaced by #55*
5. Compliance schedules submitted on May 30, 1973, by the Department of Environmental Quality.	Repeal, obsolete
6. Compliance schedules submitted on June 8, 1973, by the Department of Environmental Quality.	Repeal, obsolete
7. Compliance schedules submitted on June 22, 1973, by the Department of Environmental Quality.	Repeal, obsolete
8. Compliance schedules submitted on June 25, 1973, by the Department of Environmental Quality.	Repeal, obsolete
9. Compliance schedules submitted on July 31, 1973, by the Department of Environmental Quality.	Repeal, obsolete
10. Compliance schedules submitted on August 3, 1973, by the Department of Environmental Quality.	Repeal, obsolete
11. Request for an extension to May 31, 1976, of the attainment date for carbon monoxides and photochemical oxidants and miscellaneous additions (Non-regulatory) to the transportation control plan submitted on September 21, 1973 by the Governor.	Repeal, obsolete
12. Miscellaneous additions (Non-regulatory) to the transportation control plan submitted on August 20, 1973, by the Department of Environmental Quality.	Repeal, replaced by #55*

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
13. Plan for maintenance of the national standards submitted on August 27, 1973, by the Department of Environmental Quality.	Retain in SIP
14. Revision to Oregon Administrative Rules (OAR) Chapter 340, sections 25-105 through 25-130, - Hot Mix Asphalt Plants and sections 25-155 through 25-195 Kraft Pulp Mills submitted on February 8, 1973, by the Department of Environmental Quality.	Retain in SIP as revised 6/10/77 and #63*
15. Change to regulations for the Lane Regional Air Pollution Authority submitted on February 13, 1973, by the Department of Environmental Quality.	Retain in SIP as revised
16. Special air pollution control rules for Clackamas, Columbia, Multnomah and Washington Counties and certification of the dissolution of regulations for the Columbia-Willamette Air Pollution Authority submitted on January 17, 1974, by the Department of Environmental Quality.	Delete from SIP, not required in SIP, retain as State Rules, as revised 4/15/75 and 10/20/76
17. Revision to Oregon Administrative Rules (OAR) Chapter 340, sections 12-030 through 12-055 Civil Penalties submitted on February 19, 1975, by the Department of Environmental Quality.	
OAR 340-12-005 to 340-12-025	Delete from SIP, repealed by EQC in 1974
OAR 340-12-030 to 340-12-050	Retain in SIP as revised, see #43*
OAR 340-12-055 Water Pollution Schedule of Civil Penalties	Repeal, not related to air quality
OAR 340-12-040	Retain in SIP as revised 7/5/79

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
18. Oregon Revised Statute 468.095 for public availability of emission data submitted on August 1, 1975 by the Department of Environmental Quality.	Retain in SIP
19. Indirect Source Regulation (OAR, Chapter 340-20-100 through 20-135) submitted on July 24, 1975 by the Department of Environmental Quality.	Delete from SIP, not required in SIP, retain as State Rules as revised 8/11/76 and 12/4/78
20. Indirect Source Regulation (Title 20-Indirect Sources), of the Lane Regional Air Pollution Authority Rules and Regulations, submitted November 18, 1975 by the Department of Environmental Quality.	Delete from SIP, not required in SIP, retain as LRAPA rules
21. Air Contaminant Discharge Permits (Oregon Administrative Rules 340-20-140 through 340-20-185) submitted February 17, 1976.	Retain in SIP as revised, see #51* and #64*
22. Lane Regional Air Pollution Authority Regulation, Title 22-Permits, submitted June 7, 1976.	Replace with new Titles 34 and 38 Submitted 8/5/85
23. Oregon Revised Statutes sections 468.450 through 468.485 submitted on August 1, 1975 by the Department of Environmental Quality.	Retain in SIP
24. Oregon Administrative Rules (OAR) Chapter 340, sections 26-005 through 26-025, submitted on February 17, 1976 by the Department of Environmental Quality.	Retain in SIP as revised, see #26*, #32*, #41*, #68* and #69*
25. Request for an extension to May 31, 1978 of the attainment date for particulate matter national secondary ambient air quality standards in the Eugene/Springfield Air Quality Maintenance Area.	Repeal, obsolete

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
26. Revision to the field burning regulations submitted on June 28, 1979; September 13, 1979; October 10, 1979; and March 11, 1980 by the Department of Environmental Quality.	Retain in SIP as revised, see #32*, #41*, #68* and #69*
27. On June 20 and 29, 1979, the Governor submitted: (i) Carbon monoxide (CO) and ozone (O ₃) attainment plans for the Oregon portion of the Portland-Vancouver AQMA, Salem, and Medford-Ashland AQMA, and (ii) a carbon monoxide (CO) attainment plan for the Eugene-Springfield AQMA.	
Portland CO Plan	Repeal, replaced by #55*
Portland O ₃ Plan	Repeal, replaced by #55*
Salem CO Plan	Retain in SIP
Salem O ₃ Plan	Repeal, replaced by #47*
Medford CO Plan	Repeal, replaced with revision on 10/20/82
Medford O ₃ Plan	Repeal, replaced by O ₃ Maintenance Plan Submitted 2/28/85
Eugene CO Plan	Retain in SIP
28. On June 20, 1979, the Governor requested an extension beyond 1982 for the attainment of carbon monoxide (CO) in Portland, Eugene-Springfield and Medford.	Retain in SIP
29. On June 29, 1979, the Governor requested an extension beyond 1982 for the attainment of ozone (O ₃) in Portland.	Retain in SIP

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
30. On February 14, 1980, the State Department of Environmental Quality submitted its official response to EPA's proposed SIP actions which were published in the Federal Register on January 21, 1980 (45 FR 3929).	Retain in SIP
31. On May 6, 1980, the State Department of Environmental Quality submitted recodified portions of Oregon Revised Statutes (ORS) 449 which authorize Oregon's automobile inspection/maintenance program. This submittal, requested by EPA, included chapters ORS 468.360 through 468.420, 481.190, 481.200, 483.800, 483.820, and 483.825.	Retain in SIP
32. Revisions to the program for controlling the open burning of grass seed fields submitted on April 22, 1980 by the Department of Environmental Quality.	Retain in SIP as revised, see #41*, #68* and #69*
33. Oregon Administrative Rules (OAR) Chapter 340, sections 24-300 through 24-350 for the vehicle inspection and maintenance program, submitted on July 26, 1980 by the Oregon Department of Environmental Quality.	Retain in SIP as revised, see #48*, #59*, #65*, and 5/6/85 submittal
34. On December 27, 1979, the State of Oregon Department of Environmental Quality submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C 52.20.	Repeal (replaced by Air Quality Monitoring Program, Volume 2, Section 6 in New Plan)
35. On December 31, 1980, the State Department of Environmental Quality submitted an Oregon Air Contaminant Discharge Permit No. 36-6041 Addendum No. 1 issued to Spaulding Pulp and Paper Company on December 11, 1980; Oregon Air Contaminant Discharge Permit No. 26-3025, issued to	Retain in SIP

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
Industrial Laundry Dry Cleaners, Inc., in December 1980 and Oregon Environmental Quality Commission Stipulation and Consent Final Order concerning Vanply, Inc., dated December 30, 1980.	
36. On September 8, October 16, December 5, December 19, 1980, May 29, 1981 and September 9, 1981, DEQ submitted revisions to the SIP designed to satisfy the conditions of approval published by EPA on June 24, 1980 (45 FR 42265).	Retain in SIP
37. Specific air pollution control rules for the Medford AQMA (OAR 340-30-005 through 340-30-070) submitted by the Department of Environmental Quality on May 26, 1978 and revisions submitted by the Department of Environmental Quality on February 14, 1980 (OAR 340-30-010 and 340-30-020), October 29, 1980 (OAR 340-30-016, 340-30-035 and 340-30-045), May 22, 1981 (OAR 340-30-010, 340-30-030 and 340-30-045) and September 9, 1981 (OAR 340-30-060).	Retain in SIP
38. Revisions to the Lane Regional Air Pollution Authority rules submitted by the Department of Environmental Quality on March 14, 1977 (Title 22, Sections 010 and 020 and Table A), June 29, 1979 (Title 11, Section 015; Title 12, Sections 005 and 010; Title 13; Title 20, Sections 110, 115, 120, 125, 129 and 130; Title 21, Sections 010 and 030; Title 32, Sections 005 and 010; Title 33, Sections 005, 010, 015 and 065; Title 36; Title 42; Title 43; Title 44; and Title 45), November 6, 1979 (Title 22, Section 020 and Table A), and January 30, 1980 (Title 36).	Repeal Titles 21 and 22 and Title 11-015. Replace with new Titles 34, 38 and 14. Retain other Titles as revised. See #49*. 61*, 62*, and 8/5/83 submittal

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
39. Conditions 5 and 6 of the Air Contaminant Discharge Permit for the Weyerhaeuser Company plant in Bly, Oregon (Permit Number: 18-0037) submitted by the Department of Environmental Quality on March 24, 1981.	Repeal, permit expired, source no longer active
40. Conditions 4, 5, and 6 of the Air Contaminant Discharge Permit for Weyerhaeuser Company plant in North Bend, Oregon (Permit Number: 06-0007) submitted by the Department of Environmental Quality on March 27, 1981.	Previously repealed, see #58*
41. Revisions to the agricultural open field burning rules (OAR 340-26-005 through 340-26-030) submitted by the Department of Environmental Quality on April 23, 1981 and amended "Smoke Management Program Operational Guidelines" submitted by the Department of Environmental Quality on July 8, 1981.	Retain in SIP as revised, see #68 and #69*
42. Revisions to the rules for sulfite pulp mills (OAR 340-25-350 through 340-25-390) submitted by the Department of Environmental Quality on June 2, 1980.	Retain in SI
43. Revisions to the Air Quality Schedule of Civil Penalties (OAR 340-12-050) submitted by the Department of Environmental Quality on February 14, 1980.	Retain in SIP as revised, see #70*
44. Revision to the ambient air quality standard for ozone (OAR 340-31-030) submitted by the Department of Environmental Quality on June 20, 1979.	Retain in SIP as revised, see #50*
45. On March 24, 1981, the State Department of Environmental Quality submitted control strategies for the Portland secondary total suspended particulates nonattainment area.	Retain in SIP

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
46. On March 23, 1981, the State Department of Environmental Quality submitted control strategies for the Eugene-Springfield secondary total suspended particulates nonattainment area.	Retain in SIP
47. On October 16, 1980, the State Department of Environmental Quality submitted revisions to the control strategies for the Salem ozone nonattainment area.	Retain in SIP
48. On August 17, 1981, the State Department of Environmental Quality submitted amendments to the operating rules for the Portland motor vehicle inspection program (OAR 340-24-300 through 350).	Retain in SIP as revised, see #59* and #65*
49. On March 11, 1982, the State of Oregon Department of Environmental Quality submitted three revisions to the Lane Regional Air Pollution Authority rules. They are: (1) Title 11 Definitions (Section 015.013, Air Conveying Systems), (2) Title 22 Permits (Section 020. Fees), (3) Title 32 Emission Standards (Section 800, Air Conveying System).	Retain in SIP as revised, see #61*, #62* and 8/5/85 submittal
50. On March 11, 1982, the State of Oregon Department of Environmental Quality submitted a revision to their State ambient air quality standard for ozone (from 0.08 ppm to 0.12 ppm).	Retain in SIP
51. Amendments to the Air Contaminant Discharge Permit Rules submitted by the State Department of Environmental Quality on February 15, 1977 (OAR 340-20-140 through 185), July 24, 1979 (OAR 340-20-155 Table A, 165, 175 and 180) and May 22, 1981 (OAR 340-20-155 (Table A).	Retain in SIP as revised, see #64*

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
52. Prevention of Significant Deterioration Rules (OAR 340-31-100, 105 subsections (12), (15) and (16), 110, 115, 120 and 130) submitted by the State Department of Environmental Quality on June 20, 1979 and September 9, 1981.	Retain in SIP
53. New Source Review Rules (OAR 340-20-220 to 275, except Section 225 subsections 7 and 11), except to the extent that they apply to marine vessel emissions, submitted by the State Department of Environmental Quality on September 9, 1981 and deletion of Special Permit Requirements for Sources Locating In or Near Nonattainment Areas (OAR 340-20-190 through 195).	Retain in SIP as revised, see #63*
54. Plant Site Emission Limit Rules (OAR 340-20-300 through 320) submitted by the State Department of Environmental Quality on September 9, 1981 and deletion of the Plant Site Emission Limit Rules (OAR 340-20-196 and 197).	Retain in SIP
55. On July 20, 1982, the State of Oregon Department of Environmental Quality submitted: (i) Carbon monoxide (CO) and ozone (O ₃) attainment plans for Portland which build upon those plans submitted in June 1979 and (ii) a request to extend the Portland CO and O ₃ attainment dates to December 31, 1985 and December 31, 1987, respectively.	Retain in SIP
56. On August 9, 1982, the State of Oregon Department of Environmental Quality submitted a revision to remove the Mid-Willamette Valley Air Pollution Authority Regulations from the Oregon State Implementation Plan.	Retain in SIP

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
57. Amendments to the rules for primary aluminum plants submitted by the Oregon State Department of Environmental Quality on February 21, 1974 (OAR 340-25-255 to 290), February 14, 1980 (OAR 340-25-265(4)(b) and 265(5)) and August 9, 1982 (OAR 340-25-255 to 285).	Retain in SIP
58. Amendments to the rules for equipment burning salt laden wood waste from logs stored in salt water (OAR 340-21-020) and removal of Conditions 4, 5, and 6 of the Air Contaminant Discharge Permit for the Weyerhaeuser Company plant in North Bend, Oregon (Permit Number 06-0007) submitted by the Oregon State Department of Environmental Quality on October 18, 1982.	Retain in SIP
59. On August 16, 1982, the State of Oregon Department of Environmental Quality submitted a revision to OAR 340-24-300 to 24-350 (Vehicle Inspection Program Rules).	Retain in SIP as revised, see #65* and 5/6/85 submittal
60. On January 24, 1983, the State of Oregon Department of Environmental Quality submitted a revision to add a lead strategy to the Oregon Implementation Plan and revise the State lead ambient air quality standard to agree with the Federal standard.	Retain in SIP

* This number refers to 40 CFR 52.1970(c)

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
61. On December 13, 1982, the State of Oregon Department of Environmental Quality submitted two revisions to the Lane Regional Air Pollution Authority rules. The revisions are: (1) Title 32, Emission Standards (Section 800, Air Conveying Systems) - revisions to compliance date and (2) Title 33, Prohibited Practices and Control of Special Classes (Section 070, Kraft Pulp Mills) - new rules.	Retain in SIP
62. Title 22 "PERMITS" of the Lane Regional Air Pollution Authority Rules, except to the extent that they apply to marine vessel emissions and except the definitions of "dispersion technique" and "good engineering practice stack height", and Title 32 "EMISSION STANDARDS" Sections 32-100 through 32-104 of the Lane Regional Authority Rules, submitted by the State Department of Environmental Quality on March 2, 1983; clarifying letter dated June 20, 1984.	Repeal Title 22 Replace with Titles 34 and 38. Submitted 8/5/85 Retain title 32
63. On May 6, 1983, the Oregon Department of Environmental Quality submitted revisions to its rules as follows: (A) Revisions to the "New Source Review" rule consisting of an amended section OAR 340-20-225, specifically, the deletion of the definitions of "Dispersion Technique" (OAR 340-20-225(7)) and "Good Engineering Practice Stack Height" (OAR 340-20-225(11)), the renumbering of OAR 340-20-225, the revision of the definition of "Non-attainment Area" (OAR 340-20-225(14)), and changes to numerous references to coincide with the new numbering; the deletion of subsection OAR 340-20-240(7) "Growth Increments" and the addition of a new section OAR 340-20-241 "Growth Increments;" and the addition of a new section OAR 340-20-245(2)(c) and OAR 340-20-245(4), and changes to numerous references to coincide with the new numbering of the definitions in OAR 340-20-225; and amendment to subsection OAR 340-20-260(2); a revised reference	Retain in SIP

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
in OAR 340-20-265(6) to coincide the new numbering of a definition; and the deletion of section OAR 340-20-275 "Stack Heights". (B) the addition of a new "Stack Heights and Dispersion Techniques" rule (OAR 340-20-340 and 345); (C) revisions to the "Portable Hot Mix Asphalt Plants" rule (OAR 340-25-120; and (D) the deletion of OAR 340-22-108 "Applicability of Alternative Control Systems."	
64. Amendments to the fees in the "Air Contaminant Discharge Permit" rule (OAR 340-20-155 Table 1 and OAR 340-20-165) submitted by the Oregon Department of Environmental Quality on June 3, 1983.	Retain in SIP
65. On October 26, 1983 and December 14, 1983, the State of Oregon Department of Environmental Quality submitted four separate revisions to their plan. On October 26, 1983, the State submitted a revised air pollution emergency episode plan (OAR 340-27-005 through 340-27-030, effective October 7, 1983), revisions to gasoline marketing rules for the Medford-Ashland ozone nonattainment area (OAR 340-22-110(1)(a), effective October 7, 1983), and a revised ozone ambient air quality standard for the Lane Regional Air Pollution Authority (Section 31-035 Ozone, effective July 12, 1983). On December 14, 1983, the State submitted revisions to the automobile inspection and maintenance program for Portland (OAR 340-24-306 through 340-24-350, effective November 18, 1983).	Retain in SIP
66. [RESERVED]	
67. On April 25, 1983, the State Department of Environmental Quality submitted Section 4.10, "Medford-Ashland Air Quality Maintenance Area State Implementation Plan for Particulate Matter".	Retain in SIP

CONSOLIDATED SIP ACTIONS

- | <u>Item</u> | <u>Proposed Action</u> |
|--|------------------------|
| <p>68. Amendments to the Refuse Burning Equipment Limitations rules, specifically OAR 340-21-005(1) and (4), OAR 340-21-025(2)(b), and OAR 340-21-027, submitted by the State Department of Environmental Quality on January 16, 1984; amendments to the Open Field Burning rules, specifically, the addition of new sections 340-26-001, 340-26-003, 340-26-031, 340-26-035, 340-26-040, and 340-26-045, revisions to sections 340-26-005, 340-26-013, 340-26-015, 340-26-025, and 340-26-030, the deletion of the existing section 340-26-010 and replacing it with a new section 340-26-010, the deletion of the existing section 340-26-012 and replacing it with a new section 340-26-012, and the deletion of sections 340-26-011 and 340-26-020, submitted by the State Department of Environmental Quality on March 14, 1984; and amendments to the Open Field Burning Rules (OAR 340-23-022 through 115), submitted by the State Department of Environmental Quality on June 5, 1984.</p> | Retain in SIP |
| <p>69. Amendments to the Refuse Burning Equipment Limitations rules, specifically OAR 340-21-005(1) and (4), OAR 340-21-025(2)(b), and OAR 340-21-027, were submitted by the State Department of Environmental Quality on January 16, 1984; and amendments to the Open Field Burning rules, specifically, the addition of new sections 340-21-001, 340-26-003, 340-26-031, 340-26-035, 340-26-040 and 340-26-045, revisions to sections 340-26-005, 340-26-013, 340-26-015, 340-26-010, and replacing it with a new section 340-26-010, the deletion of the existing section 340-26-011 and 340-26-020, were submitted by the State Department of Environmental Quality on March 14, 1984.</p> | Retain in SIP |

CONSOLIDATED SIP ACTIONS

<u>Item</u>	<u>Proposed Action</u>
70. On December 10, 1984, the Oregon Department of Environmental Quality submitted revisions to its Civil Penalty Rules (OAR 340-12) which deleted Sections 005 through 025 and 052 through 068; amended Sections 030, 040 and 050; and added Sections 070 and 075. Sections 035 and 045 were retained.	Retain in SIP
71. Revisions to the Oregon State Implementation Plan were submitted by the Director on July 26, 1984 and August 7, 1984. Revisions are woodstove certification program rules (OAR 340-21-100 to 340-21-190), Oregon Revised Statutes 468.630 to 468.655 and amendment to field burning introduction (OAR 340-26-001) and repeal the field burning rules relating to tax credits (OAR 340-26-030). (i) Incorporation by Reference: (A) Woodstove certification program rules (OAR 340-21-100 to 340-21-190) as published in the Oregon Administrative Rules, November 1984. (B) The Oregon Revised Statutes 468.630 to 468.655 as signed by the Governor on July 5, 1984. (C) Amendment to the field burning rule introduction (OAR 340-60-001) as adopted by the Oregon Environmental Commission on June 29, 1984.	Retain in SIP

III Proposed Additions of Existing State Rules/Statutes to the Oregon State Implementation Plan

- OAR 340-14-005** Procedures for Issuance, Denial, Modification, and
to
340-14-050 (adopted 4/15/72)
- OAR 340-20-046** Records; Maintaining and Reporting
(adopted 9/20/72)
- OAR 340-20-047** Grants Pass Carbon Monoxide Nonattainment Area Designation
(adopted 11/02/84)
- OAR 340-20-047** Medford Ozone Redesignation and SIP Revisions
(adopted 01/25/85)
- OAR 340-20-220** Visibility Protection Plan for Class I Areas
to
340-20-275 (adopted 09/14/84)
- OAR 340-24-300** Vehicle Inspection Program Rules
to
340-24-350 (adopted 04/19/85)
- OAR 340-25-305** Rules for Board Products Industries
to
340-25-325 (revisions adopted 3/11/77, 4/11/77, and 3/30/79)
- OAR 340-25-315** Veneer Dryer Rules
(adopted 7/14/85)

IV Proposed Additions of Existing LRAPA Rules to the Oregon State
Implementation Plan

- 14-001** LRAPA Definitions
(adopted 7/19/85)

- 32-800** LRAPA Rules for Air Conveying Systems
(adopted 04/19/85)

- 34-001** LRAPA Air Contaminant Discharge Permits
to
34-050 (adopted 7/19/85)

- 38-001** LRAPA New Source Review
to
38-045 (adopted 7/19/85)

V Readoption of State Rules and Submittal as State Implementation Plan Revisions (Corrects Inadequate Public Notice on Original Adoption)

OAR 340-25-305 Rules for Board Products Industries
to
340-25-315 (revisions adopted 4/11/77 and 3/30/79)

OAR 340-25-150 Rules for Kraft Pulp Mills
to
340-25-200 (adopted 6/10/77)

OAR 340-20-200 Rules Relating to Conflict of Interest
to
340-20-215 (adopted 9/22/78)

ORS Chapter 468 Pollution Control
(submitted 9/8/75, 2/14/78, and 5/19/78)

VI Withdrawal of State Rules From Submission as State Implementation Plan Revisions - (These Rules Were Never Acted on by EPA and Are Not Now Needed in the SIP)

OAR 340-28-001 Specific Air Pollution Control Rules Clackamas, Columbia,
to Multnomah, and Washington Counties, retain as State rules
340-28-015 (revisions adopted 4/15/75 and 10/20/76)

OAR 340-20-100 Rules for Indirect Sources, retain as State rules
to
340-20-135 (revisions adopted 8/11/76 and 12/4/78)

"State of Oregon Clean Air Act, Implementation Plan"

340-20-047 This implementation plan, including rules and standards prepared by the Department of Environmental Quality is adopted as the implementation plan of the State of Oregon pursuant to the Federal Clean Air Act, as amended.

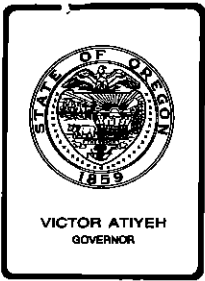
(Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality.)

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 9-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-13-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85

(March, 1985)

Due to its size, the complete document referred to in this rule can not be attached here, but is available for inspection at the Department of Environmental Quality, Air Quality Control Division, 522 S.W. 5th Avenue (P.O. Box 1760), Portland, Oregon or at the regional DEQ office nearest you.



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, January 31, 1986, EQC Meeting

Request for Authorization to Conduct Public Hearings on Proposed Amendments to Rules Governing On-Site Sewage Disposal, OAR Chapter 340, Divisions 71, 72, and 73.

Background and Problem Statement

ORS 454.625 which relates to Sewage Treatment and Disposal Systems provides that the Commission, after hearing may adopt rules for on-site sewage disposal.

ORS 468.020 which relates to Pollution Control provides that the Commission after hearing, may adopt rules as it considers necessary and proper in performing the functions vested by law in the Commission.

The last major changes to the on-site sewage disposal rules were made in May 1984. Since then, Department staff have found that several amendments are needed to clarify intent, introduce new rule language pertaining to issues not previously addressed, as well as to make some housekeeping changes. The proposed housekeeping amendments would not change the intent of a rule, but would provide for smoother statewide implementation of the on-site sewage disposal program. In addition, two (2) counties which perform on-site activities for the Department have requested that their specific fee schedules, previously adopted as rules by the Commission, be repealed. The significant issues staff propose to take to hearing are presented in the "Discussion of Proposed On-Site Sewage Disposal Rule Modifications" (Attachment E). Specific rule language proposed to be added and deleted is presented in Attachment F. The proposed changes are summarized as follows:

1. Combine the glossary of terms and definitions which currently appear in two rules under one (1) rule. This amendment would clarify where

definitions for terms referenced in the rules are located and eliminate confusion.

2. Prohibit the placement of any material or substance into an on-site sewage disposal system that is capable of causing an adverse impact upon the system or public waters. This proposed amendment is intended to prevent groundwater pollution and system malfunctions that can be caused by septic tank, cesspool and seepage pit cleaning practices involving the introduction of large quantities of chemical acids, alkalis or solvents. Cleaning compounds typically found in a home used to unclog household plumbing fixtures and used in accordance with manufacturers' directions are not likely to have an adverse impact upon the system or groundwater and are not proposed to be regulated.
3. Delete an outdated Lane County Fee Schedule. Lane County has adopted a fee schedule which is consistent with the current statewide fee schedule appearing in OAR 340-71-140 and has requested repeal of the schedule. A separate rule specifying the fees for Lane County is no longer necessary.
4. Delete an outdated Clackamas County Fee Schedule. Clackamas County has adopted a fee schedule which is consistent with the current statewide fee schedule appearing in OAR 340-71-140 and has requested repeal of the schedule. The separate rule specifying the fees for Clackamas County is no longer necessary.
5. Modify language relative to on-site sewage disposal permit applications to clarify exhibits and information which must accompany applications. This proposed amendment reformats existing requirements and adds language which clarifies that Agents may request additional information necessary to process a permit application.
6. Modify system abandonment procedure requirements to allow Agents to exercise some professional judgment as to which abandonment procedures are necessary and reasonably practical to require. The amendment would allow waiver of system pumping and/or filling in of systems provided that such action will not constitute a menace to public health, welfare or safety.
7. Add definitions for "Active" and "Stabilized Dunes" to conform to Land Conservation and Development Commission (LCDC) definitions for these terms. Existing rules prohibit installation of on-site sewage disposal systems on unstable land. An active dune is one form of unstable land. Because there are a number of types of sand dunes, definitions which differentiate between stable and unstable dunes are needed to avoid confusion.
8. Add a definition for "Strength of Wastewater" and specify that, for certain applications, systems should be sized based on a waste strength factor. High strength wastes from commercial establishments, when discharged into systems sized based on residential domestic waste

characteristics, can cause system malfunction, failure and result in pollution to surface and groundwater.

9. Modify seepage bed sizing criteria to reflect the proposed waste strength sizing factor and recognize new technical information which shows that a smaller size of seepage bed is acceptable for residential flows.
10. Modify sand filter system design criteria to reflect the proposed waste strength factor, revise required separation distances to reflect the high level of treatment sand filters provide, and modify system specifications to enable integration of a sand filter with a seepage trench facility.
11. Add language to final inspection and acceptance procedures for sand filter installations which would specify an additional method that could be used by installers to demonstrate PVC liner integrity.
12. Modify language in the Geographical Area Rule - Clatsop Plains, to limit on-site sewage disposal permit issuance for lots that are too small in area but otherwise meet siting criteria to single family dwellings or commercial systems with a sewage flow of 450 gallons or less. Review and approval of proposals for systems involving greater sewage flows on these properties would be required through established variance procedures or under Water Pollution Control Facility permit requirements, as appropriate. This is viewed as needed to protect groundwater quality.
13. Add a Geographical Area Rule for Low Rainfall Areas in Eastern Oregon, which establishes specific minimum siting criteria and conditions that would enable persons with property meeting these criteria to obtain a permit to construct and install a system at the same time they receive a favorable site evaluation report. The proposed amendment is intended to streamline site evaluation and permit processing procedures in remote areas of Eastern Oregon where certain site characteristics prevail.
14. Modify septic tank specifications to reflect a nationally recognized standard for steel tanks coatings.
15. Modify dosing tank specifications to require larger manhole risers for systems employing two or more pumps or siphons. The proposed amendment would ensure that all dosing tanks are accessible for proper placement and servicing of submersible pumps and other components.
16. Clarify the criteria for operation of systems with two pumps. Current rules require 2 pumps in certain system applications. The proposed amendment is intended to prevent pump outages that could result in system malfunctions, failure or discharges of wastewater into public waters.

17. Modify smooth wall polyethylene pipe specifications to reflect current national standards.
18. Establish filter fabric standards to provide the minimum specifications required of filter fabric materials. The proposed amendment is intended to prevent failures of those systems requiring this material.

The Department staff received written requests to consider other potential rule modifications and additions. Some of the suggestions could be addressed more appropriately by the Building Codes Division of the Oregon Department of Commerce. For others, inadequate supporting documentation or evaluation of alternatives was available to merit or justify establishment or modification of a rule. The Department will forward to the Building Codes Division those suggestions deemed appropriate for their consideration. The Department will continue to evaluate proposals submitted and will propose future rule making actions as appropriate. Hearing testimony is also expected to raise issues not covered in the proposed rule package. Issues raised will be discussed as part of the hearing record evaluation and response.

Alternatives and Evaluation

The alternatives are as follows:

1. Authorize the Department to conduct public hearings on the proposed amendments.
2. Do not authorize public hearings.

The Department believes it is desirable to conduct hearings on potential clarifying and streamlining amendments to the on-site sewage disposal rules. It is through the hearing process that testimony from outside the Department is gathered on the issues and proposed modified rule language. This testimony assists staff in preparing the proposed amendments to be presented for Commission consideration and possible adoption.

Summation

1. ORS 454.625 and ORS 468.020 provide that the Commission after hearing and evaluation of testimony may adopt rules for on-site sewage disposal.
2. Several technical rule amendments are necessary and desirable to provide for smoother statewide implementation of the on-site sewage disposal program.
3. Clackamas County has requested the rule establishing its schedule of fees for on-site services be repealed.

4. Lane County has requested the rule establishing its schedule of fees for on-site services be repealed.

Director's Recommendation

Based upon the summation, it is recommended the Commission authorize public hearings to take testimony on proposed amendments to On-Site Sewage Disposal Rules, OAR Chapter 340, Divisions 71, 72, and 73, as presented in Attachment F.



Fred Hansen

Attachments: (6)

- A. Hearing Notice
- B. Statement of Need For Rulemaking
- C. Fiscal and Economic Impact
- D. Land Use Consistency Statement
- E. Discussion of Proposed On-Site Sewage Disposal Rule Modifications
- F. Proposed Rule Amendments

Sherman O. Olson:h
229-6643
January 7, 1985
WC58

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...**PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE ON-SITE SEWAGE DISPOSAL RULES**

Date Prepared: January 3, 1986
 Hearing Dates: As Noted Below
 Comments Due: February 28, 1986

**WHO IS
AFFECTED:**

Persons submitting applications for on-site sewage disposal activities, sewage disposal service licensees, companies that manufacture certain products used in on-site systems, and persons that place any material or substance into an on-site sewage disposal system capable of causing an adverse impact upon the system or public waters.

**WHAT IS
PROPOSED:**

DEQ is proposing to amend portions of OAR Chapter 340, Division 71, 72, and 73, (On-Site Sewage Disposal Rules) relating to the following: 1) the glossary of terms and the definitions, and several new definitions including "Active Dune" and "Stabilized Dune"; 2) the placement of any material or substance into an on-site system quantities that are capable of causing an adverse impact upon the system or public waters; 3) permit application procedures; 4) system abandonment procedures; 5) wastewaters strength factor in determining system sizing; 6) seepage bed sizing; 7) sand filter sizing, setbacks, and materials; 8) a maximum design sewage flow for some properties within the Clatsop Plains; 9) geographic area rule for portions of Eastern Oregon; 10) protective coating standard for steel septic tanks; 11) riser standard for large system dosing tanks; 12) two (2) pump operational requirements for some systems having projected sewage flows greater than 2500 gallons per day; 13) material standards for smooth wall polyethylene pipe and filter fabric; and 14) fee schedules for Clackamas and Lane Counties.

**HOW TO
COMMENT:**

Public hearings are scheduled as follows:

BEND

Date: February 19, 1986
 Time: 1:30 p.m.
 Location: State Office Building
 Conference Room
 2150 NE Studio Road
 Bend, Oregon

MEDFORD

Date: February 20, 1986
 Time: 1:30 p.m.
 Location: Jackson County
 Courthouse; Auditorium
 10 S. Oakdale
 Medford, Oregon



P.O. Box 1760
 Portland, OR 97207

3/16/84

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.

NEWPORT

Date: February 25, 1986
Time: 1:30 p.m.
Location: Lincoln County Public
Service Building
Conference Room
210 SW Second
Newport, Oregon

PORTLAND

Date: February 26, 1986
Time: 10:00 a.m.
Location: Department of
Environmental Quality
14th Floor Conference
Room (Room 1400)
522 SW Fifth Avenue
Portland, Oregon

A Department of Environmental Quality staff member will be appointed to preside over and conduct the hearings. Written comments should be sent to DEQ, Water Quality Division, Sewage Disposal Section, P. O. Box 1760, Portland, Oregon 97207. The comment period will end on Friday, February 28, 1986 at 5:00 p.m.

Any questions or requests for information or copies of the proposed rule amendments should be directed to Mr. Sherman Olson, Sewage Disposal Section, 229-6443 or toll free, 1-800-452-4011.

**WHAT IS THE
NEXT STEP:**

Once public testimony has been received and evaluated, the proposed amendments will be revised, if necessary, and be presented to the Environmental Quality Commission for adoption. The Commission may adopt rule amendments identical to the proposed rule amendments, adopt modified rule amendments, or decline to adopt rule amendments. The Commission's deliberation may come in April as part of the agenda at a regularly scheduled meeting. A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to and made a part of this notice.

WC60
(1/6/86)

STATEMENT OF NEED FOR RULE MAKING

Pursuant to ORS 183.335(2), this statement provides information on the Environmental Quality Commission's intended action to adopt rules.

(1) Legal Authority

ORS 454.625, which authorizes the Environmental Quality Commission to adopt rules pertaining to on-site sewage disposal. ORS 454 contains laws related to Sewage Treatment and Disposal Systems.

ORS 468.020, which allows the Environmental Quality Commission to adopt such rules and standards as it considers necessary and proper in performing the functions vested by law in the Commission. This includes but is not limited to rules that would implement the provisions and prohibitions identified in ORS 468.710, ORS 468.715, and ORS 468.720. ORS 468 contains laws related to Water Pollution Control.

(2) Need for the Rule

The Department of Environmental Quality has determined that several technical rule amendments are needed to clarify intent, introduce new rules language pertaining to issues not previously addressed in OAR Chapter 340, Divisions 71 and 73, (On-Site Sewage Disposal Rules) as well as to make housekeeping changes. The proposed housekeeping amendments would not change the intent of a rule, but would provide the smoother implementation of the on-site sewage disposal program. In addition, two (2) counties which perform on-site activities for the Department have requested that their specific fee schedules, previously adopted as rules by the Commission, be repealed.

(3) Principal Documents Relied upon in this Rulemaking

- (a) Letter dated January 29, 1984, from Richard L. Polson, Chief Soil Scientist, Clackamas County, to Sherman Olson, Department of Environmental Quality.
- (b) Memo dated March 29, 1984, from Donald L. Bramhall, Department of Environmental Quality, to Sherman Olson, Department of Environmental Quality.
- (c) Letter dated November 6, 1984, from Richard H. Swenson, R.S., Supervising Sanitarian, Environmental Health, Benton County, to Sherman Olson, Department of Environmental Quality.
- (d) Letter dated August 6, 1985, from Bob Wilson, R.S., Director, Environmental Health Division, Linn County, to Sherman Olson, Department of Environmental Quality.

- (e) Letter dated August 16, 1985, from Richard L. Polson, Chief Soil Scientist, Clackamas County, to Sherman Olson, Department of Environmental Quality.
- (f) Letter dated September 6, 1985, from Stanley E. Petrasek, Manager, Environmental Health Division, Lane County, to Sherman Olson, Department of Environmental Quality.
- (g) Letter dated October 29, 1985, from Richard H. Swenson, R.S., Supervising Sanitarian, Environmental Health, Benton County, to Sherman Olson, Department of Environmental Quality.
- (h) Letter dated November 18, 1985, from Daniel M. Bush, Soil Scientist, Clackamas County, to Sherman Olson, Department of Environmental Quality.

FISCAL AND ECONOMIC IMPACT

The proposed amendments to the On-Site Sewage Disposal Rules are not expected to have a significant or adverse fiscal or economic impact. Some of the proposed rule modifications may increase the costs incurred by individuals and small businesses for certain types of on-site sewage disposal systems. Additionally some small businesses would be prevented from conducting certain types of activities that they may now engage in.

Overall, the Department anticipates that fiscal and economic impacts would be offset by the reduction in system failures and malfunctions that would require repairs or replacement of new systems and by the reduction of pollution to waters of the state.

Sherman O. Olson:h
WH564.5

LAND USE CONSISTENCY STATEMENT

The Department has concluded that the proposed rule amendments conform with Statewide Planning Goals.

With regard to Goal 6, (Air, Water and Land Resources Quality) the proposed amendments are designed to improve and maintain the water quality of the state, and are consistent with the Goal.

The proposed amendments do not appear to conflict with other Goals.

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

Sherman O. Olson:h
WH564.1

DISCUSSION OF PROPOSED ON-SITE SEWAGE DISPOSAL RULE MODIFICATIONS

The significant issues addressed by the proposals to modify rule language contained in Oregon Administrative Rules (OAR), Chapter 340, Divisions 71, 72 and 73 are summarized and discussed below with reference to specific rules. In addition, a number of "house-keeping" amendments are proposed. Specific rule language proposed to be added and deleted is presented in Attachment F.

- (1) Combine the glossary of terms (OAR 340-71-105) and the definitions (OAR 340-71-100) under one (1) rule. When seeking the meaning of a technical term, people have to look in both the glossary and definitions to find the meaning of a term. The proposed amendments would eliminate the confusion created by terms being located in two separate rules.
- (2) Prohibit the placement of any material or substance into an on-site sewage system that is capable of causing an adverse impact upon the system or public waters (OAR 340-71-130). The Department has received numerous complaints that various chemicals (strong acids, strong alkalies, and solvents) have been used to improve the performance of on-site systems and/or used to clean on-site systems as an alternative to having the systems pumped. The complaints allege that the chemicals have damaged various portions of the on-site systems and caused injury to some sewage disposal service personnel that have been called upon to pump systems that have been chemically treated. These pumpings have at times been rejected at various treatment plants because the pH has been outside an acceptable range. When these chemicals are placed into the absorption facility of a sewage disposal system (such as in a cesspool, disposal trenches, etc.), they are likely to move down through the soil profile and ultimately come into contact with and pollute groundwater. The proposed amendment would prohibit these type of practices currently used to clean sewage disposal systems and specify that persons performing the service of cleaning septic tanks, cesspools or seepage pits not use any method of cleaning other than pumping. Cleaning products typically found in the home used to unclog plumbing fixtures and used according to manufacturers' directions are not likely to cause system damage or groundwater pollution and would not be regulated.
- (3) Delete an outdated Lane County Fee Schedule. In March of 1981, the Environmental Quality Commission adopted a rule establishing a schedule of fees Lane County proposed to charge for performing on-site sewage disposal activities because some of Lane County's fees were higher than the fees previously in effect statewide. Since that time and pursuant to ORS 454.745(4) the Commission raised the fees the Department charges for on-site activities. Lane County has recently adopted a new fee schedule which is consistent with the statewide fee schedule in OAR 340-71-140. Lane County has requested reference to their fee schedule in OAR Chapter 340, Divisions 71 and 72 be

repealed. The proposed amendments would eliminate an outdated fee schedule.

- (4) Delete an outdated Clackamas County Fee Schedule. In March of 1981, the Environmental Quality Commission adopted a rule establishing a schedule of fees Clackamas County proposed to charge for performing on-site sewage disposal activities because some of the fees were higher than the fees previously in effect statewide. Since that time and pursuant to ORS 454.745(4) the Commission raised the fees the Department charges for on-site activities. Clackamas County has adopted a new fee schedule which does not exceed the statewide fee schedule in OAR 340-71-140. Clackamas County has requested reference to their fee schedule in OAR Chapter 340, Division 71 and 72 be repealed. The proposed amendments would eliminate an outdated fee schedule.
- (5) Clarify language that pertains to necessary exhibits which must accompany permit application (OAR 340-71-160(3)). In the existing rule language, it is not clear that plans need to be submitted to the Agent as an attached exhibit to the application. The proposed amendment would re-structure a portion of this rule and specifically identify the requirement for system plans and clarify that Agents can request additional information needed to process permit applications.
- (6) Modify system abandonment procedure requirements (OAR 340-71-185(2)). Currently, system abandonment procedures require pumping and filling in of a system, as well as permanently capping the system building sewer. The proposed amendment would allow the Agent to use professional judgment in determining when pumping and filling steps are necessary or reasonably practical to require. The waiver of these procedures would be allowed as long as such action does not create a menace to public health, safety or welfare.
- (7) Add definitions for Active and Stabilized Dunes. The definition for "Unstable Landforms", OAR 340-71-105(92) states that "... Active sand dunes are unstable landforms". Rules prohibit installation of on-site sewage disposal systems on unstable landforms. A number of terms for sand dunes are in common use. Definitions which characterize and differentiate between "unstable (active) dunes" and "stabilized" dunes are needed. "Active" dune lands have fragile vegetative cover to no vegetative cover, and little or no soil development. Consequently, destruction of vegetation makes these lands subject to severe wind erosion hazard. In addition, many of these active dunes are subject to ocean undercutting and wave overtopping. Recent examples of this are the wave overtopping of the Salishan spit and the destruction of the spit at the mouth of the Alsea River and loss of part of the fore dune at Bayshore. The proposed amendment would adopt definitions used by the Oregon Land Conservation and Development Commission to clarify the type of sand dunes on which on-site sewage disposal systems would be allowed and prohibited.

- (8) Add a definition for Strength of Wastewater and specify that, for certain applications, systems should be sized based on waste strength factor. The Department has found that the composition of sewage from commercial facilities frequently has a higher biochemical oxygen demand and/or has higher suspended solids than sewage from a residence. The existing rules size systems according to projected daily sewage flow (as measured in gallons) and a treatment factor (number of gallons of sewage that may be applied in or over a unit area of the treatment facility), based on household strength wastewater. With higher strength wastewaters, the application rate per unit area of treatment facility must be decreased in order to accomplish the same level of treatment that can be attained for residential sewage. The proposed amendments would take into account the strength of wastewater when sizing the treatment component of an on-site sewage disposal system and is intended to prevent system malfunctions, failures and pollution of waters.
- (9) Modify seepage bed sizing criteria (OAR 340-71-275(d)). The existing rule does not take into account the strength of wastewater when determining the size of seepage bed needed for a particular sewage flow, and also requires a larger seepage bed than needed for residential flows. The proposed amendments would reduce the seepage bed size for residential systems, and introduce a waste strength factor for non-residential flows. Strength of wastewater is presented in (8) above.
- (10) Modify sand filter system design criteria. The definition of "medium sand" tends to be inadequate in that some sands appearing to meet the definition also appear to have an excess of silt and clay sized particles. In a sand filter, these fine particles can cause the filter to become clogged. The addition of a sand equivalency requirement would give more complete assurance of sand quality. Staff believe that because of the high level of treatment afforded by a sand filter system, reduction of the horizontal separation distance between the system and surface public waters to half the distance required of other systems will not have a measurable impact upon the quality of surface waters. The ability to integrate the sand filter treatment unit with a seepage trench disposal facility is not present in the current rule. The proposed amendment would provide this flexibility for those situations where the property is too small in area to use standard disposal trench sizing, and would apply to single family dwellings or commercial facilities with equivalent sewage flow. The wastewater strength factor, as previously described in (8) above, is proposed to be considered in determining the sand filter size for non-residential systems.
- (11) Modify the PVC liner inspection procedure. The procedure currently provides that liner integrity be determined by an inspection of the joints, seams and mechanical seals, with optional use of hydrostatic testing. The proposed amendment would clarify the

- existing procedures, and identify air lance testing as an optional procedure that could be used to determine seam integrity.
- (12) Modify language in the Geographical Area Rule - Clatsop Plains (OAR 340-71-400(5)). The current rules permitting use of on-site sewage disposal methods in the Clatsop Plains allow the use of sand filter and pressurized systems on small lots and parcels without limiting the maximum quantity of sewage that can be discharged per unit area. For individual single family dwellings or equivalent sized commercial facilities, this does not pose a significant threat to groundwater quality in the area. However, larger flows, and particularly those from high density residential and commercial developments, appear to cause the existing rule to be in conflict with the Department's general groundwater quality protection policy, as well as the public policy of the State of Oregon, as set forth in ORS 468.710. The proposed amendment would impose a maximum sewage flow limit on lots or parcels that are otherwise too small in area to fully comply with the provisions of OAR 340-71-275 and OAR 340-71-290, and would be consistent with the public policy. Review and approval of proposals for systems involving greater sewage flows on these properties would be required through established variance procedures or under Water Pollution Control Facility permit requirements, as appropriate.
- (13) Add a Geographical Area Rule for Low Rainfall Areas in Eastern Oregon. The Department has found that strict compliance with standard system siting criteria may be overly burdensome on large parcels of land in areas of Eastern Oregon where the annual precipitation does not exceed twenty (20) inches. The proposed amendment specifies minimum site criteria and conditions for approval of a residential on-site sewage disposal system without compromising public health and safety or public waters of the state, and introduces a streamlined permit process. An applicant could submit one (1) application requesting both the site evaluation report and construction permit. After the system is constructed the Agent would have the discretion to waive the pre-cover inspection.
- (14) Modify septic tank specifications (OAR 340-73-025). The current rule requires steel septic tanks be coated in accordance with U.S. Department of Commerce Commercial Standard CS 177, which is no longer in effect. The proposed amendment would specify the national standard that replaced CS 177.
- (15) Modify Dosing Tank Specifications (OAR 340-73-050). Access into dosing tanks that serve some commercial facilities has been found to be too small to allow proper placement and servicing of submersible pumps and other components. The proposed amendment would require dosing tanks that are integral to some commercial systems to have larger manhole access measurements.
- (16) Clarify the intent of two (2) pump operation (OAR 340-73-055). Current rules require two (2) pumps in certain system applications.

The existing rule does not clearly indicate how a two (2) pump system must be set up to function. The proposed amendment would clear up this confusion by specifying that the pumps be wired into the electrical control panel to function alternatively after each pump cycle and requiring a cycle counter be installed for each pump.

- (17) Modify smooth wall polyethylene pipe specifications (OAR 340-73-060). The Department developed a smooth wall polyethylene pipe standard in 1977 because a recognized national standard did not exist. Since then the American Society for Testing and Materials (ASTM) has developed and adopted a recognized national standard pertaining to this type of pipe. The proposed amendment would eliminate confusion by requiring the pipe be manufactured consistent with the national standard.
- (18) Add filter fabric standards. Filter fabric materials are required to be used in several types of on-site systems. The current rules do not provide a definition or a specification, and consequently some unsuitable fabrics have been used that offer the potential of causing some systems to fail because of the accumulation of a barrier across the fabric surface.

Attachment F

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Rule Amendments

OAR CHAPTER 340, DIVISIONS 71, 72, AND 73

January 31, 1986

Amend OAR 340-71-100 as follows:

340-17-100 As used in [these rules] OAR 340, Divisions 71, 72, and 73,
unless otherwise specified:

- (1) "Absorption Facility" means a system of open-jointed or perforated piping, alternative distribution units, or other seepage systems for receiving the flow from septic tanks or other treatment facilities and designed to distribute effluent for oxidation and absorption by the soil within the zone of aeration. (See Diagrams 1 through 7 and 14 through 17)
- (2) "Active Dune" means wind drifted ridges and intervening valleys, pockets, and swales of sand adjacent to the beach. The sand is grayish-brown (color value of four (4) or more), with little or no horizon, color, or textured differences. Active dunes are either bare of vegetation or lack sufficient vegetation to prevent blowing of sand.
- (3) "Aerobic Sewage Treatment Facility" means a sewage treatment plant which incorporates a means of introducing air and oxygen into the sewage so as to provide aerobic biochemical stabilization during a detention period.
- (4) [(1)] "Agent" means the Director or [his] that person's authorized representative.
- (5) [(2)] "Alteration" means expansion and/or change in location of an existing system, or any part thereof.
- (6) "Alternative System" means any Commission approved on-site sewage disposal system used in lieu of the standard subsurface system.
- (7) "Authorization Notice" means a written document issued by the Agent which establishes that an existing on-site sewage disposal system appears adequate to serve the purpose for which a particular application is made.
- (8) [(3)] "Authorized Representative" means the staff of the Department of Environmental Quality or staff of the local governmental unit performing duties for and under agreement with the Department of Environmental Quality.
- (9) "Automatic Siphon" means a hydraulic device designed to rapidly discharge the contents of a dosing tank between predetermined water or sewage levels.
- (10) "Bedroom" means any room within a dwelling which is accepted as such by the State of Oregon Department of Commerce building

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

codes representative or the local authorized building official having jurisdiction.

- (11) "Black Waste" means human body wastes including feces, urine, other extraneous substances of body origin and toilet paper.
- (12) "Building Sewer" means that part of the system of drainage piping which conveys sewage into a septic tank, cesspool or other treatment facility that begins five feet (5) outside the building or structure within which the sewage originates. (See Diagrams 1, 2, 3, and 16)
- (13) "Cesspool" means a lined pit which receives raw sewage, allows separation of solids and liquids, retains the solids and allows liquids to seep into the surrounding soil through perforations in the lining. (See Diagram 16)
- (14) "Chemical Recirculating Toilet Facility" means a toilet facility wherein black wastes are deposited and carried from the bowl by a combination of liquid waste and water which has been chemically treated and filtered.
- (15) "Chemical Toilet Facility" means a non-flushing, non-recirculating toilet facility wherein black wastes are deposited directly into a chamber containing a solution of water and chemical.
- (16) "Clayey Soil" means mineral soil that is over forty (40) percent clay that shrinks and develops wide cracks when dry and swells and shears when rewet forming slickensides and wedge-shaped structure. Clayey soil is very hard or extremely hard when dry, very firm when moist, and very sticky and very plastic when wet.
- (17) "Claypan" means a dense, compact clay layer in the subsoil. It has a much higher clay content than the overlying soil horizon from which it is separated by an abrupt boundary. Claypans are hard when dry and very sticky and very plastic when wet. They impede movement of water and air and growth of plant roots.
- (18) Combustion Toilet Facility" means a toilet facility wherein black wastes are deposited directly into a combination chamber for incineration.
- (19) [(4)] "Commercial Facility" means any structure or building, or any portion thereof, other than a single-family dwelling.
- (20) [(5)] "Commission" means the Environmental Quality Commission.

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- (21) [(6)] "Community System" means an on-site system which will serve more than one (1) lot or parcel or more than one (1) condominium unit or more than one (1) unit of a planned unit development.
- (22) "Completed Application" means one in which the application form is completed in full, is signed by the owner or that person's authorized representative, is accompanied by all required exhibits and required fee.
- (23) "Conditions Associated With Saturation" means:
- (a) Reddish brown or brown soil horizons with gray (chromas of two (2) or less) and red or yellowish red mottles; or
 - (b) Gray soil horizons, or gray soil horizons with red, yellowish red, or brown mottles; or
 - (c) Dark colored highly organic soil horizons; or
 - (d) Soil profiles with concentrations of soluble salt at or near the ground surface.
- (24) "Confining Layer" means a layer associated with an aquifer that because of its low permeability does not allow water to move through it perceptibly under head differences occurring in the groundwater system.
- (25) [(7)] "Construction" means installation of a new system or part thereof, or the alternation or repair of an existing system.
- (26) "Conventional Sand Filter" means a filter with two (2) feet of medium sand designed to filter and biologically treat septic tank or other treatment unit effluent from a pressure distribution system at an application rate not to exceed one and twenty-three hundredths (1.23) gallons per square foot sand surface area per day applied at a dose not to exceed twenty (20) percent of the projected daily sewage flow per cycle.
- (27) "Curtain Drain" means a groundwater interceptor.
- (28) "Cut-Manmade" means a land surface resulting from mechanical land shaping operations where the modified slope is greater than fifty (50) percent, and the depth of cut exceeds thirty (30) inches.
- (29) [(8)] "Department" means the Department of Environmental Quality.
- (30) [(9)] "Director" means the Director of the Department of Environmental Quality.
- (31) "Disposal Area" means the entire area used for underground dispersion of the liquid portion of sewage including the area

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designated for the future replacement system. It may consist of a seepage pit or of a disposal field or of a combination of the two. It may also consist of a cesspool, seepage bed, bottomless sand filter, or evapotranspiration-absorption system.

- (32) "Disposal Field" means a system of disposal trenches or a seepage trench or system of seepage trenches.
- (33) "Disposal Trench" means a ditch or trench with vertical sides and substantially flat bottom with a minimum of twelve (12) inches of clean, coarse filter material into which a single distribution pipe has been laid, the trench then being backfilled with a minimum of six (6) inches of soil. (See Diagram 12)
- (34) "Distribution Box" means a watertight structure which receives septic tank or other treatment facility effluent and distributes it concurrently into two (2) or more header pipes leading to the disposal area. (See Rule 340-73-035.)
- (35) "Distribution Pipe" means an open-jointed or perforated pipe used in the dispersion of septic tank or other treatment facility effluent into disposal trenches, seepage trenches, or seepage beds. (See Diagrams 1 through 7 and 11)
- (36) "Distribution Unit" means a distribution box, dosing tank, diversion valve or box, header pipe, or other means of transmitting septic tank or other treatment unit effluent from the effluent sewer to the distribution pipes. (See Diagrams 1 through 7 and 11)
- (37) "Diversion Valve" means a watertight structure which receives septic tank or other treatment facility effluent through one (1) inlet, distributes it to two (2) outlets, only one (1) of which is utilized at a given time (See Diagram 11 and Rule 340-73-045.)
- (38) "Dosing Tank" means a watertight receptacle placed after a septic tank or other treatment facility equipped with an automatic siphon or pump designed to discharge treated effluent at a rate not to exceed twenty (20) percent of the projected daily sewage flow.
- (39) "Dosing Septic Tank" means a unitized device performing functions of both a septic tank and a dosing tank.
- (40) [(10)] "Dwelling" means any structure or building, or any portion thereof which is used, intended, or designed to be occupied for human living purposes including, but not limited to, houses,

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houseboats, boathouses, mobile homes, travel trailers, hotels, motels, and apartments.

- (41) "Effective Seepage Area" means the sidewall area within a disposal trench or a seepage trench from the bottom of the trench to a level two (2) inches above the distribution pipes, or the sidewall area of any cesspool, seepage pit, unsealed earth pit privy, or gray water waste disposal sump seepage chamber; or the bottom area of a pressurized soil absorption facility installed in soil as defined in Section (114) of this rule. (See Diagrams 12, 14, 15, 16, and 17)
- (42) "Effective Soil Depth" means the depth of soil material above a layer that impedes movement of water, air, and growth of plant roots. Layers that differ from overlying soil material enough to limit effective soil depth are hardpans, claypans, fragipans, compacted soil, bedrock, saprolite, and clayey soil.
- (43) "Effluent Lift Pump" means a pump used to lift septic tank or other treatment facility effluent to a higher elevation. (See Rule 340-73-055.)
- (44) "Effluent Sewer" means that part of the system of drainage piping that conveys treated sewage from a septic tank or other treatment facility into a distribution unit or an absorption facility. (See Diagrams 1 through 7, 11, and 17, and Rule 34073-060.)
- (45) "Emergency Repair" means repair of a failing system where immediate action is necessary to relieve a situation in which sewage is backing up into a dwelling or building, or repair of a broken pressure sewer pipe.
- (46) "Escarpment" means any naturally occurring slope greater than fifty (50) percent which extends vertically six (6) feet or more as measured from toe to top, and which is characterized by a long cliff or steep slope which separates two (2) or more comparatively level or gently sloping surfaces, and may intercept one (1) or more layers that limit effective soil depth. (See Diagrams 18 and 19)
- (47) "Evapotranspiration-Absorption (ETA) system" means an alternative system consisting of a septic tank or other treatment facility, effluent sewer and a disposal bed or disposal trenches, designed to distribute effluent for evaporation, transpiration by plants, and by absorption into the underlying soil. (See Diagrams 6 and 7)
- (48) [(11)] "Existing On-Site Sewage Disposal System" [(existing system)] means any installed on-site sewage disposal system constructed in conformance with the rules, laws and local ordinances in

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effect at the time of construction, or which would have conformed substantially with system design provided for in Commission, State Board of Health or State Health Division rules.

- (49) "Existing System" means "Existing On-Site Sewage Disposal System".
- (50) [(12)] "Failing System" means any system which discharges untreated or incompletely treated sewage or septic tank effluent directly or indirectly onto the ground surface or into public waters.
- (51) "Family Member" means any one (1) of two (2) or more persons related by blood or marriage.
- (52) "Filter Fabric" means a woven or spun-bonded sheet material used to impede or prevent the movement of sand, silt and clay into filter material. A specification for filter fabric is found in OAR 340-73-041.
- (53) "Filter Material" means clean, washed gravel ranging from three quarters (3/4) to two and one-half (2-1/2) inches in size, or clean crushed rock ranging in size from one and one-half (1-1/2) to two and one-half (2-1/2) inches. (See Diagrams 6, 7, 9, 12, 14, 15, 16, and 17)
- (54) "Five-Day Biochemical Oxygen Demand" (BOD₅) means the quantity of oxygen used in the biochemical oxidation of organic matter in five days at twenty (20) degrees centigrade under specified conditions and reported as milligrams per liter (mg/L).
- (55) "Fragipan" means a loamy subsurface horizon with high bulk density relative to the horizon above, seemingly cemented when dry, and weakly to moderately brittle when moist. Fragipans are mottled and low in organic matter. They impede movement of water, air, and growth or plant roots.
- (56) [(13)] "Governmental Unit" means the state or any county, municipality, or political subdivision, or any agency thereof.
- (57) "Grade" means the rate of fall or drop in inches per foot or percentage of fall of a pipe.
- (58) "Gray Water" means household sewage other than "black wastes", such as bath water, kitchen waste water and laundry wastes.
- (59) "Groundwater Interceptor" means any natural or artificial groundwater or surface water drainage system including agricultural drain tile, cut banks, and ditches which intercept

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and divert groundwater or surface water from the area of the absorption facility. (See Diagram 13).

- (60) "Hardpan" means a hardened layer in soil caused by cementation of soil particles with either silica, calcium carbonate, magnesium carbonate, or iron and/or organic matter. The hardness does not change appreciably with changes in moisture content. Hardpans impede movement of water and air and growth of plant roots.
- (61) "Header Pipe" means a tight jointed part of the sewage drainage conduit which receives septic tank effluent from the distribution box, or drop box, or effluent sewer and conveys it to the disposal area. (See Diagrams 1 through 5, 7, 11, and 17)
- (62) "Headwall" means a steep slope at the head or upper end of a land slump block or unstable landform. (See Diagrams 22 and 23)
- (63) "Holding Tank" means a watertight receptacle designed to receive and store sewage to facilitate disposal at another location.
- (64) "Incinerator Toilet Facility" means "Combustion Toilet Facility".
- (65) [(14)] "Individual System" means a system that is not a community system.
- (66) "Individual Water Supply" means a source of water and a distribution system which serves a residence or user for the purpose of supplying water for drinking, culinary, or household uses and which is not a public water supply system.
- (67) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business, or from the development or recovery of any natural resources.
- (68) "Intermittent Stream" means any surface public water or groundwater interceptor that continuously flows water for a period of greater than two months in any one year, but not continuously for that year.
- (69) "Invert" is the lowest portion of the internal cross section of a pipe or fitting. (See Diagram 12)
- (70) [(15)] "Large System" means any on-site system with a projected daily sewage flow greater than two thousand five hundred (2,500) gallons.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

(71) "Lateral Pipe" means "Distribution Pipe".

(72) "Mechanical Oxidation Sewage Treatment Facility" means an aerobic sewage treatment facility.

(73) "Medium Sand" means a mixture of sand with 100 percent passing the 3/8 inch sieve, 90 percent to 100 percent passing the No. 4 sieve, 62 percent to 100 percent passing the No. 10 sieve, 45 percent to 82 percent passing the No. 16 sieve, 25 percent to 55 percent passing the No. 30 sieve, 5 percent to 20 percent passing the No. 50 sieve, 10 percent or less passing the No. 60 sieve, 4 percent or less passing the No. 100 sieve, and with a sand equivalency of eighty (80) or more.

(74) "Nonwater-Carried Waste Disposal Facility" means any toilet facility which has no direct water connection, including pit privies, vault privies and portable toilets.

(75) [(16)] "Occupant" means any person living or sleeping in a dwelling.

(76) [(17)] "On-Site Sewage Disposal System" means any existing or proposed on-site sewage disposal system including, but not limited to a standard subsurface, alternative, experimental or non-water carried sewage disposal system, installed or proposed to be installed on land of the owner of the system or on other land as to which the owner of the system has the legal right to install the system.

(77) [(18)] "Owner" means any person who alone, or jointly, or severally with others:

(a) Has legal title to any single lot, dwelling, dwelling unit, or commercial facility; or

(b) Has care, charge, or control of any real property as agent, executor, executrix, administrator, administratrix, trustee, commercial lessee, or guardian of the estate of the holder of legal title; or

(c) Is the contract purchaser of real property.

NOTE: Each such person as described in subsections (b) and (c), thus representing the legal title holder, is bound to comply with the provisions of these rules as if he were the legal title holder.

(78) "Permanent Groundwater Table" means the upper surface of a saturated zone that exists year-round. The thickness of the saturated zone, and, as a result, the elevation of the permanent groundwater table may fluctuate as much as twenty (20) feet or more annually; but the saturated zone and associated permanent

Note: Underlined _____ material is new.

Bracketed [] material is deleted.

groundwater table will be present at some depth beneath land surface throughout the year.

- (79) [(19)] "Permit" means the written document issued and signed by the Agent which authorizes the permittee to install a system or any part thereof, which may also require operation and maintenance of the system.
- (80) [(20)] "Person" includes individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the state and any agencies thereof, and the federal government and any agencies thereof.
- (81) "Pollution" or "Water Pollution" means such alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
- (82) "Portable Toilet Shelter" means any readily relocatable structure built to house a toilet facility.
- (83) "Pressure Distribution Lateral" means piping and fittings in pressure distribution systems which distribute septic tank or other treatment unit effluent to filter material through small diameter orifices. (See Diagrams 8, 9, and 12)
- (84) "Pressure Distribution Manifold" means piping and fittings in a pressure distribution system which supply effluent from pressure transport piping to pressure distribution laterals. (See Diagrams 8 and 9)
- (85) "Pressure Distribution System" means any system designed to uniformly distribute septic tank or other treatment unit effluent under pressure in an absorption facility or sand filter. (See Diagrams 8 and 9)
- (86) "Pressure Transport Piping" means piping which conveys septic tank or other treatment unit effluent to a pressure distribution manifold by means of a pump. (See Diagrams 8 and 9)
- (87) "Prior Approval" means a written approval for on-site sewage disposal, for a specific lot, issued prior to January 1, 1974.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (88) "Prior Construction Permit" means a subsurface sewage disposal system construction permit issued prior to January 1, 1974, by a county that had an ordinance requiring construction permits for subsurface sewage disposal systems.
- (89) "Privy" means a structure used for disposal of human waste without the aid of water. It consists of a shelter built above a pit or vault in the ground into which human waste falls.
- (90) [(21)] "Public Health Hazard" means a condition whereby there are sufficient types and amounts of biological, chemical or physical, including radiological, agents relating to water or sewage which are likely to cause human illness, disorders or disability. These include, but are not limited to, pathogenic viruses, bacteria, parasites, toxic chemicals, and radioactive isotopes.
- (91) [(22)] "Public Waters" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.
- (92) "Redundant Disposal Field System" means a system in which two complete disposal systems are installed, the disposal trenches of each system alternate with each other and only one system operates at a given time. (See Diagram 11)
- (93) [(23)] "Repair" means installation of all portions of a system necessary to eliminate a public health hazard or pollution of public waters created by a failing system.
- (94) "Sand Filter Surface Area" means the area of the level plane section in the medium sand horizon of a conventional sand filter located two (2) feet below the bottom of the filter material containing the pressurized distribution piping.
- (95) "Sand Filter System" means the combination of septic tank or other treatment unit, dosing system with effluent pump and controls, or dosing siphon, piping and fittings, sand filter, and absorption facility used to treat and dispose of sewage.
- (96) "Sanitary Drainage System" means that part of the system of drainage piping that conveys untreated sewage from a building or structure to a septic tank or other treatment facility, service lateral at the curb or in the street or alley, or other disposal

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

terminal holding human or domestic sewage. The sanitary drainage system consists of a building drain or building drain and building sewer. (See Diagrams 1, 2, 3, and 16)

- (97) "Saprolite" means weathered material underlying the soil that grades from soft thoroughly decomposed rock to rock that has been weathered sufficiently so that it can be broken in the hands or cut with a knife. It does not include hard bedrock or hard fractured bedrock. It has rock structure instead of soil structure.
- (98) "Saturated Zone" means a three (3) dimensional layer, lens, or other section of the subsurface in which all open spaces including joints, fractures, interstitial voids, pores, etc. are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge or discharge. (See Diagram 20)
- (99) "Scum" means a mass of sewage solids floating at the surface of sewage which is buoyed up by entrained gas, grease, or other substances.
- (100) "Seepage Area" means "Effective Seepage Area."
- (101) "Seepage Bed" means an absorption system having disposal trenches wider than three (3) feet.
- (102) "Seepage Pit" means a "cesspool" which has a treatment facility such as a septic tank ahead of it. (See Diagram 17)
- (103) "Seepage Trench System" means a system with disposal trenches with more than six (6) inches of filter material below the distribution pipe.
- (104) "Self-Contained Nonwater-Carried Waste Disposal Facility" includes, but is not limited to, vault privies, chemical toilets, combustion toilets, recirculating toilets, and portable toilets, in which all waste is contained in a watertight receptacle.
- (105) "Septic Tank" means a watertight receptacle which receives sewage from a sanitary drainage system, is designed to separate solids from liquids, digest organic matter during a period of detention, and allow the liquids to discharge to a second treatment unit or to a soil absorption facility. (See Rules 340-73-025 and 340-73-030.)
- (106) "Septic Tank Effluent" means partially treated sewage which is discharged from a septic tank.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

(107) [(24)] "Sewage" means water-carried human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration, surface waters, or industrial waste as may be present.

(108) "Sewage Disposal Service" means:

- (a) The installation of on-site sewage disposal systems (including the placement of portable toilets), or any part thereof; or
- (b) The pumping out or cleaning of on-site sewage disposal systems (including portable toilets), or any part thereof; or
- (c) The disposal of material derived from the pumping out or cleaning of on-site sewage disposal systems (including portable toilets); or
- (d) Grading, excavating, and earth-moving work connected with the operations described in subsection (a) of this section, except streets, highways, dams, airports or other heavy construction projects and except earth-moving work performed under the supervision of a builder or contractor in connection with and at the time of the construction of a building or structure; or
- (e) The construction of drain and sewage lines from five (5) feet outside a building or structure to the service lateral at the curb or in the street or alley or other disposal terminal holding human or domestic sewage.

(109) "Sewage Stabilization Pond" means a pond designed to receive the raw sewage flow from a dwelling or other building and retain that flow for treatment without discharge.

(110) "Slope" means the rate of fall or drop in feet per one hundred (100) feet of the ground surface. It is expressed as percent of grade.

(111) "Soil Permeability Rating" refers to that quality of the soil that enables it to transmit water or air, as outlined in the United States Department of Agriculture Handbook, Number 18, entitled Soil Survey Manual.

(112) "Soil Separate" means the size of soil particles according to Table 7.

(113) "Soil Texture" means the amount of each soil separate in a soil mixture. Field methods for judging the texture of a soil

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

consist of forming a cast of soil, both dry and moist, in the hand and pressing a ball of moist soil between thumb and finger.

(a) The major textural classifications are defined as follows:
(See Table 6.)

(A) Sand: Individual grains can be seen and felt readily. Squeezed in the hand when dry, this soil will fall apart when the pressure is released. Squeezed when moist, it will form a cast that will hold its shape when the pressure is released, but will crumble when touched.

(B) Sandy loam: Consists largely of sand, but has enough silt and clay present to give it a small amount of stability. Individual sand grains can be readily seen and felt. Squeezed in the hand when dry, this soil will readily fall apart when the pressure is released. Squeezed when moist, it forms a cast that will not only hold its shape when the pressure is released, but will withstand careful handling without breaking. The stability of the moist cast differentiates this soil from sand.

(C) Loam: Consists of an even mixture of sand and of silt and a small amount of clay. It is easily crumbled when dry and has a slightly gritty yet fairly smooth feel. It is slightly plastic. Squeezed when moist, it forms a cast that will not only hold its shape when the pressure is released, but will withstand careful handling without breaking. The stability of the moist cast differentiates this soil from sand.

(D) Silt loam: Consists of a moderate amount of fine grades of sand, a small amount of clay, and a large quantity of silt particles. Lumps in a dry, undisturbed state appear quite cloddy, but they can be pulverized readily; the soil then feels soft and floury. When wet, silt loam runs together in puddles. Either dry or moist, casts can be handled freely without breaking. When a ball of moist soil is pressed between thumb and finger, it will not press out into a smooth, unbroken ribbon, but will have a broken appearance.

(E) Clay loam: Consists of an even mixture of sand, silt, and clay, which breaks into clods or lumps when dry. When a ball of moist soil is pressed between the thumb and finger, it will form a thin ribbon that will readily break, barely sustaining its own weight. The

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

moist soil is plastic and will form a cast that will withstand considerable handling.

(F) Silty clay loam: Consists of a moderate amount of clay, a large amount of silt, and a small amount of sand. It breaks into moderately hard clods or lumps when dry. When moist, a thin ribbon or one-eighth (1/8) inch wire can be formed between thumb and finger that will sustain its weight and will withstand gentle movement.

(G) Silty clay: Consists of even amounts of silt and clay and very small amounts of sand. It breaks into hard clods or lumps when dry. When moist, a thin ribbon or one-eighth (1/8) inch or less sized wire formed between thumb and finger will withstand considerable movement and deformation.

(H) Clay: Consists of large amounts of clay and moderate to small amounts of sand. It breaks into very hard clods or lumps when dry. When moist, a thin, long ribbon or one-sixteenth (1/16) inch wire can be molded with ease. Fingerprints will show on the soil, and a dull to bright polish is made on the soil by a shovel.

(b) These and other soil textural characteristics are also defined as shown in the United States Department of Agriculture Textural Classification Chart which is hereby adopted as part of these rules. This textural classification chart is based on the Standard Pipette Analysis as defined in the United States Department of Agriculture, Soil Conservation Service Soil Survey Investigations Report No. 1. (See Table 6)

(114) "Soil With Rapid or Very Rapid Permeability" means:

(a) Soil which contains thirty-five (35) percent or more of coarse fragments two (2) millimeters in diameter or larger by volume with interstitial soil of sandy loam texture or coarser as defined in subsection (83) (a) of this rule and as classified in Soil Textural Classification Chart, Table 6; or

(b) Coarse textured soil (loamy sand or sand as defined in section (83) of this rule and as classified in Soil Textural Classification Chart, Table 6); or

(c) Stones, cobbles, gravel, and rock fragments with too little soil material to fill interstices larger than one (1) millimeter in diameter.

Note: Underlined ___ material is new.

Bracketed [] material is deleted.

- (115) "Stabilized Dune" means a sand dune that is similar to an active dune except vegetative growth is dense enough to prevent blowing of sand. The surface horizon to a depth of at least six (6) inches contains roots and has a color value of three (3) or less.
- (116) "Standard Subsurface System" means an on-site sewage disposal system consisting of a septic tank, distribution unit and gravity-fed absorption facility constructed in accordance with OAR 340-71-220(2), using six (6) inches of filter material below the distribution pipe, and maintaining not less than eight (8) feet of undisturbed earth between disposal trenches.
- (117) "Strength of Wastewater" means the concentration of pollutants in wastewater as measured by BOD₅ and TSS.
- (118) "Subsurface Sewage Disposal" means the physical, chemical or bacteriological breakdown and aerobic treatment of sewage in the unsaturated zone of the soil above any temporarily perched groundwater body.
- (119) "Subsurface Disposal System" means a cesspool or the combination of a septic tank or other treatment unit and effluent sewer and absorption facility. (See Diagrams 1, through 6, 11, 16, and 17).
- (120) [(25)] "System" means [- see] "On-Site Sewage Disposal System."
- (121) "Temporary Groundwater Table" means the upper surface of a saturated zone that exists only on a seasonal or periodic basis. Like a permanent groundwater table, the elevation of a temporary groundwater table may fluctuate. However, a temporary groundwater table and associated saturated zone will dissipate (dry up) for a period of time each year.
- (122) "Test Pit" means an open pit dug to sufficient size and depth to permit thorough examination of the soil to evaluate its suitability for subsurface sewage disposal.
- (123) "Toilet Facility" means a fixture housed within a toilet room or shelter for the purpose of receiving black waste.
- (124) "Total Suspended Solids" (TSS) means solids in sewage that can be removed readily by standard filtering procedures in a laboratory and reported as milligrams per liter (mg/L).
- (125) "Unstable Landforms" means areas showing evidence of mass downslope movement such as debris flow, landslides, rockfalls, and hummocky hillslopes with undrained depressions upslope. Unstable landforms may exhibit slip surfaces roughly parallel to

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

the hillside; landslide scars and curving debris ridges; fences, trees, and telephone poles which appear tilted; or tree trunks which bend uniformly as they enter the ground. Active sand dunes are unstable landforms. (See Diagrams 21, 22, and 23)

(126) "Water Pollution" means "Pollution".

(127) "Zone of Aeration" means the unsaturated zone that occurs below the ground surface and above the point at which the upper limit of the water table exists. (See Diagram 20)

Amend OAR 340-71-105 by deleting the entire Rule.

Amend OAR 340-71-130 by adding a new section (16) as follows:

(16) No person shall place or cause to be placed into an on-site sewage disposal system or part thereof any substance or material in sufficient quantity which is capable of: adversely affecting the system's treatment process; causing damage or hazard to one or more components of the system; or otherwise altering the physical, chemical or biological properties of any waters of the state in a manner not lawfully authorized. Such material shall include but not be limited to products with a pH lower than four (4) or in excess of nine and five-tenths (9.5), organic solvents, and explosives. Cleaning compounds typically found in a home and used in accordance with manufacturers' directions are not likely to have an adverse impact upon the system or groundwater quality.

Amend OAR 340-71-140(1)(a) as follows:

340-71-140 FEES-GENERAL.

(1) Except as provided in section (5) of this rule, the following nonrefundable fees are required to accompany applications for site evaluations, permits, licenses and services provided by the Department.

ON-SITE SEWAGE DISPOSAL SYSTEMS	MAXIMUM FEE
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(a) New Site Evaluation:

(A) Single Family Dwelling:

(i) First Lot.....	\$150
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Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (ii) Each Additional Lot Evaluated During Initial Visit \$130
- (B) Commercial Facility System:
 - (i) For First One Thousand (1000) Gallons Projected Daily Sewage Flow \$150
 - (ii) Plus For Each Five Hundred (500) Gallons or Part Thereof Above One Thousand (1000) Gallons, for Projected Daily Sewage Flows up to Ten Thousand (10,000) Gallons \$ 50
 - (iii) Plus For Each One Thousand (1000) Gallons or Part Thereof Above Ten Thousand (10,000) Gallons \$ 20
- (C) Site Evaluation [Denial] Report Review \$ 60
- (D) Fees for site evaluation applications made to an agreement county shall be in accordance with that county's fee schedule.
- (E) Each fee paid for a site evaluation report entitles the applicant to as many site inspections on a single parcel or lot as are necessary to determine site suitability for a single system. The applicant may request additional site inspections within ninety (90) days of the initial site evaluation, at no extra cost.
- (F) Separate fees shall be required if site inspections are to determine site suitability for more than one (1) system on a single parcel of land.

Amend OAR 340-71-140(2) as follows:

- (2) Contract County Fee Schedules. Pursuant to ORS 454.745(4), fee schedules which exceed maximum fees in ORS 454.745(1), and Section (1) of this rule, are established for Contract Counties as follows:
 - [(a) Lane County: See OAR 340-72-050.]
 - [(b) Clackamas County: See OAR 340-72-060.]
 - (a) [(c)] Multnomah County: See OAR 340-72-070.
 - (b) [(d)] Jackson County: See OAR 340-72-080.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

(3) Contract County Fee Schedules, General:

- (a) Each county having an agreement with the Department under ORS 454.725 shall adopt a fee schedule for services rendered and permits and licenses to be issued.
- (b) A copy of the fee schedule and any subsequent amendments to the schedule shall be forwarded to the Department.
- (c) Fees shall not:
 - (A) Exceed actual costs for efficiently conducted services; or
 - (B) Exceed the maximum established in Section (1) of this rule, unless approved by the Commission pursuant to ORS 454.745(4).

Amend OAR 340-71-140(4) as follows:

- (4) Surcharge. In order to offset a portion of the administrative costs of the statewide on-site sewage disposal program, a surcharge for each activity, as set forth in the following schedule, shall be levied by the Department and by each Agreement County. Proceeds from surcharges collected by the Department and Agreement Counties shall be accounted for separately. Each Agreement County shall forward the proceeds to the Department as negotiated in the memorandum of agreement (contract) between the county and the Department.

Activity	Surcharge
(a) Site evaluation[:] + for each [one thousand (1000) gallons projected daily sewage flow or part thereof, up to a maximum surcharge of seventy five dollars (\$75)] <u>site examined, based on a projected flow of:</u>	
<u>1,000 gallons or less</u>	<u>\$ 15</u>
<u>1,001 gallons to 2,000 gallons</u>	<u>\$ 30</u>
<u>2,001 gallons to 3,000 gallons</u>	<u>\$ 45</u>
<u>3,001 gallons to 4,000 gallons</u>	<u>\$ 60</u>
<u>4,001 gallons or more</u>	<u>\$ 75</u>
(b) Construction-Installation Permit	\$ 5

EXCEPTION: Repair permits are not subject to a surcharge.

Note: Underlined material is new.
Bracketed [] material is deleted.

(c) Alteration Permit	\$ 5
(d) Authorization Notice	\$ 5

Amend OAR 340-71-150(1) as follows:

- (1) A site evaluation is the first step in the process of obtaining a construction permit for an on-site system. Except as otherwise allowed in these rules, any [Any] person who wishes to install a new on-site sewage system shall first obtain a site evaluation report.

Amend OAR 340-71-150(4) as follows:

(4) Approval or Denial:

- (a) In order to obtain a [an approved] favorable site evaluation report the following conditions shall be met:

- (A) All criteria for approval of a specific type or types of system, as outlined in [rules 340-71-220 and/or 340-71-260 through 340-71-360] OAR 340, Division 71 shall be met.
- (B) Each lot or parcel must have sufficient usable area available to accommodate an initial and replacement system. The usable area may be located within the lot or parcel, or within the bounds of another lot or parcel if secured pursuant to OAR 340-71-130(11). Sites may be approved where the initial and replacement systems would be of different types, e.g., a standard subsurface system as the initial system and an alternative system as the replacement system. The site evaluation report shall indicate the type of the initial and type of replacement system for which the site is approved.

EXCEPTION: A replacement area is not required in areas under control of a legal entity such as a city, county, or sanitary district, provided the legal entity gives a written commitment that sewerage service will be provided within five (5) years.

- (b) A site evaluation shall be denied where the conditions identified in subsection (4)(a) of this rule are not met.
- (c) Technical rule changes shall not invalidate a favorable site evaluation, but may require use of a different kind of system.

Note: Underlined material is new.
 Bracketed [] material is deleted.

Amend OAR 340-71-150(5) as follows:

- (5) Site Evaluation [Denial] Report Review. A site evaluation [denied] report issued by the Agent shall be reviewed at the request of the applicant. The application for review shall be submitted to the Department in writing, within thirty (30) days of the site evaluation report issue date, and be accompanied by the [denial] review fee. The review shall be conducted and a report prepared by the Department.

Amend OAR 340-71-160 as follows:

340-71-160 PERMIT APPLICATION PROCEDURES-GENERAL REQUIREMENTS.

- (1) No person shall cause or allow construction, alteration, or repair of a system, or any part thereof, without first applying for and obtaining a permit.

EXCEPTION: Emergency repairs as set forth in Rule 340-71-215.

- (2) Applications for permits shall be made on forms provided by the Agent and approved by the Department.
- (3) An application is complete only when the form, on its face, is completed in full, is signed by the owner or the owner's legally authorized representative, and is accompanied by all required exhibits [(including a site evaluation report)] and fee, [, and includes, from the appropriate jurisdiction, a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or Land Conservation and Development Commission's goals.] Except as otherwise allowed in OAR 340-71-400(6), the exhibits shall include:

- (a) Favorable site evaluation report.
- (b) Favorable land use compatibility statement from the appropriate land use authority signifying that the proposed land use is compatible with the Land Conservation and Development Commission acknowledged comprehensive plan or is consistent with the statewide planning goals.
- (c) Plans and specifications for the on-site system proposed for installation within the area identified in the favorable site evaluation report. The Agent shall determine and request the minimum level of detail necessary to insure proper system construction.
- (d) Any other information the Agent finds is necessary to complete the permit application.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (4) The application form shall be received by the Agent only when the form is complete, as detailed in section (3) of this rule.
- (5) Upon receipt of a completed application the Agent shall deny the permit if:
- (a) The application contains false information;
 - (b) The application was wrongfully received by the Agent;
 - (c) The proposed system would not comply with these rules;
 - (d) The proposed system, if constructed, would violate a Commission moratorium as described in rule 340-71-460;
 - (e) The proposed system location is encumbered as described in section 340-71-130(8);
 - (f) A sewerage system which can serve the proposed sewage flow is both legally and physically available, as described below:
 - (A) Physical Availability. A sewerage system shall be deemed physically available if its nearest connection point from the property to be served is:
 - (i) For a single family dwelling, or other establishment with a maximum projected daily sewage flow of not more than four hundred fifty (450) gallons, within three hundred (300) feet;
 - (ii) For a proposed subdivision or group of two (2) to five (5) single family dwellings, or equivalent projected daily sewage flow, not further than two hundred (200) feet multiplied by the number of dwellings or dwelling equivalents.
 - (iii) For proposed subdivisions or other developments with more than five (5) single family dwellings, or equivalents, the Agent shall make a case-by-case determination of sewerage availability.
 - EXCEPTION: A sewerage system shall not be considered available if topographic or man-made features make connection physically impractical.
 - (B) Legal Availability. A sewerage system shall be deemed legally available if the system is not under a Department connection permit moratorium, and the

Note: Underlined material is new.
Bracketed [] material is deleted.

sewerage system owner is willing or obligated to provide sewer service.

- (6) A permit shall be issued only to a person licensed under ORS 454.695, or to the owner or easement holder of the land on which the system is to be installed.
- (7) No person shall construct, alter or repair a system, or any part thereof, unless [he] that person is licensed under ORS 454.695, or [he] is the permittee.
- (8) The Agent shall either issue or deny the permit within twenty (20) days after receipt of the completed application.

EXCEPTION: If weather conditions or distance and unavailability of transportation prevent the Agent from acting to either issue or deny the permit within twenty (20) days, the applicant shall be notified in writing. The notification shall state the reason for delay. The Agent shall either issue or deny the permit within sixty (60) days after the mailing date of such notification.

- (9) A permit issued pursuant to these rules shall be effective for one(1) year from the date of issuance for construction of the system. The construction-installation permit is not transferable. Once a system is installed pursuant to the permit, and a Certificate of Satisfactory Completion has been issued for the installation, conditions imposed as requirements for permit issuance shall continue in force as long as the system is in use.
- (10) Renewal of a permit may be granted to the original permittee if an application for permit renewal is filed prior to the original permit expiration date. Application for permit renewal shall conform to the requirements of sections (2) and (4) of this rule. The permit shall be issued or denied consistent with sections (5), (6), (8), and (9) of this rule.

Amend OAR 340-71-170 as follows:

340-71-170 PRE-COVER INSPECTIONS.

- (1) When construction, alteration or repair of a system for which a permit has been issued is complete, except for backfill (cover), or as required by permit, the [property owner or] system installer shall notify the Agent. The Agent shall inspect the installation to determine if it complies with the rules of the Commission, unless the inspection is waived by the Agent in accordance with section (2) of this rule or in accordance with the provisions of OAR 340-71-400(6).

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (2) The Agent may, at his own election, waive the pre-cover inspection provided:
- (a) The installation is a standard subsurface system installed by a sewage disposal service licensed pursuant to ORS 454.695; and
 - (b) The inspecting jurisdiction and the Department have developed an impartial method of identifying those installers who have a history of proper installations without excessive numbers of corrections; and
 - (c) Inspections waived are for installations made by installers identified as having a good history of proper installation; and
 - (d) A list of installers whose inspections may be waived is available to the public and the Department; and
 - (e) A representative number of each installer's systems has been inspected, regardless of installation history; and
 - (f) After system completion the installer certifies in writing that the system complies with the rules of the Commission, and provides the Agent with a detailed as-built plan (drawn to scale) of the installation.
- (3) Precover inspection details shall be recorded on a form approved by the Department.

Amend OAR 340-71-185(2) as follows:

- (2) Procedures for Abandonment:
- (a) The septic tank, cesspool or seepage pit shall be pumped by a licensed sewage disposal service to remove all sludge;
 - (b) The septic tank, cesspool or seepage pit shall be filled with reject sand, bar run gravel, or other material approved by the Agent;
 - (c) The system building sewer shall be permanently capped.
 - (d) If, in the judgment of the Agent, it is not reasonably possible or necessary to comply with subsections (2)(a) and (2)(b) of this rule, the Agent may waive either or both of these requirements provided such action does not constitute a menace to public health, welfare or safety.

Note: Underlined material is new.
Bracketed [] material is deleted.

Amend OAR 340-71-215(3) as follows:

- (3) No person shall repair a failing system without first obtaining a Repair Permit. See OAR 340-71-160.

EXCEPTION: Emergency repairs may be made without first obtaining a permit provided that a repair permit application is [obtained] submitted to the Agent within three (3) working days after the emergency repairs are begun.

Amend OAR 340-71-220(1) as follows:

340-71-220 STANDARD SUBSURFACE SYSTEMS.

- (1) For the purpose of these rules:

- (a) "Standard Subsurface System" means an on-site sewage disposal system consisting of a septic tank, distribution unit and gravity-fed [disposal field] absorption facility constructed in accordance with section (2) of this rule, using six (6) inches of filter material below the distribution pipe, and maintaining not less than eight (8) feet of undisturbed earth between disposal trenches.
- (b) "Effective Soil Depth" means the depth of soil material above a layer that impedes movement of water, air, or growth of plant roots. Layers that differ from overlying soil material enough to limit effective soil depths are hardpans, claypans, fragipans, compacted soil, bedrock, saprolite and clayey soil.
- (c) "Large System" means any on-site system with a daily sewage flow greater than two thousand five hundred (2,500) gallons.
- (d) "Conditions Associated with Saturation" means:
- (A) Reddish brown or brown soil horizons with gray (chromas of two (2) or less) and red or yellowish red mottles; or
- (B) Gray soil horizons, or gray soil horizons with red, yellowish red or brown mottles; or
- (C) Dark colored highly organic soil horizons; or

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (D) Soil profiles with concentrations of soluble salts at or near the ground surface.

Amend OAR 340-71-220(2) as follows:

- (2) Criteria For Standard Subsurface System Approval. In order to be approved for a standard subsurface system each site must meet all the following conditions:

(a) Effective soil depth shall extend thirty (30) inches or more from the ground surface as shown in Table 3. A minimum six (6) inch separation shall be maintained between the layer that limits effective soil depth and the bottom of the absorption facility.

(b) Water table levels shall be predicted using "conditions associated with saturation." If conditions associated with saturation do not occur in soil with rapid or very rapid permeability, predictions of the highest level of the water table shall be based on past recorded observations of the Agent. If such observations have not been made, or are inconclusive, the application shall be denied until observations can be made. Groundwater level determinations shall be made during the period of the year in which high groundwater normally occurs in that area.

- (A) A permanent water table shall be four (4) feet or more from the bottom of the absorption facility.

EXCEPTION: In defined geographic areas where the Department has determined through a groundwater study that degradation of groundwater would not be caused nor public health hazards created. In the event this exception is allowed, the rule pertaining to a temporary water table shall apply.

- (B) A temporary water table shall be twenty-four (24) inches or more below the ground surface. An absorption facility shall not be installed deeper than the level of the temporary water table.

- (C) [Curtain Drains.] Groundwater Interceptors. (Diagram 13) A [curtain drain] groundwater interceptor may be used to intercept and/or drain temporary water from a disposal area, however, it may be required to demonstrate that the site can

Note: Underlined material is new.
Bracketed [] material is deleted.

be de-watered prior to issuing a Construction-Installation permit. [Curtain drains] Groundwater interceptors may be used only on sites with adequate slope to permit proper drainage. Each outlet shall be protected by a short section of Schedule 80 PVC or ABS plastic pipe and a grill to exclude rodents. Where required, [curtain drains] groundwater interceptors are an integral part of the system, but do not need to meet setback requirements to property lines, streams, lakes, ponds or other surface water bodies.

- (c) Soil with rapid or very rapid permeability shall be thirty six (36) inches or more below the ground surface. A minimum eighteen (18) inch separation shall be maintained between soil with rapid or very rapid permeability and the bottom of disposal trenches.

EXCEPTION: Sites may be approved with no separation between the bottom of disposal trenches and soil as defined in OAR 340-71-[105 (84)] 100 (114) (a) and (b), with rapid or very rapid permeability, and disposal trenches may be placed into soil as defined in OAR 340-71-[105 (84)] 100 (114) (a) and (b), with rapid or very rapid permeability if any of the following conditions occur:

- a- A confining layer occurs between the bottom of disposal trenches and the groundwater table. A minimum six (6) inch separation shall be maintained between the bottom of disposal trenches and the top of the confining layer; or
 - b- A layer of non-gravelly (less than 15% gravel) soil with sandy loam texture or finer at least eighteen (18) inches thick occurs between the bottom of the disposal trenches and the groundwater table; or
 - c- The projected daily sewage flow does not exceed a loading rate of four hundred fifty (450) gallons per acre per day.
- (d) Slopes shall not exceed thirty (30) percent and the slope/depth relationship set forth in Table 3.
- (e) The site has not been filled or the soil has not been modified in a way that would, in the opinion of the Agent, adversely affect functioning of the system.

Note: Underlined material is new.
Bracketed [] material is deleted.

- (f) The site shall not be on an unstable land form, where operation of the system may be adversely affected.
- (g) The site of the initial and replacement absorption facility shall not be covered by asphalt or concrete, or subject to vehicular traffic, livestock, or other activity which would adversely affect the soil.
- (h) The site of the initial and replacement absorption facility will not be subjected to excessive saturation due to, but not limited to, artificial drainage of ground surfaces, driveways, roads, and roof drains.
- (i) Setbacks in Table 1 can be met.
 - (A) Stream Setbacks. Setback from streams shall be measured from bank drop-off or mean yearly highwater mark, whichever provides the greatest separation distance.
 - (B) Lots Created Prior to May 1, 1973. For lots or parcels legally created prior to May 1, 1973, the Agent may approve installation of a standard or alternative system with a setback from surface public waters of less than one hundred (100) feet but not less than fifty (50) feet, provided all other provisions of these rules can be met.
 - (C) Water Lines and Sewer Lines Cross. Where water lines and building or effluent sewer lines cross, separation distances shall be as required in the State Plumbing Code.
 - (D) Septic Tank Setbacks. The Agent shall encourage the placement of septic tanks and other treatment units as close as feasible to the minimum separation from the building foundation in order to minimize clogging of the building sewer.

Note: Underlined material is new.
Bracketed [] material is deleted.

Amend OAR 340-71-220(3) as follows:

(3) Criteria For System Sizing:

Disposal Fields. Disposal fields shall be designed and sized on the basis of [information contained in]:

- (a) Table 2-Quantities of Sewage Flows; or other information determined by the Agent to be reliable.

EXCEPTIONS: Systems shall be sized on the basis of three hundred (300) gallons sewage flow per day, plus seventy five (75) gallons per day for the third bedroom when:

- a- Systems to serve single family dwellings on lots of record prior to March 1, 1978, which are inadequate in size to accommodate a system sized for a daily sewage flow of four hundred fifty (450) gallons.
- b- Systems for specifically planned developments, with living units of three (3) or fewer bedrooms, where deed restrictions prohibit an increase in the number of bedrooms.

- (b) Table 4, Minimum Length of Disposal Trench Required, Soil Texture Versus Effective Soil Depth.

- (c) Table 5, Minimum Length of Disposal Trench Required, Soil Texture Versus Depth to Temporary Water.

- (d) Strength of the wastewater. The minimum length of disposal trench shall be determined by using the following equation:
Length = (P) x (Q) x (R).

where: P = Trench length from Tables 4 or 5, whichever is larger.

Q = Design peak daily sewage flow divided by 150.

R = BOD₅ of Wastewater divided by 200 mg/L, or

TSS of Wastewater divided by 150 mg/L, whichever

has the higher value. In no case, however, may

the value of R be less than 1. For a single

family dwelling, assume a value of 200 mg/L BOD₅

and 150 mg/L TSS.

Amend OAR 340-71-220(4) as follows:

(4) Septic Tanks:

- (a) For the purpose of these rules, "Septic Tank" means a watertight receptacle which receives sewage from a sanitary

Note: Underlined ___ material is new.

Bracketed [] material is deleted.

drainage system, is designed to separate solids from liquids, digest organic matter during a period of detention, and allow the liquids to discharge to a second treatment unit or to a soil absorption facility.

(b) Liquid Capacity. [The minimum liquid capacity of any septic tank installed after July 1, 1981, shall be one thousand (1,000) gallons.]

(A) For projected daily sewage flows up to fifteen hundred (1,500) gallons the septic tank shall have a liquid capacity equal to at least one and one-half (1-1/2) days sewage flow, or one thousand (1,000) gallons, whichever is greater.

(B) For projected daily sewage flows greater than fifteen hundred (1,500) gallons, the septic tank shall have a liquid capacity equal to eleven hundred twenty-five (1,125) gallons plus seventy-five (75) percent of the projected daily sewage flow.

(C) Additional volume may be required by the Agent for industrial or other special wastes.

(D) The quantity of daily sewage flow shall be estimated from Table 2. For structures not listed in Table 2, the Agent shall determine the projected daily sewage flow.

(E) Single Family Dwelling. Septic tanks to serve single family dwellings shall be sized on the number of bedrooms in the dwelling, as follows:

- (i) 1 to 4 bedrooms.....1,000 gallons
- (ii) 5 bedrooms.....1,250 gallons
- (iii) More than 5 bedrooms.....1,500 gallons

(c) Installation Requirements:

(A) Septic tanks shall be installed on a level, stable base that will not settle.

(B) Septic tanks located in high groundwater areas shall be weighted or provided with an antibuoyancy device to prevent flotation.

(C) All septic tanks installed with the manhole access deeper than eighteen (18) inches, or when used within a sand filter system, commercial system, or pressurized system shall be provided with a watertight manhole riser extending to the ground surface or above. The riser shall have a minimum inside dimension equal to or

Note: Underlined material is new.
Bracketed [] material is deleted.

greater than that of the tank manhole. A [The] cover shall be provided and securely fastened or weighted to prevent easy removal.

- (D) Septic tanks shall be installed in a location that provides access for servicing and pumping.
- (E) Where practicable, the sewage flow from any establishment shall be consolidated into one septic tank.
- ~~(F) At the discretion of the Agent, a removable plug may be placed in the top of the septic tank's inlet sanitary tee if the septic tank discharges directly into a gravity-fed absorption facility.~~
- (d) Construction. Septic tank construction shall comply with minimum standards set forth in Rules 340-73-025 and 340-73-030, unless otherwise authorized in writing by the Department.

Amend OAR 340-71-220(7) as follows:

(7) Dosing Tanks:

- (a) Construction of dosing tanks shall comply with the minimum standards in Rule 340-73-050.
- (b) Each dosing tank shall be installed on a stable level base.
- (c) Each dosing tank shall be provided with a watertight riser and manhole cover. extending to the ground surface or above [, with a minimum inside horizontal measurement equal to or greater than the tank access manhole]. Provision shall be made for securely fastening the manhole cover.
- (d) At the discretion of the Agent, a removable plug may be placed in the top of the septic tank's inlet sanitary tee, and a trench ten (10) feet long and otherwise constructed the same as a standard disposal trench may be used to provide air and gas exchange from
 - (A) Ground and surface water will not infiltrate through the gravel-filled trench into the dosing tank; and
 - (B) The invert elevation of the perforated pipe in the ten (10) foot trench is one (1) foot higher than the invert elevation of the septic tank's inlet sanitary tee; and

Note: Underlined material is new.
Bracketed [] material is deleted.

(C) The design flow for the system does not exceed six hundred (600) gallons per day.

(e) Dosing tanks located in high groundwater areas shall be weighted or provided with an antibuoyancy device to prevent flotation.

Amend OAR 340-71-275 as follows:

340-71-275 PRESSURIZED DISTRIBUTION SYSTEMS.

- (1) Pressurized distribution systems may be permitted on any site meeting requirements for installation of standard subsurface sewage disposal systems, or other sites where this method of effluent distribution is desired.
- (2) Except as provided in OAR 340-71-220(2)(c), pressurized distribution systems shall be used where depth to soil as defined in OAR 340-71-[105 (84)] 100(114) (a) and (b) is less than thirty (36) inches and the minimum separation distance between the bottom of the disposal trench and soil as defined in OAR 340-71-[105 (84)] 100(114) (a) and (b) is less than eighteen (18) inches.
- (3) Pressurized distribution systems installed in soil as defined in OAR 340-71-[105 (84)] 100(114) (a) and (b) in areas with permanent water tables shall not discharge more than four hundred fifty (450) gallons of effluent per one-half (1/2) acre per day except where:
 - (a) A [gray water] split waste system is proposed to serve a single family dwelling on a lot [for lots] of record existing prior to January 1, 1974, which [have] has sufficient area to accommodate a gray water pressurized distribution split waste system; or
 - (b) Groundwater is degraded and designated as a nondevelopable resource by the State Department of Water Resources; or
 - (c) A detailed hydrogeological study discloses loading rates exceeding four hundred fifty (450) gallons per one-half (1/2) acre per day would not increase the nitrate-nitrogen concentration in the groundwater beneath the site, or at any down gradient location, above five (5) milligrams per liter.
- (4) Materials and Construction:
 - (a) General:

Note: Underlined material is new.
Bracketed [] material is deleted.

- (A) All materials used in pressurized systems shall be structurally sound, durable, and capable of withstanding normal stresses incidental to installation and operation.
 - (B) Nothing in these rules shall be construed to set aside applicable building, electrical, or other codes. An electrical permit and inspection from the Department of Commerce or the municipality with jurisdiction (as defined in ORS 456.750(5)) is required for pump wiring installation.
- (b) Pressurized Distribution Piping. Piping, valves and fittings for pressurized systems shall meet the following minimum requirements:
- (A) All pressure transport, manifold, lateral piping, and fittings shall meet or exceed the requirements for Class 160 PVC 1120 pressure pipe as identified in ASTM Specification D2241.
 - (B) Pressure transport piping shall be uniformly supported along the trench bottom, and at the discretion of the Agent, it shall be bedded in sand or other material approved by the Agent. A fourteen (14) gauge tracer wire shall be placed above piping when crossing property lines or entering public property or right of way.
 - (C) Orifices shall be located on top of the pipe, except in areas of extended frozen soil conditions in which case the Agent may specify orifice orientation.
 - (D) The ends of lateral piping shall be provided with threaded plugs or caps.
 - (E) All joints in the manifold, lateral piping, and fittings shall be solvent welded, using the appropriate joint compound for the pipe material. Pressure transport piping may be solvent welded or rubber ring jointed.
 - (F) A gate valve shall be placed on the pressure transport pipe, in or near the dosing tank, when appropriate.
 - (G) A check valve shall be placed between the pump and the gate valve, when appropriate.
- (c) [Trench Construction:] Disposal Trench Sizing and Construction:

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (A) [Minimum trench length required shall be not less than that specified in Tables 4 and 5.] A system using disposal trenches shall be designed and sized in accordance with the requirements of OAR 340-71-220(3).
- (B) Disposal trenches shall be constructed using the specifications for the standard disposal trench unless otherwise allowed by the Department on a case-by-case basis.
- (C) Pressure lateral piping shall have not less than six (6) inches of filter material below, nor less than four (4) inches of filter material above the piping.
- (D) The sides of the trench and top of the filter material shall be lined or covered with filter fabric, or other nondegradable material permeable to fluids that will not allow passage of soil particles coarser than very fine sand. In soils finer textured than loamy sand, lining the sidewall may not be required.
- (d) Seepage Bed Construction:
- (A) Seepage beds may only be used in soil as defined in OAR 340-71-[105 (84)] 100(114) (a) and (b) as an alternative to the use of disposal trenches.
- (B) The effective seepage area shall be based on the bottom area of the seepage bed. The minimum area shall be [not less than two hundred (200) square feet per one hundred fifty (150) gallons projected daily sewage flow.] determined as follows:
- (i) The seepage bed proposed to serve a single family dwelling shall be sized at a minimum of one (1) square foot of bottom area for each gallon of projected daily sewage flow.
- (ii) A seepage bed proposed to serve a commercial facility shall be sized on the basis of wastewater strength, in terms of the Biochemical Oxygen Demand (BOD₅) and Total Suspended Solids (TSS), and projected peak daily sewage flow, using the following equations:

$$\text{Seepage Bed Area} = (R) \times (\text{Design Peak Daily Sewage Flow})$$

where R = BOD₅ of Wastewater divided by 200 mg/L, or TSS of Wastewater divided by 150 mg/L, whichever has the higher value. In no case, however, may the value of R be less than 1.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (C) Beds shall be installed not less than eighteen (18) inches (twelve (12) inches with a capping fill) nor deeper than thirty six (36) inches into the natural soil. The seepage bed bottom shall be level.
 - (D) The top of the filter material shall be lined or covered with filter fabric, or other nondegradable material that is permeable to fluids but will not allow passage of soil particles coarser than very fine sand.
 - (E) Pressurized distribution piping shall have not less than six (6) inches of filter material below, nor less than four (4) inches of filter material above the piping.
 - (F) Pressurized distribution piping shall be horizontally spaced not more than four (4) feet apart, and not more than two (2) feet away from the seepage bed sidewall. At least two (2) parallel pressurized distribution pipes shall be placed in the seepage bed.
 - (G) A minimum of ten (10) feet of undisturbed earth shall be maintained between seepage beds.
- (e) Notwithstanding other requirements of this rule, when the projected daily sewage flow is greater than two thousand five hundred (2500) gallons the Department may approve other design criteria and standards it deems appropriate.
- (5) Hydraulic Design Criteria. Pressurized distribution systems shall be designed for appropriate head and capacity:
- (a) Head calculations shall include maximum static lift, pipe friction and orifice head requirements:
 - (A) Static lift where pumps are used shall be measured from the minimum dosing tank level to the level of the perforated distribution piping.
 - (B) Pipe friction shall be based upon a Hazen Williams coefficient of smoothness of 150. All pressure lateral piping and fittings shall have a minimum diameter of two (2) inches unless submitted plans and specifications show a smaller diameter pipe is adequate. The head loss across a lateral with multiple evenly spaced orifices may be considered equal to one-third (1/3) of the head loss that would result if the entrance flow were to pass through the length of the lateral.
 - (C) There shall be a minimum head of five (5) feet at the remotest orifice and no more than a fifteen (15) percent

Note: Underlined material is new.
 Bracketed [] material is deleted.

head variation between nearest and remotest orifice in an individual unit.

- (b) The capacity of a pressurized distribution system refers to the rate of flow given in gallons per minute (gpm):
 - (A) Lateral piping shall have discharge orifices drilled a minimum diameter of one-eighth (1/8) inch, and evenly spaced at a distance not greater than twenty four (24) inches in coarse textured soils or greater than four (4) feet in finer textured soils.
 - (B) The system shall be dosed at a rate not to exceed twenty (20) percent of the projected daily sewage flow.
 - (C) The affect of back drainage of the total volume of effluent within the pressure distribution system shall be evaluated for its impact upon the dosing tank and system operation.

Amend OAR 340-71-280(3) as follows:

(3) Design Criteria:

- (a) The seepage trench may have a maximum depth of forty-two (42) inches;
- (b) The seepage trench system shall be sized according to the following formula:

Length of seepage trench = (4) x (length of standard [system] disposal trench) divided by (3+ 2D), where D = depth of filter material below distribution pipe in feet. Maximum depth of filter material (D) shall be two (2) feet.

- (c) The projected daily sewage flow shall be limited to a maximum of four hundred fifty (450) gallons.

Amend OAR 340-71-290 as follows:

340-71-290 SAND FILTER SYSTEMS.

(1) For the purpose of these rules:

- (a) "Conventional sand filter" means a filter with two (2) feet of medium sand designed to filter and biologically treat septic tank or other treatment unit effluent from a pressure

Note: Underlined material is new.
Bracketed [] material is deleted.

distribution system at an application rate not to exceed one and twenty-three hundredths (1.23) gallons per square foot sand surface area per day, applied at a dose not to exceed twenty (20) percent of the projected daily sewage flow.

- (b) "Medium sand" means a mixture of sand with 100 percent passing the 3/8 inch sieve, 90 percent to 100 percent passing the No. 4 sieve, 62 percent to 100 percent passing the No. 10 sieve, 45 percent to 82 percent passing the No. 16 sieve, 25 percent to 55 percent passing the No. 30 sieve, 5 percent to 20 percent passing the No. 50 sieve, 10 percent or less passing the No. 60 sieve, [and] 4 percent or less passing the No. 100 sieve and with a sand equivalency of eighty (80) or more.
 - (c) "Sand filter system" means the combination of septic tank or other treatment unit, a dosing system with effluent pump[(s)] and controls, or dosing siphon, piping and fittings, sand filter, and absorption facility [or effluent reuse method] used to treat and dispose of sewage.
- (2) Inspection Requirements. Each sand filter system installed under this rule, and those filters installed under OAR 340-71-038, may be inspected annually. The [Department] Agent may waive the annual evaluation fee during years when sand filter field evaluation work is not performed.
- (3) Sites Approved for Sand Filter Systems. Sand filters may be permitted on any site meeting requirements for standard subsurface sewage disposal systems contained under OAR 340-71-220, or where standard or pressurized disposal trenches would be used, and all the following minimum site conditions can be met:
- (a) The highest level attained by temporary water would be:
 - (A) Twelve (12) inches or more below ground surface where gravity equal distribution trenches are used. Pressurized distribution trenches may be used to achieve equal distribution on slopes up to twelve (12) percent; or
 - (B) Twelve (12) inches or more below ground surface on sites requiring serial distribution where disposal trenches are covered by a capping fill, provided: trenches are excavated twelve (12) inches into the original soil profile, slopes are twelve (12) percent or less, and the capping fill is constructed according to provisions under OAR 340-71-265(3) and 340-71-265(4)(a) through (c); or

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

(C) Eighteen (18) inches or more below ground surface on sites requiring serial distribution where standard serial distribution trenches are used.

(b) The highest level attained by a permanent water table would be equal to or more than distances specified as follows:

Soil Groups	*Minimum Separation Distance from Bottom Effective Seepage Area
(A) Gravel, sand, loamy sand, sandy loam	24 inches
(B) Loam, silt loam, sandy clay loam, clay loam	18 inches
(C) Silty clay loam, silty clay, clay, sandy clay	12 inches

*NOTE: Shallow disposal trenches (placed not less than twelve (12) inches into the original soil profile) may be used with a capping fill to achieve separation distances from permanent groundwater. The fill shall be placed in accordance to the provisions of OAR 340-71-265(3) and 340-71-265(4)(a) through (c).

(c) Permanent water table levels shall be determined in accordance with methods contained in subsection 340-71-220(1)(d). Sand filters installed in soils as defined in OAR 340-71-[105 (84)] 100(114), in areas with permanent water tables shall not discharge more than four hundred fifty (450) gallons of effluent per one-half (1/2) acre per day except where:

(A) A [gray water] split waste system is proposed to serve a single family dwelling on a lot [for lots] of record existing prior to January 1, 1974, which [have] has sufficient area to accommodate a gray water sand filter split waste system, or

(B) Groundwater is degraded and designated as a non-developable resource by the State Department of Water Resources, or

(C) A detailed hydrogeological study discloses loading rates exceeding four hundred fifty (450) gallons per one-half (1/2) acre per day would not increase nitrate-nitrogen concentration in the groundwater beneath the site, or any down gradient location, above five (5) milligrams per liter.

Note: Underlined material is new.
Bracketed [] material is deleted.

(d) Soils, fractured bedrock or saprolite diggable with a backhoe occur such that a standard twenty-four (24) inch deep trench can be installed.

(e) Where slope is thirty (30) percent or less.

(f) Setbacks in Table 1 can be met, except the minimum separation distance between the sewage disposal area and surface public waters shall be no less than fifty (50) feet.

(4) The minimum length of standard disposal trench per one hundred fifty (150) gallons projected daily sewage flow required for a sand filter absorption facility [facilities] is indicated in the following table:

[Minimum Length (Linear Feet)
Disposal Trench Per One Hundred
Fifty (150) Gallons Projected
Daily Sewage Flow]

Soil Groups	<u>Linear Feet</u>
(a) Gravel, sand, loamy sand, sandy loam	35
(b) Loam, silt loam, sandy clay loam, clay loam	45
(c) Silty clay loam, silty clay, sandy clay, clay	50
(d) Saprolite or fractured bedrock	50
(e) High shrink-swell clays (Vertisols)	75 [*]

NOTE: -a- Disposal trenches in Vertisols shall contain twenty-four (24) inches of filter material and twenty-four (24) inches of soil backfill.

-b- On lots created prior to January 1, 1974, that have insufficient suitable area within which to install an absorption facility sized in accordance with this table, may at the Agent's discretion utilize seepage trenches, providing: the design criteria and limitations contained in OAR 340-71-280(3) are met; the soil is not a high shrink-swell clay; and all other provisions of this rule are met except that a temporary water table shall be thirty (30) inches or more below the ground surface.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (5) Sites with saprolite, fractured bedrock, gravel or soil textures of sand, loamy sand, or sandy loam in a continuous section at least two (2) feet thick in contact with and below the bottom of the sand filter, that meet all other requirements of section 340-71-290(3), may utilize either a conventional sand filter without a bottom or a sand filter in a trench that discharges biologically treated effluent directly into those materials. The application rate shall be based on the design sewage flow in OAR 340-71-295(1) and the basal area of the sand in either type of sand filter. A minimum twenty-four (24) inch separation shall be maintained between a water table and the bottom of the sand filter.
- (6) Materials and Construction:
- (a) All materials used in sand filter system construction shall be structurally sound, durable and capable of withstanding normal installation and operation stresses. Component parts subject to malfunction or excessive wear shall be readily accessible for repair and replacement.
 - (b) All filter containers shall be placed over a stable level base.
 - (c) In areas of temporary groundwater at least twelve (12) inches of unsaturated soil shall be maintained between the bottom of the sand filter and top of the disposal trench.
 - (d) Piping and fittings for the sand filter distribution system shall be as required under pressure distribution systems, OAR 340-71-275.
 - (e) The specific requirements for septic tanks, dosing tanks, etc. are found in OAR 340-71-220.
 - (f) The requirements in OAR 340-71-295 shall be met.

Amend OAR 340-71-295 as follows:

340-71-295 CONVENTIONAL SAND FILTER DESIGN AND CONSTRUCTION.
(Diagrams 8 and 9)

(1) Sewage Flows:

- (a) Design sewage flows for a system proposed to serve a commercial facility shall be limited to six hundred (600) gallons or less, with a wastewater strength not to exceed a BOD₅ of two-hundred (200) mg/L and a TSS of one hundred fifty (150) mg/L per day unless otherwise authorized in writing by the Department.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (b) Design sewage flows for a system proposed to serve a single family dwelling shall [not be less than four hundred fifty (450) gallons per day, except as provided in subsection (c) of this rule.] be in accordance with the provisions of OAR 340-71-220(3)(a).
- [(c) Design sewage flows for a system proposed to receive gray water only from a single family dwelling shall not be less than three hundred (300) gallons per day.]
- (2) Minimum Filter Area. [Sand filters shall be sized based on an application rate of no more than one and twenty-three hundredths (1.23) gallons septic tank effluent per square foot medium sand surface per day.]

(a) A sand filter proposed to serve a single family dwelling shall have an effective medium sand surface area of not less than three-hundred sixty-six (366) square feet. If the design sewage flow exceeds four-hundred fifty (450) gallons per day, the medium sand surface area shall be determined with the following equation:

$$\text{Area} = \text{(projected daily sewage flow) divided by (1.23)}$$

(b) A sand filter proposed to serve a commercial facility shall be sized on the basis of projected peak daily sewage flow and the strength of the wastewater, using the following equation:

$$\text{Area} = \text{(projected peak daily sewage flow) x (R) divided by (1.23)}$$

where R = BOD₅ of Wastewater divided by 200 mg/L, or TSS of Wastewater divided by 150 mg/L, whichever has the higher value. In no case, however, may the value of R be less than one (1).

- (3) Sand filter container, piping, medium sand, gravel, gravel cover, and soil crown material for a sand filter system discharging to disposal trenches shall meet minimum specifications indicated in Diagrams 8 and 9 unless otherwise authorized in writing by the Department.
- (4) Container Design and Construction:
- (a) A reinforced concrete container consisting of floor and walls as shown in Diagrams 8 and 9 is required where water tightness is necessary to prevent groundwater from infiltrating into the filter.
- (b) Container may be constructed of materials other than concrete where equivalent function, workmanship,

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

watertightness and at least a twenty (20) year service life can be documented:

- (A) Flexible membrane liner (FML) materials must have properties which are at least equivalent to thirty (30) mil unreinforced polyvinyl chloride (PVC) described in OAR 340-73-085. To be approved for filter installation, FML materials must:
 - (i) Have field repair instructions and materials which are provided to the purchaser with the liner; and
 - (ii) Have factory fabricated "boots" suitable for field bonding onto the liner to facilitate the passage of piping through the liner in a waterproof manner.
- (B) Where accepted for use, flexible sheet membrane liners shall be placed against relatively smooth, regular surfaces. Surfaces shall be free of sharp edges, corners, roots, nails, wire, splinters and other projections which might puncture, tear, or cut the liner. Where a smooth, uniform surface cannot be assured in the field, filter system plans must include specifications for liner protection. A four (4) inch bed of clean sand or a non-degradable filter fabric acceptable to the Agent, shall be used to provide liner protection.

Amend OAR 340-71-300(2) as follows:

- (2) Pre-Application Submittal. Prior to applying for a construction permit for a variation to the conventional sand filter the Department must approve the design. To receive approval the applicant shall submit the following required information to the Department:
 - (a) Effluent quality data. Filter effluent quality samples shall be collected and analyzed by a testing agency acceptable to the Department using procedures identified in the latest edition of "Standard Methods for the Examination of Wastewater," published by the American Public Health Association, Inc. The duration of filter effluent testing shall be sufficient to ensure results are reliable and applicable to anticipated field operating conditions. The length of the evaluation period and number of data points shall be specified in the test report. The following parameters shall be addressed:

Note: Underlined material is new.
Bracketed [] material is deleted.

- (A) BOD₅;
 - (B) [Suspended solids;] TSS;
 - (C) Fecal coliform[.] ;
 - (D) Nitrogen (Ammonia, Nitrate and Total Kjeldahl Nitrogen)
- (b) A description of unique technical features and process advantages.
 - (c) Design criteria, loading rates, etc.
 - (d) Filter media characteristics.
 - (e) A description of operation and maintenance details and requirements.
 - (f) Any additional information specifically requested by the Department.

Amend OAR 340-71-315(2) as follows:

(2) Construction Requirements:

- (a) Field collection drainage tile shall be installed on a uniform grade of two-tenths to four-tenths (0.2-0.4) feet of fall per one hundred (100) feet, and either
 - (A) A minimum of thirty-six (36) inches deep in soils with temporary groundwater, or
 - (B) A minimum of sixty-six (66) inches deep in soils with permanent groundwater.
- (b) Maximum drainage tile spacing shall be seventy (70) feet center to center.
- (c) Minimum horizontal separation distance between the drainage tile and absorption facility shall be twenty (20) feet.
- (d) Field collection drainage tile shall be rigid smooth wall perforated pipe with a minimum diameter of four (4) inches.
- (e) Field collection drainage tile shall be enveloped in clean filter material to within thirty (30) inches of the soil surface in soils with permanent groundwater, or to within twelve (12) inches of the soil surface in soils with temporary groundwater. Filter material shall be covered

Note: Underlined ___ material is new.
 Bracketed [] material is deleted.

with filter fabric, treated building paper or other nondegradable material approved by the Agent.

- (f) Outlet tile shall be rigid smooth wall solid PVC pipe with a minimum diameter of four (4) inches. The outlet end shall be protected by a short section of Schedule 80 PVC or ABS or metal pipe, and a flap gate or grill to exclude rodents.
- (g) A silt trap with a thirty (30) inch minimum diameter shall be installed at the junction of the upgradient and downgradient collection drainage tile, between the field collection drainage tile and the outlet pipe unless otherwise authorized by the Department. The bottom of the silt trap shall be a minimum twelve (12) inches below the invert of the drainage pipe outlet.
- (h) The discharge pipe and tile drainage system are integral parts of the system, but do not need to meet setback requirements to property lines, streams, lakes, ponds or other surface water bodies.
- (i) The Agent has the discretion of requiring demonstration that a proposed tile dewatering site can be drained prior to issuing a Construction-Installation permit.
- (j) The absorption facility shall use equal or pressurized distribution.

Amend OAR 340-71-360(1) as follows:

- (1) General Conditions for Approval. An on-site system construction-installation permit may be issued for a system to serve a single family dwelling on a site with soil shallow to saprolite provided requirements in either subsection (a) or subsection (b) of this section can be met.
 - (a) Slope does not exceed thirty (30) percent:
 - (A) The saprolite is sufficiently weathered so that it can be textured, crushed, or broken with hand pressure to a depth of twenty-four (24) inches and can be dug from a test pit wall with a spade or other hand tool to a depth of forty-eight (48) inches; and
 - (B) Clay films or iron coatings with moist values of five (5) or less and moist chromas of four (4) or more and/or organic coatings with moist values of three (3) or less and moist chromas of two (2) or more occur on fracture surfaces of the saprolite to a depth of forty-eight (48) inches.

Note: Underlined material is new.
Bracketed [] material is deleted.

(b) Slope is in excess of thirty (30) percent but does not exceed forty-five (45) percent:

(A) The saprolite is sufficiently weathered so that it can be textured, crushed, or broken with hand pressure to a depth of twenty-four (24) inches and can be dug from a test pit wall with a spade or other hand tool to a depth of sixty (60) inches; and

(B) Clay films or iron coatings with moist values of five (5) or less and moist chromas of four (4) or more and/or organic coatings with moist values of three (3) or less and moist chromas of two (2) or more occur on fracture surfaces of the saprolite to a depth of sixty (60) inches.

Amend OAR 340-71-400(5) as follows:

(5) Clatsop Plains Aquifer, Clatsop County:

The Clatsop Plains Groundwater Protection Plan, prepared by R.W. Beck and Associates and adopted by Clatsop County, provides a basis for continued use of on-site sewage disposal systems while protecting the quality of groundwater for future water supplies. For the plan to be successful, the following components must be accomplished:

(a) By not later than January 1, 1983, Clatsop County shall identify and set aside aquifer reserve areas for future water supply development containing a minimum of two and one half (2-1/2) square miles. The reserve areas shall be controlled so that the potential for groundwater contamination from nitrogen and other possible pollutants is kept to a minimum.

(b) The Agent may issue construction installation permits for new on-site sewage disposal systems or favorable reports of site evaluation to construct on-site systems, within the area generally known as the Clatsop Plains, which is bounded by the Columbia River to the North; the Pacific Ocean to the west; the Necanicum River, Neawanna Creek, and County Road 157 on the south; and the Carnahan Ditch-Skipanon River and the foothills of the Coast Range to the east, providing:

(A) The lot or parcel was created in compliance with the appropriate comprehensive plan for Gearhart (adopted by County Ordinance 80-3), Seaside (adopted by County Ordinance 80-10), Warrenton (adopted by County Ordinance 82-15), or the Clatsop County plan adopted through Ordinance No. 79-10; and either

Note: Underlined material is new.

Bracketed [] material is deleted.

- (B) The lot or parcel does not violate any rule of this Division; or
- (C) For a proposed single family dwelling or commercial facility with a projected sewage flow not exceeding four hundred fifty (450) gallons per day, the [The] lot or parcel does not violate the Department's Water Quality Management Plan or any rule of this Division, except the projected maximum sewage loading rate would exceed the ratio of four hundred fifty (450) gallons per one-half (1/2) acre per day. The on-site system shall be either a sand filter system or a pressurized distribution system; or
- (D) The Department may approve the use of standard on-site systems to serve single family dwellings within planned developments or clustered-lot subdivisions providing:
- (i) The planned development or clustered-lot subdivision is not located within Gearhart, Seaside, Warrenton, or their urban growth boundaries; and
 - (ii) The lots do not violate any rule of this Division, except the projected maximum sewage loading rate may exceed the ratio of four hundred fifty (450) gallons per acre per day; and
 - (iii) The Department is provided satisfactory evidence through a detailed groundwater study that the use of standard systems will not constitute a greater threat to groundwater quality than would occur with the use of sand filter systems or pressurized distribution systems.

Amend OAR 340-71-400 by adding a new section (6) as follows:

(6) Within areas east of the Cascade Range where the annual precipitation does not exceed twenty (20) inches, and after evaluating the site, the Agent may issue a construction-installation permit authorizing installation of a standard system to serve a single family dwelling, provided the requirements in subsections (6)(a) and (6)(b) of this rule are met.

(a) Minimum Site Criteria:

(A) The property is twenty (20) acres or larger in size, with planning restrictions that prohibit division of the property into parcels containing less than twenty (20) acres:

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (B) The property is not within an Urban Growth Boundary;
- (C) The slope gradient ranges from five (5) percent to thirty (30) percent;
- (D) The soils are diggable with a backhoe to a depth of at least twenty-four (24) inches;
- (E) The setbacks in Table 1 can be met.

(b) Minimum Construction Requirements:

- (A) The system shall contain not less than two hundred twenty-five (225) linear feet of disposal trench for projected sewage flows not exceeding four hundred fifty (450) gallons per day. Larger sewage flows shall be sized on the basis of seventy-five (75) linear feet per each one hundred fifty (150) gallons of projected flow.
- (B) The system shall be constructed and backfilled in compliance with OAR 340-71-220: sections (4), (5), (6), (8), (9), (10), (11), and (12).

(c) At the discretion and request of the owner or the owner's authorized representative, a single application may be submitted to the Agent for both a site evaluation report and a construction-installation permit. The application would include the sum of the fees for both activities, pursuant to OAR 340-71-140(1)(a)(A) and OAR 340-71-140(1)(b)(A)(iii), as well as the following:

- (A) Favorable land use compatibility statement;
- (B) Property development plan acceptable to the Agent showing the location of existing and proposed improvements, including the locations of the dwelling and sewage disposal system.
- (C) All other exhibits the Agent finds are necessary to complete the application.

(d) The Agent may waive the pre-cover inspection for a system installed pursuant to this section, provided the system installer certifies in writing that the system was installed in accordance with the permit plans and conditions.

Amend OAR 340-71-600(1) as follows:

340-71-600 SEWAGE DISPOSAL SERVICE.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (1) For the purpose of these rules "Sewage Disposal Service" means:
- (a) The installation of on-site sewage disposal systems (including the placement of portable toilets), or any part thereof; or
 - (b) The pumping out or cleaning of on-site sewage disposal systems (including portable toilets), or any part thereof; or
 - (c) The disposal of material derived from the pumping out or cleaning of on-site sewage disposal systems (including portable toilets); or
 - (d) Grading, excavating, and earth-moving work connected with the operations described in subsection (1) (a) of this rule, except streets, highways, dams, airports or other heavy construction projects and except earth-moving work performed under the supervision of a builder or contractor in connection with and at the time of the construction of a building or structure; or
 - (e) The construction of drain and sewage lines from five (5) feet outside a building or structure to the service lateral at the curb or in the street or alley or other disposal terminal holding human or domestic sewage[; or].

Amend OAR 340-71-600(6) as follows:

- (6) Each licensee shall:
- (a) Be responsible for any violation of any statute, rule, or order of the Commission or Department pertaining to his licensed business.
 - (b) Be responsible for any act or omission of any servant, agent, employee, or representative of such licensee in violation of any statute, rule, or order pertaining to his license privileges.
 - (c) Deliver to each person for whom he performs services requiring such license, prior to completion of services, a written notice which contains:
 - (A) A list of rights of the recipient of such services which are contained in ORS 454.705(2); and
 - (B) Name and address of the surety company which has executed the bond required by ORS 454.705(1); or

Note: Underlined material is new.
Bracketed [] material is deleted.

- (C) A statement that the licensee has deposited cash or negotiable securities for the benefit of the Department in compensating any person injured by failure of the licensee to comply with ORS 454.605 to 454.745 and with [OAR Chapter 340, Divisions 71 and 73.] rules of the Environmental Quality Commission
- (d) Keep the Department informed on company changes that affect the license, such as business name change, change from individual to partnership, change from partnership to corporation, change in ownership, etc.

Amend OAR 340-71-600(8) as follows:

- (8) [Personnel] Pumping and Cleaning Responsibilities:
 - (a) Persons performing the service of pumping or cleaning of sewage disposal facilities shall avoid spilling of sewage while pumping or while in transport for disposal.
 - (b) Any spillage of sewage shall be immediately cleaned up by the operator and the spill area shall be disinfected.
 - (c) Persons performing the service of cleaning septic tanks, cesspools or seepage pits shall not use any method of cleaning the facility other than pumping.

Amend OAR 340-71-600(9) as follows:

- (9) License Suspension or Revocation:
 - (a) The Department may suspend, revoke, or refuse to grant, or refuse to renew, any sewage disposal service license if it finds:
 - (A) A material misrepresentation or false statement in connection with a license application; or
 - (B) Failure to comply with any provisions of ORS 454.605 through 454.785, the rules of [this Division], the Environmental Quality Commission or an order of the Commission or Department; or
 - (C) Failure to maintain in effect at all times the required bond or other approved equivalent security, in the full amount specified in ORS 454.705; or

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (D) Nonpayment by drawee of any instrument tendered by applicant as payment of license fee.
- (b) Whenever a license is suspended, revoked or expires, the licensee shall remove the license from display and remove all Department identifying labels from equipment. The licensee shall surrender the suspended or revoked license, and certify in writing to the Department within fourteen (14) days after suspension or revocation that all Department identification labels have been removed from all equipment.
- (c) A sewage disposal service may not be considered for relicensure for a period of at least one (1) year after revocation of its license.
- (d) A suspended license may be reinstated, providing:
 - (A) A complete application for reinstatement of license is submitted to the Department, accompanied by the appropriate fee as set forth in Subsection 340-71-140(1)(i); and
 - (B) The grounds for suspension have been corrected; and
 - (C) The original license would not have otherwise expired.

Note: Underlined material is new.
Bracketed [] material is deleted.

Amend OAR 340, Division 71, by replacing the existing Table 1 with the revised Table 1.

TABLE 1

Minimum Separation Distances

Items Requiring Setback	From Sewage Disposal Area Including Replacement Area	From Septic Tank and Other Treatment Units, Effluent Sewer and Distribution Units
1. Groundwater Supplies	100'	50'
2. Temporarily Abandoned Wells	100'	50'
3. Springs: -- upgradient	50'	50'
-- downgradient	100'	50'
*4. Surface Public Waters: -- <u>year round</u>	100'	50'
-- <u>seasonal</u>	<u>50'</u>	<u>50'</u>
5. Intermittent Streams:		
-- Piped (watertight not less than 25' from any part of the on-site system)	20'	20'
-- Unpiped	50'	50'
6. Groundwater Interceptors:		
On a slope of 3% or less	20'	20'
On a slope greater than 3%		
-- Upgradient	10'	10'
-- Downgradient	50'	25'
7. Irrigation Canals:		
Lined (watertight canal)	25'	25'
Unlined		
-- Upgradient	25'	25'
-- Downgradient	50'	50'
8. Cuts Manmade in Excess of 30 Inches (Top of Downslope Cut):		
-- Which Intersect Layers that Limit Effective Soil Depth Within 48 Inches of Surface	50'	25'
-- Which Do Not Intersect Layers That Limit Effective Soil Depth	25'	10'
9. Escarpments:		
-- Which Intersect Layers that Limit Effective Soil Depth	50'	10'
-- Which Do Not Intersect Layers That Limit Effective Soil Depth	25'	10'
10. Property Lines	10'	10'
11. Water Lines	10'	10'
12. Foundation Lines of any Building, Including Garages and Out Buildings	10'	5'

* This does not prevent stream crossings of pressure effluent sewers.

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Note: Underlined material is new.
Bracketed [] material is deleted.

Amend OAR 340-72-050 by deleting the entire rule.

Amend OAR 340-72-060 by deleting the entire rule.

Amend OAR 340-73-025(8) as follows:

- (8) Septic tanks shall be constructed of concrete, not less than twelve (12) gauge or thicker steel, or other materials approved by the Department:
- (a) Steel tanks shall be coated inside and out with asphalt or other protective coatings, meeting the most current American National Standards Institute UL 70 standard [U.S. Department of Commerce Commercial Standard CS 177], Sections [5.3.1 through 5.3.4.4] 25 through 44, or other coatings of equal or better performance approved by the Department.
 - (b) Precast concrete tanks shall have a minimum wall, compartment, and bottom thickness of two and one-half (2 1/2) inches, and shall be adequately reinforced. The top shall be at least four (4) inches thick.
 - (c) Where concrete block tanks are permitted by the Agent, the tanks shall be constructed of heavyweight concrete block, eight (8) inch minimum thickness, laid on a six (6) inch (minimum) poured foundation slab. The mortared joints shall be well filled. All block holes or cells shall be filled with mortar or concrete. "k" webbing shall be installed at every third row of block. Number three (3) re-bar shall be installed vertically in every block. Tank interiors shall be surfaced with at least two (2) one-quarter (1/4) inch thick coats of corrosion resistant water-proof sealant. The first row of blocks shall be keyed or doweled to the concrete foundation.
 - (d) Cast-in-place concrete tanks shall be constructed using the minimum sidewall thickness, bottom thickness, top thickness, and reinforcing shown in Diagram 1. All other requirements contained herein shall also be met. A structural permit is required from the Department of Commerce or the municipality with jurisdiction as defined in ORS 456.750(5). (See Diagram 1.)
 - (e) For cast-in-place septic tanks with dimensions different from those shown in Diagram 1, or when the septic tank is

Note: Underlined material is new.
Bracketed [] material is deleted.

to be located under a road or driveway, two (2) copies of detailed plans and specifications, prepared by a registered professional engineer licensed to practice in Oregon shall be provided to the Agent for review and approval.

Amend OAR 340-73-050 as follows:

340-73-050 DOSING TANK CONSTRUCTION.

- (1) Dosing tanks used in on-site sewage disposal systems in Oregon shall be watertight. They may be constructed of concrete, fiberglass, or other noncorrosive materials approved by the Department:
 - (a) Fiberglass dosing tanks shall be a minimum three sixteenths (3/16) inch thick and constructed with a glass fiber content of 40 percent and a resin content of 60 percent, with no exposed non-resin-covered glass fibers.
 - (b) Precast concrete dosing tanks shall have a minimum wall and bottom thickness of two and one-half (2 1/2) inches. The top shall be not less than four (4) inches thick. There shall be no seams in the walls or bottom.
 - (c) Cast-in-place concrete dosing tanks shall have a minimum wall, top, and bottom thickness of six (6) inches when the liquid capacity is twelve hundred (1200) gallons or less. A structural permit from the Department of Commerce or the municipality with jurisdiction (as defined in ORS 456.750(5)) is required when cast-in-place concrete dosing tanks are used. Cast-in-place concrete dosing tanks with a liquid capacity greater than twelve hundred (1200) gallons shall require submittal of detailed plans and specifications, prepared by a registered professional engineer licensed to practice in Oregon.
- (2) Each dosing tank shall be constructed and reinforced to withstand the loads imposed upon the top, walls and bottom.
- (3) Each dosing tank employing one (1) or more pumps shall have a minimum liquid capacity equal to the projected daily sewage flow for flows up to twelve hundred (1200) gallons per day. The Department may use its discretion in sizing dosing tanks when the projected daily sewage flow is greater than twelve hundred (1200) gallons per day. The liquid capacity shall be as measured from the invert elevation of the inlet fitting.
- (4) The inlet fitting shall be of hubbed cast iron soil pipe or other materials approved by the Department, with a minimum diameter of four (4) inches. The dosing tank manufacturer shall supply a rubber or neoprene rubber compression gasket meeting the minimum requirements of ASTM specification C-564 with each fitting, or an appropriate coupler

Note: Underlined material is new.
Bracketed [] material is deleted.

which the Department determines will provide for a watertight connection.

(5) Each dosing tank proposed to serve a commercial facility with a maximum projected daily sewage flow of twenty-five (2500) gallons, or proposed to serve a single family dwelling, shall be provided with an access manhole and a manhole cover, both having [with] a minimum horizontal measurement of eighteen (18) inches [where entry is necessary for operation and maintenance].

(6) Each dosing tank proposed to serve a commercial facility with a projected daily sewage flow greater than twenty-five (2500) gallons or when containing more than one (1) pump or siphon shall be provided with a manhole access that conforms to the following minimum horizontal dimensions:

(a) Opening at tank soffit---thirty (30) inches;

(b) Inside of manway---forty-two (42) inches;

(c) Manhole cover opening---twenty-three (23) inches.

[(6)] (7) Each prefabricated dosing tank shall be marked on the uppermost surface with the liquid capacity and the manufacturer's full business name[,] or number assigned by the Department.

[(7)] (8) Each commercial manufacturer of prefabricated dosing tanks shall provide two (2) complete sets of plans and specifications, prepared by a registered professional engineer, licensed to practice in Oregon, to the Department for review and approval. Each manufacturer must also provide written certification to the Department that such tanks distributed for use in on-site sewage disposal systems in Oregon will comply with all requirements of this Rule.

[(8)] (9) Dosing tanks with siphons shall be designed and sized for each specific project and shall allow sufficient clearance above the siphon dome to allow removal of the dome.

Amend OAR 340-73-055 as follows:

340-73-055 EFFLUENT PUMPS, CONTROLS & ALARMS, AND DOSING SIPHONS..

(1) Pumps, Controls, and Alarms: Electrical components used in on-site sewage disposal systems shall comply with State of Oregon Electrical Code, and the following provisions:

(a) Motors shall be continuous-duty, with overload protection.

(b) Pumps shall have durable impellers of bronze, cast iron, or other materials approved by the Department.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

- (c) Submersible pumps shall be provided with an easy, readily accessible means of electrical and plumbing disconnect, and a noncorrosive lifting device as a means of removal for servicing.
 - (d) Except where specifically authorized in writing by the Director, the pump shall be placed within a corrosion-resistant screen that extends above the maximum effluent level within the pump chamber. The screen shall have at least twelve (12) square feet of surface area, with one-eighth (1/8) inch openings. The use of a screen is not required if the pump does not discharge into a pressurized distribution system, and the pump has a nonclog impeller capable of passing a 3/4 inch diameter solid sphere.
 - (e) Pumps shall be automatically controlled by sealed mercury float switches with a minimum mercury tube rating of twelve (12) amps at one hundred fifteen (115) volts A.C. or by a Department approved equivalently reliable switching mechanism. The switches shall be installed so that approximately twenty (20) percent of the projected daily sewage flow is discharged each cycle.
 - (f) An audible and visual high water level alarm with manual silence switch shall be located in or near the building served by the pump. The audible alarm only may be user cancelable. The switching mechanism controlling the high water level alarm shall be located so that at time of activation the dosing tank has at least one-third (1/3) of its capacity remaining for effluent storage.
 - (g) When a system has more than one (1) pump, the Department may require they be wired into the electrical control panel to function alternately after each pumping cycle. If either pump should fail the other pump will continue to function, while an audible (user cancelable) and visual alarm (not user cancelable) indicating pump malfunction will activate. A cycle counter shall be installed in the electrical control panel for each pump.
- (2) Dosing Siphons. Dosing siphons used in on-site sewage disposal systems shall comply with all of the following minimum requirements:
- (a) Shall be constructed of corrosion-resistant materials.
 - (b) Shall be installed in accordance with the manufacturer's recommendations.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

Amend OAR 340-73-060(2)(a) as follows:

(2) Distribution and Header Pipe and Fittings:

(a) Plastic Pipe and Fittings:

- (A) Styrene-rubber plastic distribution and header pipe and fittings shall meet the most current ASTM (American Society for Testing and Materials) Specification D 2852 and Sections 5.5 and 7.8 of Commercial Standard 228, published by the U.S. Department of Commerce. Pipe and fittings shall also pass a deflection test withstanding three hundred-fifty (350) pounds/foot without cracking by using the method found in ASTM 2412. In addition to the markings required by ASTM 2852, each manufacturer of styrene-rubber plastic pipe shall certify, in writing to the Department, that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.
- (B) Polyethylene distribution pipe in ten (10) foot lengths and header pipe in lengths of ten (10) feet or greater of which pipe and fitting shall meet the current ASTM Specification F405. Pipe and fittings shall also pass a deflection test withstanding three hundred-fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412. Pipe used in absorption facilities shall be heavy duty. In addition to the markings required by ASTM F405, each manufacturer of polyethylene pipe shall certify, in writing to the Department that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this section.
- (C) Polyvinyl chloride (PVC) distribution and header pipe and fittings shall meet the most current ASTM Specification D-2729. Pipe and fittings shall pass a deflection test withstanding three hundred-fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412. Markings shall meet requirements established in ASTM Specification D-2729, subsections 9.1.1., 9.1.2 and 9.1.4. Each manufacturer of polyvinyl chloride pipe shall certify, in writing to the Department, that pipe and fittings to be distributed for use in absorption facilities within the State of Oregon

Note: Underlined material is new.
Bracketed [] material is deleted.

will comply with all requirements of this section.

- (D) [High density polyethylene] Polyethylene smooth wall distribution and header pipe (ten (10) foot lengths) and fittings shall meet the [specifications designated as Appendix 1.] most current ASTM specification F 810. Pipe and fittings shall also pass a deflection test of three hundred fifty (350) pounds per foot without cracking or collapsing by using the method found in ASTM 2412. Markings shall meet the requirements established in ASTM specification F 810, Section 9. Each manufacturer of [high density] polyethylene smooth wall pipe shall certify, in writing to the Department that the pipe to be distributed for use in absorption facilities within the State of Oregon will comply with all requirements of this Rule.
- (E) The four types of plastic pipe described above shall have two (2) rows of holes spaced one hundred-twenty (120) degrees apart and sixty (60) degrees on either side of a center line. For distribution pipe, a line of contrasting color shall be provided on the outside of the pipe along the line furthest away and parallel to the two (2) rows of perforations. Markings, consisting of durable ink, shall cover at least fifty (50) percent of the pipe. Markings may consist of a solid line, letters, or a combination of the two. Intervals between markings shall not exceed twelve (12) inches. The holes of each row shall be not more than five (5) inches on center and shall have a minimum diameter of one-half (1/2) inch.

Amend OAR 340, Division 73, by deleting Appendix 1.

Amend OAR 340-73-085(2)(e)(D)(viii) as follows:

- (viii) Final inspection and acceptance. [As completed, the liner installation should be tested for functional integrity. All joints, seams and mechanical seals should be checked both during and after installation. Hydrostatic testing to evaluate watertightness of the completed liner installation before placement of any backfill may be required at the discretion of either the Agent or the owner/purchaser. The lined basin shall be filled to the four (4) foot level with water after the pipe inlets and outlets have been fitted with

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

temporary plugs. Acceptance of workmanship shall be based upon a leakage rate of no more than 0.25 inches in a 24 hour period. Virtually no leakage should result from good workmanship, however.] Completed liner installations shall be visually checked for punctures, rips, tears and seam discontinuities before placement of any backfill. At this time the installer shall also manually check all factory and field seams with an appropriate tool. In lieu of or in addition to manual checking of seams by the installer, either of the following tests may be performed:

(I) Wet Test: The lined basin shall be flooded to the four (4) foot level with water after inlets and outlets have been plugged. Workmanship shall be accepted if leakage rate in a 24-hour period is no greater than 0.25 inches.

(II) Air Lance Test: Inspect all seams (factory and field) for unbonded areas using an air nozzle directed on the upper seam edge and surface to detect loose edges. Riffles indicate unbonded areas within the seam, or other undesirable seam construction. Check all bonded seams using a minimum 50 PSI (gauge) air supply directed through a 3/16 inch (typical) nozzle, held not more than 2 inches from the seam edge and directed at the seam edge.

Amend OAR 340, Division 73, by adding a new rule, as follows:

Filter Fabric

340-73-041 Except as otherwise allowed by the Department on a case-by-case basis, filter fabric used within on-site systems in Oregon shall meet the following specifications:

1. Material synthetic fabric, either spunbonded or woven.
2. Burst Strength, psi--not less than 25 psi.
3. Air Permeability, cfm per sq. ft.--not less than 500.
4. Water Flow Rate--not less than 500 gpm per sq. ft. at 3 inches of head.
5. Surface Reaction to Water--Hydrophilic.
6. Equivalent Opening Size--70 to 100 sieve.

Note: Underlined ___ material is new.
Bracketed [] material is deleted.

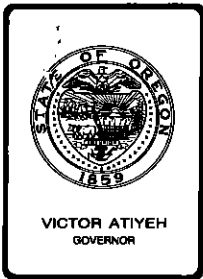
7. Chemical Properties:

A. Non-biodegradable.

B. Resistant to acids and alkalies within a pH range of 4 to 10.

C. Resistant to common solvents.

Note: Underlined material is new.
Bracketed [] material 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, January 31, 1986, EQC Meeting

Appeal By William F. Holdner Of On-Site Sewage Disposal
System Variance Denial

Background

The pertinent legal authorities are summarized in attachment "A".

William F. Holdner owns approximately 103 acres in Columbia County, identified as Tax Lot 303, Township 3 North, Range 2 West, W.M., Section 16. This parcel was evaluated for on-site treatment and disposal by Ann Cox and Roy Eastwood, Columbia County sanitarians, October 27, 1983. Roy Eastwood issued an interim report (Attachment "B") October 31, 1983, which denied approval for a standard system because of shallow permanent groundwater. Mr. Eastwood's report stated that site conditions met criteria for a conventional sand filter system and may also meet site criteria for a tile dewatering system if outlet requirements could be met. Ann Cox issued a favorable site evaluation report, (Attachment "C") December 5, 1983, approving use of a conventional sand filter, followed by disposal trenches, to accommodate a daily sewage flow of 450 gallons per day.

On October 31, 1983, Mr. Holdner submitted an application to the Department of Environmental Quality for a review of Columbia County's October 27, 1983 evaluation. In response to the review request, Mr. Charles Gray, Regional Supervisor Northwest Region, evaluated Mr. Holdner's property on January 18, 1984. A second inspection was conducted by Mr. Gray and Dr. Robert Paeth, the Department's Chief Soil Scientist, on January 27, 1984. These two inspections by Department staff supported Columbia County's approval of Mr. Holdner's site for a sand filter system (but denial of a standard system). Mr. Gray conveyed this information to Mr. Holdner in a letter January 31, 1984 (Attachment "D"). Mr. Gray also suggested that Mr. Holdner could apply for a variance from OAR 340-71-220(2)(b)(A) which requires a minimum four foot separation distance be maintained between the highest level attained by a permanent water table and the bottom of the disposal trenches. Mr. Gray's letter stated further that he and Dr. Paeth would support such a variance request for a 450 gallon per day system. Variance application forms were enclosed.

Sometime on or after August 23, 1984, (based on materials receipts Attachment "E") an on-site treatment and disposal system was installed in the area previously examined by Columbia County and Department staff. This system was installed without a construction installation permit.

Subsequent to installation of this system, Columbia County legal council, C. Akin Blitz, contacted Mary Halliburton, Manager, Sewage Disposal Section, Sherman Olson, Variance Officer, and Dr. Paeth, by phone, for information so he could assist Mr. Holdner in obtaining a variance and approval for the on-site treatment and disposal system he installed without a permit. Mr. Blitz made this information available to Mr. Holdner in a letter dated September 18, 1985 (Attachment "F").

An application for variance from on-site sewage disposal rules was received by the Department September 20, 1985 and was assigned to Mr. Sherman Olson, Variance Officer. On November 6, 1985, Mr. Olson examined the site and conducted a public information gathering hearing. He inspected the on-site system consisting of a 1000 gallon polyethelene septic tank, a 4 inch diameter effluent sewer line, a concrete distribution box, and 3 disposal trenches 120 feet long. The top of the septic tank, the tank outlet, the distribution box and the ends of the disposal trenches had been uncovered to facilitate inspection. The septic tank was severely deformed at the manhole access. Disposal trenches were installed as deep as 44 inches and with as much as 8 inches variation in elevation and grade (Attachment "G").

Mr. Holdner proposed a variance to the groundwater separation rule OAR 340-71-220(2)(b)(A) and several other administrative rules that establish construction standards (Attachment "G") with the intent of being able to obtain a permit for and use the system he had installed.

After reviewing the variance record, Mr. Olson found that strict compliance with the groundwater separation rule (OAR 340-71-220(2)(b)(A)), was inappropriate and granted a variance to that rule. Mr. Olson did not grant a variance to other rules as requested.

The effect of Mr. Olson's decision was to allow Mr. Holdner to construct a new system with a variance to the groundwater separation rule. The system Mr. Holdner previously installed without a permit cannot be used because it was improperly installed, does not meet minimum construction standards, and variances to make it approvable were not considered to be environmentally acceptable. Mr. Holdner still had the option of installing a sand filter system without a variance.

On December 17, 1985, the Department received a letter from Mr. Holdner appealing the variance officer's decision (Attachment "H"). Mr. Holdner provided five statements to refute the variance officer's findings:

- (1) The regular 450 gallons per day system was installed under the competent supervision of a qualified licensed installer of septic systems in Columbia County. The drain disposal trenches were constructed on level stable ground approximately twenty inches deep. Three standard disposal trenches were constructed eleven feet apart, one hundred and twenty feet in length. The bottom of the trenches were filled with one inch round rock to a depth of six inches. The four inch drain tile was covered with four inches of one inch round rock and then covered with a heavy building paper. After the trenches were covered, all the exposed large rocks were picked up and removed from the drain field area. The total area encompassing the drain field was covered with approximately eight to ten inches of top soil in preparation for planting with a grass seed mixture for producing hay crops in the future. Because of drop-off near the end of the lines the amount of fill dirt may have exceeded the ten inch layer of top soil. There is no evidence of any damage to the trenches as a result of the application of top soil to the area where the end of the drain lines were uncovered. Nor was there any evidence the ground preparation compacted the soil to any degree. With the top soil application one might construe that the trenches were constructed deeper than twenty inches indicated, however, that was not the case. The temporary water table at the site area was determined to be approximately seventy inches prior to the construction of the trenches. The distance between the bottom of the trench and the temporary water table would certainly not change because of any subsequent application of top soil.
- (2) The distribution lines were installed in stable ground virtually level except for possibly the last twenty feet of the lines accounting for a somewhat greater elevation drop than the one inch tolerance required.
- (3) The disposal trenches were constructed within the maximum thirty six inch depth. Any distortion would be due to the application of top soil as noted.
- (4) No permit was required per Mr. Charles Gray, Department of Environmental Quality.
- (5) Since no permit was required, no certificate of satisfactory completion was sought for the system installed.

EVALUATION

Ann Cox and Roy Eastwood of Columbia County and Charles Gray and Robert Paeth of DEQ observed low chroma mottles in soil on this site that indicated that the highest level attained by the permanent groundwater would be about 54 inches. In addition, Mr. Olson observed low chroma mottles in disposal trench spoils that indicated permanent groundwater would be in contact with portions of the installed system.

Mr. Holdner states that disposal trenches were installed to a depth of twenty inches, but Mr. Olson's observations show that trench depth ranged up to forty four inches. Oregon Administrative Rules provide for a maximum depth of thirty-six inches so that disposal trenches are placed above groundwater in the biologically active zone or aerobic zone of the soil. When trenches are installed too deep, treatment in the soil is reduced, and the potential for pollution of groundwater by inadequately treated waste increases.

Mr. Holdner states that "distribution lines were installed in stable ground virtually level", but goes on to state in his appeal letter that "the drop off varies from three to eight inches". Mr. Olson's observations and the plot plan with elevation shots (Attachment "I") provided by Mr. Holdner both indicate that disposal trench elevations vary as much as eight inches. Oregon Administrative Rules provide for a variation of plus or minus one inch. The rule is intended to achieve uniform distribution of septic tank effluent throughout the disposal field for treatment purposes. If the slope of the trenches and lines is too great, effluent tends to flow to the low spot, saturate the soil in that area, reduce soil treatment efficiency, and increase the potential for adverse impact on groundwater.

There are also a number of allegations in the appeal that are not supported by the variance record or attachments to the staff report. Mr. Gray made clear in his January 31, 1984 letter (Attachment "D") that permanent groundwater was too shallow for a standard system and suggested Mr. Holdner apply for a variance for a 450 gallon per day system. Mr. Olson did not grant approval of the installed septic system and did not acknowledge it would function in a satisfactory manner. Rather, he granted a variance from OAR 340-71-220(2)(b)(A) and stated that he expected that a new system, installed according to construction standards in Schedule "A" attached to his variance letter, would function in a satisfactory manner without presenting a health hazard to the system user or adjoining property owners. The site evaluation conducted by Columbia County, the denial review conducted by Department staff, and the field inspection conducted by Mr. Olson all identified the groundwater at the site as permanent. No special studies were conducted other than inspection of soil profiles and identification of conditions associated with saturation. No mention was ever made of temporary groundwater.

In summary, Mr. Holdner did not install the septic tank and disposal field in compliance with Commission rules. The septic tank manufacturer's installation instructions were not followed. Consequently, the septic tank exhibits severe deformation at the manhole access. Disposal trench grades and elevations vary as much as eight inches. Disposal trenches were installed as deep as forty-four inches, thus placing some portions in permanent groundwater. Placement of disposal trenches with too much slope, at too great a depth, and in or near the groundwater table is expected to result in percolation of partially treated effluent into groundwater. In addition, saturated soil conditions in the disposal field encourage development of anaerobic conditions and premature disposal field failure. Finally the system was installed without a permit, in spite of all the direction and assistance that was given Mr. Holdner by Columbia County and DEQ to obtain a variance.

Based on review of the variance record, Mr. Olson approved Mr. Holdner's request for variance from the requirement of a four foot separation distance from the bottom of disposal trenches and the highest level attained by the permanent groundwater. This approval allows construction of a new system subject to construction standards in Schedule "A" attached to the variance letter. Depth of new trenches was limited to 24 inches to prevent contact with groundwater. Unfortunately, Mr. Holdner installed his system without benefit of a permit and acceptable construction standards were not followed. No testimony was provided to show that compliance with construction standards was inappropriate. Therefore, Mr. Olson was not able to allow use of the on-site system as installed.

ALTERNATIVES

Pursuant to ORS 454.660, decisions of the variance officer may be appealed to the Environmental Quality Commission. Alternatives available to the Environmental Quality Commission include upholding the decision of the variance officer, modifying the conditions of the variance granted by the variance officer or granting a variance to allow the installed system to be approved. The Commission must determine if strict compliance with the rules or standards regulating installation of an on-site sewage disposal system is appropriate for cause, or that special physical conditions render strict compliance unreasonable, burdensome, or impractical.

The Alternatives are as follow:

1. Uphold the decision of the variance officer.

This alternative would require Mr. Holdner to abandon the system he installed without a permit because it does not meet construction standards and will not adequately protect groundwater. Mr. Holdner could install a new system according to construction standards in Schedule "A" attached to the variance approval. He would first have to obtain a construction-installation permit from Columbia County.

2. Grant Mr. Holdner's request to use the system as he installed it.

If this Alternative were adopted, the Commission would have to approve variances to the groundwater separation, OAR 340-71-220(2)(b)(A) and construction standards OAR 340-71-220(5), OAR 340-71-220(8)(a), OAR 340-71-220(8)(b), and OAR 340-71-220(11)(b). Mr. Holdner would be required to obtain a permit from Columbia County.

3. Modify the conditions of the variance granted by the variance officer.

Under this alternative, variances to additional construction standards could be granted which would perhaps allow parts of the existing system to be salvaged. This alternative would be "in between" alternative (1) and (2). It would require added field work following Commission direction.

Staff recommend the decision of the variance officer be upheld.

SUMMATION

1. The pertinent legal authorities are summarized in Attachment "A".
2. On October 27, 1983 Ann Cox and Roy Eastwood, Columbia County Sanitarians, evaluated Mr. Holdner's property to determine if it was suitable for an on-site disposal system. Roy Eastwood issued an interim report October 31, 1983 which denied use of a standard system but stated site conditions met criteria for a sand filter system. Ann Cox issued a favorable site evaluation report December 5, 1983 approving use of a sand filter system.
3. On October 31, 1983, Mr. Holdner applied to DEQ for a review of Columbia County's denial of a standard system. Mr. Charles Gray evaluated Mr. Holdner's site January 18, 1984 and again January 27, 1984 with Dr. Robert Paeth. They upheld Columbia County's evaluation and denial and encouraged Mr. Holdner to apply for a variance to the permanent groundwater separation requirement.
4. Sometime on or after August 23, 1984, Mr. Holdner installed an on-site system without a construction-installation permit.
5. On September 20, 1985, Mr. Holdner applied to DEQ for a variance. It was assigned to Mr. Olson.
6. Mr. Olson made a site visit and conducted an information gathering hearing. After reviewing the hearing record, Mr. Olson found that strict compliance with the groundwater separation was inappropriate and variance to this rule was granted. He found it inappropriate to grant a variance to construction standards and denied this part of the variance because groundwater would be adversely impacted by use of the system as installed. Mr. Olson's decision allows Mr. Holdner to install a new "standard system" after first obtaining a permit from Columbia County.
7. Mr. Holdner filed an appeal with the Commission December 17, 1985.

DIRECTOR'S RECOMMENDATION

Based on the findings in the summation, it is recommended that the Commission adopt the findings of the variance officer as the Commission's findings and uphold the decision to approve the variance to the groundwater separation requirement and deny the variances to construction standards.



Fred Hansen

- Attachment "A" - Pertinent Legal Authorities
"B" - Interim Site Evaluation Report
"C" - Report of Evaluation of One Lot
"D" - Letter to Mr. Holdner from Mr. Gray
"E" - Mr. Holdner's Materials Receipts
"F" - Letter to Mr. Holdner from Mr. Blitz
"G" - Variance Letter to Mr. Holdner From Mr. Olson
"H" - Appeal Letter To The Commission From Mr. Holdner
"I" - Plot Plan Submitted For The Variance Record By Mr. Holdner

Robert C. Paeth:c
229-5289
January 7, 1986
WC56

1. Administrative rules governing subsurface sewage disposal are provided for by Statute: ORS 454.625.
2. The Environmental Quality Commission has been given statutory authority to grant variances from the particular requirements of any rule or standard pertaining to subsurface sewage disposal systems if after hearing, it finds that strict compliance with the rule or standard is inappropriate for cause or special physical conditions render strict compliance unreasonable, burdensome or impractical: ORS 454.657.
3. The Commission has been given statutory authority to delegate the power to grant variance to special variance officers appointed by the Director of the Department of Environmental Quality: ORS 454.660.
4. Mr. Olson was appointed as a variance officer pursuant to the Oregon Administrative Rules: OAR 340-71-415.
5. Decisions of the variance officers to grant variances may be appealed to the Commission: ORS 454.660.

COLUMBIA COUNTY SUBSURFACE SEWAGE

COURTHOUSE - ROOM 130A

ST. HELENS, OREGON 97051

Phone 397-0592

ATTACHMENT "B"

October 31, 1983

William F. Holdner
975 S.E. Sandy Blvd.
Portland, Oregon 97214

Re: Standard System Denial
T3N, R2W, Sec. 16,
Tax Lot No. 303

Dear Mr. Holdner:

Your site located on Tax Lot No 303, T3N, R2W, Section 16 was evaluated on October 27, 1983.

This site is denied approval for a standard septic system as the site is located in a permanent water table which will come within four (4) feet of the bottom of the disposal trench.

OAR 340-71-220 (2)(b)(A) - A permanent water table shall be four (4) feet or more from the bottom of the absorption facility.

The site meets criteria for a Sand Filter system, the site may also meet criteria for a Tile dewatering system providing a day light discharge point at least six (6) feet below the drainfield area can be demonstrated by stakeout and grade shots.

This letter is an interim report and will be followed by a favorable site evaluation report approving it for a Sand Filter system.

This letter should also be adequate for you to go forward with a denial review through the Department of Environmental Quality which is one of your options. Your second option would be to apply for a variance with the Department of Environmental Quality.

Sincerely,



Roy E. Eastwood, R.S.
Columbia County Sanitarian

REE:vjk

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

REPORT OF EVALUATION FOR ONE LOT
ON-SITE SEWAGE SYSTEMS
(Technical Report — Not a Permit)

T3N <small>(Township)</small>	R2W <small>(Range)</small>	16 <small>(Section)</small>	00303 <small>(Tax Lot/Acont. No.)</small>	Columbia <small>(County)</small>
Dutch Canyon Rd. <small>(Subdivision Name)</small>				103.28 Ac. <small>(Lot Size)</small>

The Entire Property Has Has Not Been Evaluated

PLOT PLAN OF APPROVABLE AREA:

See attachments for drainfield specifications:

" Approved for Sand Filter Only"

Any alteration of the natural conditions in the area approved for the on-site system or replacement area may void this approval.

This approval is given on the basis that the lot or parcel described above will not be further partitioned or subdivided and that conditions on subject or adjacent properties have not been altered in any manner which would prohibit issuance of a permit in accordance with O.R.S. 454.605 through 454.755 and Administrative Rules of the Environmental Quality Commission. Any such subdivision, partitioning or alteration may void this report.

The site has been found suitable for installation of the following kinds of on-site sewage disposal systems, with the limitations and additional requirements indicated:

WARNING: This document is a technical report for on-site sewage disposal only. It may be converted to a permit only if, at the time of application, the parcel has been found to be compatible with applicable LCDC-acknowledged local comprehensive land use plans and implementing measures or the Statewide Planning Goals. The Statement of Compatibility may be made on the attached form or its equivalent. Authorized Agent approval is required before a construction permit can be issued.

This report is valid until an on-site sewage system is installed pursuant to a construction permit obtained from Subsurface Sewage Department, or until earlier cancellation, pursuant to Commission rules, with written notice thereof by the Department of Environmental Quality to the owners according to Department records or the County tax records. Subject to the foregoing, this report runs with the land and will automatically benefit subsequent owners.

Anne Cox
(Signature of Authorized Agent)

Sanitarian
(Title)

12/5/83
(Date)

Columbia County
(Office)

Subsurface Sewage Department
Soil Evaluation Report/Field Notes
Columbia County

Page _____ of _____

10-27-83

Inspection Date

William F. Holdner

Applicant's Name

T 3 N, R 2 W, Sec. 16 A.N. 000-303

Reinspection Date

Depth	Description	Test Hole# 1	Class	Depth	Description	Test Hole# 2	Class
0-9	sil, dark brown topsoil		B	0-5	sicl topsoil		C
9-60	gravelly sicl no mottles, no effective soil layer Roots to 35"		C	5-14	sicl 14- mottled sicl		C
				56"	hole depth, no effective soil layer		C

Depth	Description	Test Hole# 3	Class	Depth	Description	Test Hole#	Class
0-7	gravelly topsoil sil, dark, gritty.						
7-20	dense, lt. colored, heavy sil, a few floating cobbles						
20"	sicl, no gravel						
39"	mottles, many Mn deposits						
60"	heavy sicl deep						

Approved for sand filter only. Space around test hole 1 would not allow adequate room for a standard system installation, since test hole 1 appears to be unique and not representative of a large area.

Serial distribution with drop boxes. 400 sq. ft. of sand filter area required-
Disposal field trenches: 24 to 30 inches
Soil rating: 50 lineal feet per 150 gal. daily waste flow

This site will require 150 lineal feet of drainline for a standard (4 bedroom) dwelling.

Annex Coy
Sanitarian

Columbia County
Subsurface Sewage Department
SITE EVALUATION

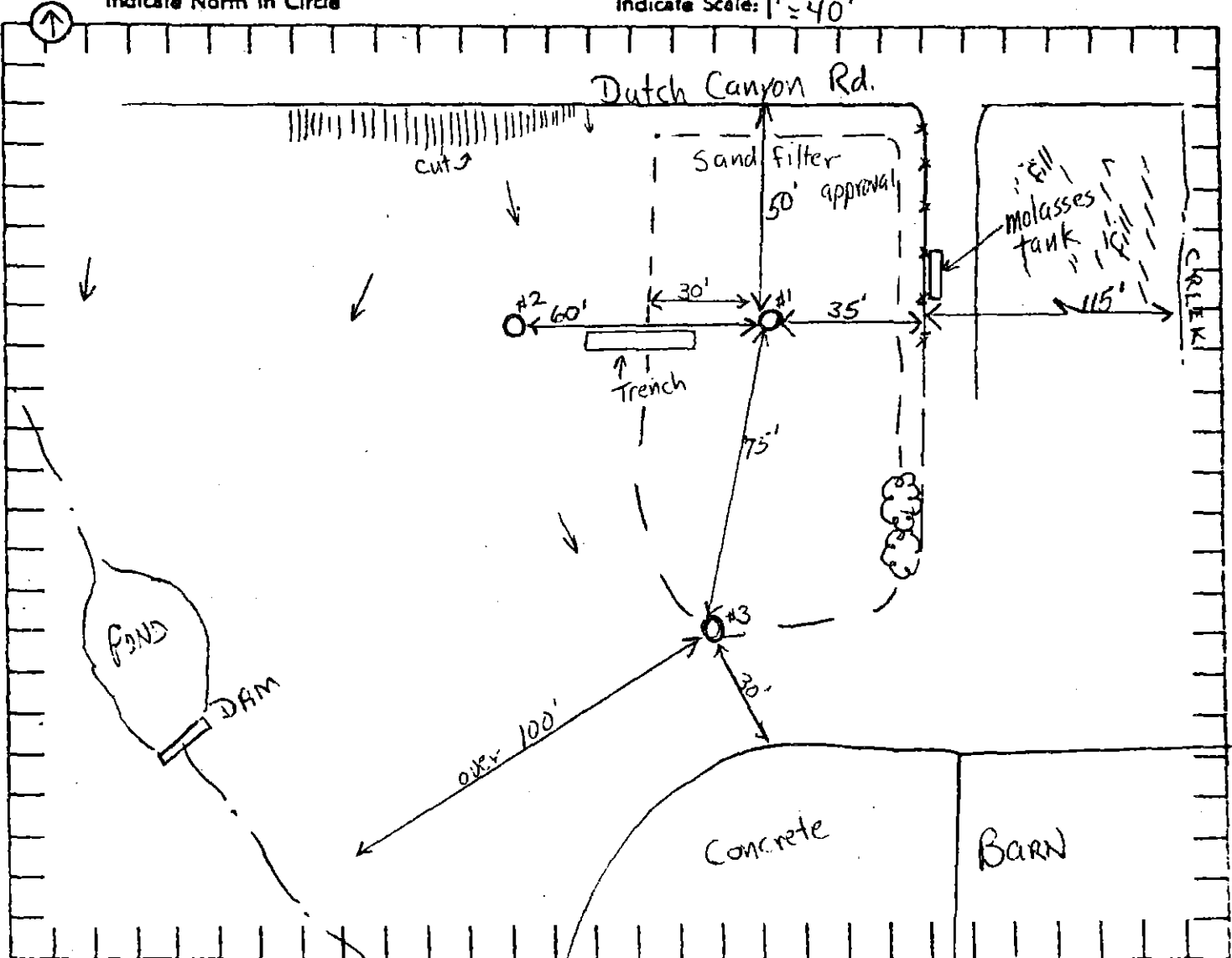
Page _____ of _____

Owner Holdner Sanitarian Eastwood & Cox

T. 3 N., R. 2 W., Sec. 16, A.N. 303

Indicate North in Circle

Indicate Scale: 1" = 40'



Parcel Size 103 acres x Slope 10% ^{or less} Direction south
 Surface Streams Yes No Ponds Yes No Springs Yes No
 Wells Existing Yes No Proposed Yes No (see map
 Escarpments Yes No Cuts & Fills Yes No
 Unstable Land Forms Yes No Effective Soil Layer none Inches
 Depth to Mottling 14 Inches Sewer available Yes No
 Encumbrances none listed by applicant.

Other A trench dug between test holes 1 and 2 indicated that the soil break for a sand filter approval occurs about 30 feet from test hole 2. Beyond this point towards 2 is not approvable even for sand filter.



Department of Environmental Quality

VICTOR ATIYEH
Governor

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-5696

January 31, 1984

William F. Holdner
975 S. E. Sandy Blvd.
Portland, OR 97214

Re: OSS-Columbia County
Denial Reviews

Dear Mr. Holdner:

In response to an application received for a denial review of Tax Lot No. 303 located in Section 16, Township 3 North, Range 2 West in Columbia County, site evaluations were conducted on January 18, and 27, 1984. Three test pits were examined. The test pits indicated the presence of a permanent water table 54 inches from ground surface.

Therefore, our evaluation concurs with the earlier Columbia County evaluation. The site does meet criteria for a sand-filter system, and it may meet criteria for a tile de-watering system providing an exit discharge point at least 6 feet below ground surface in the drainfield area can be demonstrated.

As you know, Dr. Robert Paeth conducted the January 27 evaluation and he concurred with my earlier results. As suggested, you may ^{also} apply for a variance. Dr. Paeth and I would support a variance for this 450 gallon per day system on 100 acres of land. I have enclosed an application for a variance.

If you should have any questions regarding this matter, please feel free to contact me at 229-5288.

Sincerely,

Charles H. Gray
Regional Supervisor
Northwest Region

CHG:b
RB2949
Enclosure

cc: On-Site Sewage Systems Section, DEQ
Columbia County, Subsurface Sewage Section

BELCO MFG. CO.

13824 S. E. STEELE ST.

PORTLAND, OREGON 97236

Phone 761-2118

Customer's
Order No.

Date Aug 24 1984

M.

Holder Farms

Address

SOLD BY <u>B</u>	CASH <input checked="" type="checkbox"/>	C.O.D.	CHARGE	ON ACCT.	MOSE. RETD.	PD. OUT
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QUANTITY	DESCRIPTION	
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<u>X 1</u>	<u>concrete dist. box</u>	<u>15.00</u>
------------	---------------------------	--------------

SHIP TO:

Yd. Pickup

WHEN:

VIA:

Paid
8-24-84
B.N.

DELIVERY SLIP

Flatpak® Moore Business Forms, Inc.

UNITED PIPE & SUPPLY CO., INC.

EUGENE - PH 688-6511
60099 PRAIRIE RD.
P.O. BOX 222D
EUGENE, OREGON 97402

MEDFORD - PH 779-6721
5245 CRATER LAKE HWY.
P.O. BOX 3787
MEDFORD, OREGON 97502

BEAVERTON - PH 641-5989
7921 S.W. CIRRUS DRIVE
BEAVERTON, OREGON 97005

SALEM - PH 588-1250
2880 19TH S.E.
P.O. BOX 13729
SALEM, OREGON, 97309

REMIT TO:

PORTLAND - PH 288-6276
5000 N.E. COLUMBIA BLVD.
P.O. BOX 17068
PORTLAND, OREGON 97217

CUSTOMER NO.

SOLD TO

ADDRESS

CITY & STATE

SHIP TO

ADDRESS

SPECIAL INSTRUCTIONS

Holder Farmus

DATE

CUSTOMER ORDER NO.

SHIPPED VIA

DATE SHIPPED

SALESMAN

B.O. FROM No.

P 23131

Aug 23 8

Bill H

Wcall

8-23

W

HOW TO SHIP

PPD.	COL.	COD
		X

227-6722

B.O.	ORDER	QUANTITY	DESCRIPTION	LIST	EXTENSION	DISC.	NET AMOUNT
		1	<i>4" ASTM-D2729 PVC perforated drain line</i>	<i>37⁸</i>		N	<i>335 2</i>
			<i>(fill left price)</i>				
		60	<i>60 ft. 4" PVC Suel 40 plastic pipe</i>	<i>130⁰⁰</i>	<i>78 00</i>	50	<i>78 00</i>
		120	<i>120 ft. 4" ASTM D-3034 PVC Sewer pipe</i>	<i>125³⁰</i>	<i>150 60</i>		<i>75 30</i>
		1	<i>1 CPI-1000 Poly septie tank</i>	<i>525⁰⁰</i>		25	<i>393 75</i>
		1	<i>1 ft. #705 Cement PVC</i>	<i>90⁵</i>		40	<i>54</i>
		1	<i>1 ft. #70 grommet</i>	<i>8³⁰</i>			<i>4 98</i>
		3	<i>3 3/4" 4x0640 1/4 Bend long BxC PVC</i>	<i>6⁰⁰</i>	<i>18 00</i>		<i>10 80</i>

TOTAL → *9103 56*

B.O. = BACK ORDER DISC. = DISCOUNT

NOTICE: SERVICE CHARGE OF 1 1/2% PER MONTH (18% PER ANNUM) WILL BE CHARGED ON ALL PAST DUE ACCOUNTS.

CODE

CUSTOMER INVOICE

SPEARS, LUBERSKY, CAMPBELL, BLEDSOE, ANDERSON & YOUNG

ATTORNEYS AT LAW

FRANK H. SPEARS
WILLIAM F. LUBERSKY
GEORGE B. CAMPBELL
JOHN P. BLEDSOE
HERBERT H. ANDERSON
OGLESBY H. YOUNG
WAYNE HILLIARD
JAMES H. CLARKE
LEWIS K. SCOTT
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STANLEY R. LOEB
MICHAEL G. HOLMES
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TIMOTHY R. HARMON
BRUCE C. HAMLIN

520 SW YAMHILL STREET SUITE 800
PORTLAND OREGON 97204-1383
TELEPHONE (503) 226-6151
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MARY-ANNE S. RAYBURN
SCOTT B. MONFELS
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C. ARIN BLITZ
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JOHN KENT PEARSON, JR.
CHARLES F. HUDSON
FRANCIS I. BARNWELL
LINDSEY HARRIS HUGHES
DAVID N. HICKS, JR.
DAVID G. ROSENBLUD
PAUL F. MAUTNER

HOWARD E. B. J.
MARGARET J. JORDEN
DANNIELA W. J. J.
ANN L. FISHER
BRADLEY F. TELLER
VIRGINIA A. Y. LEE
GREGG L. SCHNEIDER
RICHARD D. SAMUELS
CHESTER B. HARRIS
CLARK T. WHITMORE
MARY LEE FETTNER
THOMAS A. SONCAG
FREDERICK C. R. B.
CINDA M. CONROY
DAVID C. STEPHENSON
STEPHEN A. OCHS
MARY SCHREIBER
BERT H. FLEMMING

VANCOUVER OFFICE
FIRST FEDERAL PLAZA
1220 MAIN STREET, SUITE 355
VANCOUVER WASHINGTON 98660
TELEPHONE (206) 693-4100

PLEASE REPLY TO PORTLAND OFFICE

MEMBER OREGON AND WASHINGTON STATE BARS

OUR FILE NO

September 18, 1985

William F. Holdner
Holdner, Backstrom, Baum & Co.
Certified Public Accountants
975 S.E. Sandy Blvd.
Portland, OR 97214

Re: Application for Variance Relating
to On-Site Sewage Disposal System

Dear Mr. Holdner:

I have enclosed an application for a variance and a land use compatibility statement. You need to submit these to DEQ to initiate the variance hearing.

For your reference, I have provided a copy of the administrative rule relating to rural area variances. You will be applying for a formal variance pursuant to OAR 340-71-415. Because test holes have been dug in the past, you should clarify with DEQ whether the hearings officer can accept the test reports made on that previous occasion. Assuming that is the case, Dr. Paeth and Mary Halliburton have indicated to me that there is no reason your application should not be approved, and that they would speak favorably and recommend approval of it. I understand you were told this by Dr. Paeth and DEQ representatives on previous occasions.

The reason that the formal variance process is necessary is simply that Columbia County does not have an ordinance allowing for rural area variances granted by the County under OAR 340-71-410. However, neither the County nor DEQ see any reason why a standard subsurface system should not be adequate on your premises, in view of the amount of acreage you own.

William F. Holdner
September 18, 1985
Page Two

I have spoken with DEQ and the County concerning the apparent fact that the system has been installed without a permit. DEQ indicates that it is interested primarily in compliance with its water quality program. If the system has been correctly installed, or in the event that you make any changes required and not subject to variance, DEQ has no interest in taking any enforcement action. Once a variance is obtained, it will be necessary to ascertain that the subsurface system has been installed in accordance with applicable standards. I have enclosed a copy of the pertinent administrative rules and have highlighted construction standards that might be of concern. If what you have told me is accurate, I am sure it will be easy to determine that your contractor installed the system in accordance with these rules.

For purposes of OAR 340-71-435, Columbia County is a "nonagreement" county. The County ordinarily would issue a construction installation permit, perform necessary inspections and issue a certificate of satisfactory completion. You have expressed some concern at the prospect of Mr. Eastwood performing these inspections. Neither Mr. Eastwood nor the Board of Commissioners would object if DEQ were willing to undertake this process. However, the system does need to be inspected and a certificate of satisfactory completion must be issued in compliance with these rules before you use the system. I have spoken with both Mr. Eastwood and DEQ representatives both of whom inform me that they would designate five, and perhaps eight, points in the system where they would ask that you uncover the system by digging a hole approximately one foot by one foot. In this way, the inspector can be assured that installation standards were complied with. In the event the system was not properly installed, your complaint rests properly with the contractor you selected, not Columbia County or DEQ, and you should expect to remedy any deficiency.

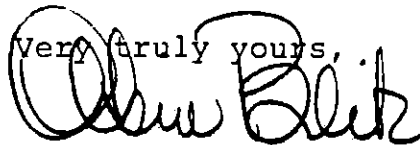
If I can provide further assistance to you, do not hesitate to contact me. Notwithstanding your suspicions to the contrary, I have spoken to no one who is attempting to obstruct the utilization of your property in the manner you desire. As you admit, you have been told repeatedly that if you apply to the state, the variance will be granted. Respectfully, I suggest you get on with that process.

With regard to the easement, the County needs to know that you will provide an easement for use of the County's contractors sufficient to permit heavy construction equipment

William F. Holdner
September 18, 1985
Page Three

beneath the slope on which the slide occurred. As we discussed, tree removal will be required, as will the laying of a bed of crushed rock sufficient to support heavy equipment. It is my understanding that if the rock surface is left as is upon completion of the construction project, you will be able to utilize it, and that you do not desire the ground to be restored to its condition prior to the commencement of work. Once you have authorized me to do so, I will be pleased to prepare an appropriate form of easement.

Please let me hear from you at your earliest convenience.

Very truly yours,


C. Akin Blitz

Enclosures

cc: Board of Commissioners
Mary Halliburton
Roy Eastwood



Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE: (503) 229-3695

November 26, 1985

CERTIFIED MAIL

Mr. William Holdner
975 S.E. Sandy Blvd.
Portland, OR 97214

Re: WQ-SSS-Variance Approval
T. L. 303; Sec. 16;
T. 3 N.; R. 2 W., W.M.;
Columbia County

Dear Mr. Holdner:

In response to your variance application I visited the above described property and conducted an information gathering hearing on November 6, 1985. Staff with Columbia County had previously evaluated the property to determine on-site sewage disposal feasibility, in October of 1983. They determined that because of the presence of a fluctuating permanent groundwater table closer than six (6) feet from the surface, the site could be approved for use of a sand filter system only. You were notified of their findings by letter dated October 31, 1983. That same day you submitted an application to the Department of Environmental Quality for a review of the County's evaluation. Department staff visited your property on two (2) occasions (January 18 and 27, 1984), and examined three (3) test pits. The pits indicated the presence of a permanent water table fifty-four (54) inches from the surface. The evaluation report prepared by Columbia County was found to be correct in approving the site for a sand filter system. Mr. Charles Gray (Regional Supervisor, Northwest Region) conveyed this information to you in his January 31, 1984 letter. He also indicated he and Dr. Robert Paeth (the Department's Chief Soil Scientist) would support a variance, presumably from OAR 340-71-220(2)(b)(A). This rule requires a minimum four (4) foot separation distance be maintained between a permanent water table and the bottom of an absorption facility (disposal trenches).

Sometime on or after August 23, 1984, a sewage disposal system was constructed in the general area previously examined by County and Department staff, without benefit of a construction-installation permit. ORS 454.655 and OAR 340 Division 71 both prohibit the construction of a system before issuance of a permit. Portions of the system were examined just prior to the information gathering hearing, and supplemental construction data was submitted for entry into the hearing record. The record indicates the system components are as follows:

- a. 1000 gallon polyethylene septic tank;

- b. Four (4) inch diameter effluent sewer pipe meeting ASTM specification D-3034;
- c. Concrete distribution box;
- d. Three (3) disposal trenches, each 120 feet long, with 4 inch diameter pipe meeting ASTM specification D-2729.

The installed system has several deficiencies, all of which are construction related. The septic tank exhibits severe deformation at the manhole access. This is usually associated with improper placement (i.e., not following the tank manufacturer's directions for installation) or excessive external forces exerted on the semi-flexible tank walls. Portions of the disposal trenches are deeper than three (3) feet (the maximum depth allowed if the soil profile characteristics met all rule parameters including the minimum depth to a permanent groundwater table of seven (7) feet). Mottled soil indicative of the presence of groundwater was observed in the spoils pile created when the ends of the trenches were exposed for examination. Also, the trenches are not constructed within the required grade tolerance of plus or minus one (1) inch, nor are they at the same elevation.

As I understand your proposal, you want to place a mobile home on the property to serve both as housing for a resident caretaker and also provide space for an office. In addition, you desire authorization to use a method of sewage disposal other than that for which the property has been found suitable. Specifically, you wish to use a standard system, preferable the system installed without benefit of permit, in lieu of a sand filter system. Variance must therefore be considered to the rules relating to construction as well as siting standards, summarized as follows:

1. OAR 340-71-220(2)(b)(A), which requires the site meet the condition that a permanent groundwater table not rise to within four (4) feet of the disposal trench bottom. This means the water table can not be closer than sixty-six (66) inches from the surface at any time during the year if the disposal trenches are eighteen (18) inches deep, or within eighty-four (84) inches of the surface if thirty-six (36) inch deep trenches are used. The water table at your site is expected to rise to within fifty-four (54) inches of the ground surface or closer.
2. OAR 340-71-220(5), which requires that gravity-fed trenches using the equal distribution technique be constructed on relatively level ground, keeping the trenches and piping level within a tolerance of plus or minus one (1) inch, and keeping all lateral piping at the same elevation. Your site has a slope of about three (3) percent, and the trenches and piping were installed with as much as eight (8) inches of variation in elevation and grade.
3. OAR 340-71-220(8)(a), which limits the maximum depth of disposal trenches to thirty-six (36) inches. The trench depth in portions of the installed system are as deep as forty-four (44) inches.

4. OAR 340-72-220(8)(b), which requires the bottom of a disposal trench be constructed level, within a tolerance of plus or minus one (1) inch. As much as eight (8) inches of variation exists in the installed trench that is farthest from Dutch Canyon Road.
5. OAR 340-71-220(11)(b), which requires each trench have distribution piping laid level within a tolerance of plus or minus one (1) inch. None of the three (3) trenches at your site meet this construction tolerance.
6. OAR 340-71-160(1), which requires a person to apply for and be issued a permit before constructing a system or any part of a system. No permit application was submitted to the Department or its agent (Columbia County), and no permit was issued prior to construction of the system.
7. OAR 340-71-175(6), which prohibits the connection to or use of any system installed on or after January 1, 1974, unless a Certificate of Satisfactory Completion has been issued for the installation. No Certificate of Satisfactory Completion has been issued for the system installed on your property. The system was installed on or after August 23, 1984.
8. OAR 340-71-185(1)(d), which requires the abandonment of any system that was installed without benefit of a permit. No permit was issued for your system.

Based upon my review and evaluation of the variance record, I find that strict compliance with OAR 340-71-220(2)(b)(A) is inappropriate. In my opinion it is reasonable to allow installation of one (1) system on your property, to serve the caretaker's home and office, provided it is installed in compliance with the conditions listed in Schedule "A" (enclosed). I would expect the system to function in a satisfactory manner without presenting a health hazard risk to the system user or adjoining property owners. Therefore, variance from OAR 340-71-220(2)(b)(A) is hereby granted, subject to the above requirements.

It is regrettable that you proceeded to install a sewage disposal system at your property with full knowledge that a permit had to be issued beforehand, and unfortunate that acceptable construction tolerances were not followed. Testimony was not provided to show that compliance with system construction standards are inappropriate. I am therefore unable to make a favorable finding to allow connection to or use of the improper system. In accordance with the provisions of OAR 340-71-185, this system must be abandoned. Because the polyethylene septic tank has been stressed to where it is now deformed, it must be replaced. The distribution box and disposal field piping can probably be salvaged; however, the drain rock in the existing trenches can not be used in the system authorized by this variance approval. Abandonment must be completed and verified by Columbia County staff before a system construction permit is issued.

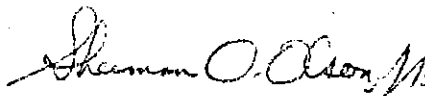
Mr. Holdner
Variance Approval
November 26, 1985
Page 4

Pursuant to OAR 340-71-440, my decision to approve your variance request with such conditions may be appealed to the Environmental Quality Commission. Requests for appeal must be made by letter, stating the grounds for appeal, and addressed to the Environmental Quality Commission in care of Mr. Fred Hansen, Director, Department of Environmental Quality, Box 1760, Portland, Oregon 97207, within twenty (20) days of the date of the certified mailing of this letter.

Columbia County Land Development Services is authorized to issue a construction-installation permit, subject to all of the above conditions, upon their receipt of a complete application, including the appropriate application fee. The permit may be issued by that office after the twenty (20) day time span allowed for appeal has passed.

Please feel free to contact me at 229-6443 if you have questions regarding this decision.

Sincerely,



Sherman O. Olson, Jr.
Assistant Supervisor
Sewage Disposal Section
Water Quality Division

S00:h
WH507
Enclosures

cc: Columbia County
Mr. C. Akin Blitz
Northwest Region, DEQ

SCHEDULE A

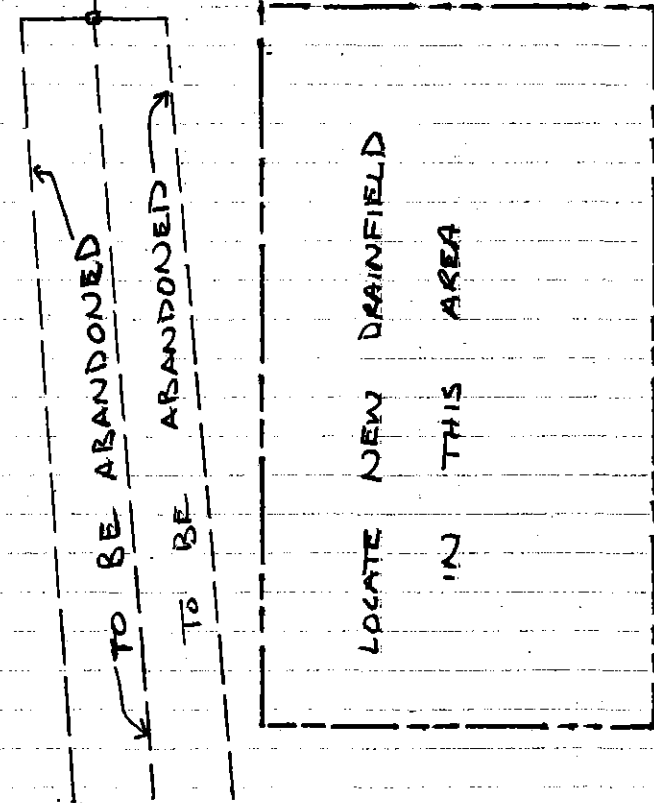
1. All work done on this on-site sewage disposal system shall be done by a person or business licensed through the Department of Environmental Quality (hereafter referred to as "Department") in accordance to Oregon Revised Statutes, Chapter 454.695.
2. Before starting with the actual construction of this on-site system, the system installer shall, through written statement to Columbia County, acknowledge that he has thoroughly reviewed the conditions of this variance approval with personnel from that office and that he understands and will comply with all conditions associated with this permit authorization.
3. The installation of this on-site system shall be completed within fourteen (14) days after construction has begun, unless otherwise authorized by Columbia County.
4. This on-site system shall serve a mobile home for the resident farm caretaker and an office with fifteen (15) or fewer employees.
5. The system authorized by this approval shall require the installation of all the following major components and associated materials:
 - a. 1000 gallon or larger septic tank.
 - b. 300 linear feet of standard disposal trench.
6. Three hundred (300) linear feet of disposal trench shall be installed within the area indicated in Schedule B. Each disposal trench shall be dug to a depth of twenty-four (24) inches into the natural soil profile.
7. Columbia County staff shall inspect the installation of this system at those stages of construction they identify as appropriate to insure proper installation.
8. All activities which tend to compact the soils shall be prohibited over the entire area of the drainfield site. If livestock are placed within the area, a fence must be constructed around the system.
9. Except as specifically authorized, all requirements of the Oregon Administrative Rules, Chapter 340, 71-100 through 71-600 shall be met.
10. The permittee shall comply with all local planning, zoning, and building ordinances.

SCHEDULE B

WILLIAM HOLDNER
COLUMBIA COUNTY

SCALE: 1" = 30'

DUTCH CANYON ROAD



TO BE ABANDONED

TO BE ABANDONED

LOCATE NEW DRAINFIELD
IN THIS AREA

MOLASSES
TANK

REPLACE EXISTING TANK
WITH NEW TANK

HOUSE
AND
OFFICE

HOLDNER FARMS
975 S.E. Sandy Blvd.
Portland, OR 97214

State of Oregon ATTACHMENT "H"
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
DEC 17 1985

Mr. Fred Hansen, Director
Department of Environmental Quality
Box 1760
Portland, Oregon 97207

OFFICE OF THE DIRECTOR

Re: WQ-555-Variance Approval
T.L. 303; Sec. 16;
T. 3 N., R.W., W.M.,
Columbia County

I hereby appeal all the conditions of Sherman O. Olson, Jr. of Sewage Disposal Section Water Quality Division as outlined in his letter dated November 26, 1985.

Brief history and background information is being furnished relative to an application for a permit submitted during the latter part of 1983 to the Columbia County Subsurface Sewage Department for approval of a minimum 100-150 gallon per day septic system. The purpose of the system was to accomodate primarily an office and possibly a caretaker residence should the need arise. The facilities would be available for our two full time employees who work at the location approximately six hours a day six days a week. The facilities would also be available for use by customers and their families who regularly come to the farm. The total acreage of this property is 104 acres. The property has never had any accomodations for office or residential purposes therefore had no septic system. The farm was established and gradually developed over the years after the purchase of the property in 1973. In 1983 it became apparent that an office structure with bathroom facilities would enhance the operation from the standpoint of dealing with customers, maintenance of livestock records and convenience of bathroom facilities for the employees.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
R E C E I V E D
DEC 18 1985

WATER QUALITY CONTROL

In October, 1983 I was advised by a Anne Cox of the Columbia County Subsurface Sewage Office that if the water table was less than three feet from the ground surface I should have no difficulty obtaining a permit for a regular septic system. Assuming that the drain lines could be laid in trenches of stable dirt and at least one hundred feet away from the creek. When I proceeded to apply for the permit I was told by a Mr. Eastwood that I could not apply for such a system. The minimum system I could apply for was a 450 gallon per day system. I explained to him that the building structure would only accomodate at most one bedroom and one office. Because of limited working area and space requirements at this location I did not want any system which could protrude above the ground which might provide some possibility of damage to the system and/or risk to livestock.

After the site inspection Mr. Eastwood approved only a sand filter system which would have to be constructed above the ground. I could appeal the decision to the Department of Environmental Quality but he made it plain any efforts to do so would prove to no avail. I felt his animosity could be due in part to a dispute with the Columbia County Highway Department over the maintenance of the ditches paralleling our property. The lawsuit lasted about four years which finally resulted in a settlement in our favor and guarantees from the County for the maintenance of the ditches in the future along our property. When I filed the notice of appeal with the Department of Environmental Quality I was assured by Mr. Charles Gray that he could and would perform his

investigation independently of the County and that it would not be necessary to communicate in anyway with Mr. Eastwood. At least I felt I would be receiving an impartial hearing through the appeal process, however, on January 18, 1984 contrary to what Mr. Gray stated to me I was informed that he indeed had contacted Mr. Eastwood. I immediately called Mr. Gray. He freely admitted that he in fact met with Mr. Eastwood to obtain his views on my application. Mr. Gray stated that his findings would be for only a sand filter system. Because I objected to the manner in which the investigation was conducted, Dr. Paeth of the Department of Environmental Quality, Mr. Gray and myself met at the site on January 27, 1984 to further review my application for a regular septic system.

Dr. Paeth proceeded to investigate the three holes that were excavated in the then proposed drain field area. I then asked him if he would check the temporary water table. I had recently installed a 10,000 gallon molasses tank on the same ground elevation which was virtually level with proposed drain field area nearby. The tank had been laid horizontal to a depth of approximately ten feet below the ground surface. At the end of the tank nearest the road I had purposely not filled in the dirt. I felt this would provide a reasonably accurate indication of the highest temporary water table for this site. The weather conditions the day before and during the night were such that the area received extremely heavy rains. There was evidence of some surface ground water entering the ground opening from the top of the tank which would show a slightly higher water table than under normal circumstances. However, Dr. Paeth in determining the temporary water table insisted that it be measured from

The water level to the top edge of the tank which was more than one foot below the ground surface. This distance from water level to the ground surface was noted to be approximately seventy inches or nearly six feet. On October 5, 1985 a hole was excavated for animal waste facility a 42,000 gallon tank to a depth of about ten feet, after several days less than six inches of water actually surfaced at the bottom.

Based on the above findings I believe it can be concluded within a reasonable degree of accuracy that the temporary water table to be about six feet and the permanent water table to be about ten feet below the surface of the ground in the drain field area. At the conclusion of the site inspection Dr. Paeth and Mr. Gray agreed to recommend approval of not the 100-150 gallon system which I requested but approval of a regular 450 gallon per day system, however, I would have to apply for another variance.

In about July or early August 1984 I called Mr. Gray and sought clarification of the variance procedure he and Dr. Paeth would approve. During the conversation I reiterated my position of only needing a 100-150 gallon regular system primarily for an office. He stated for that purpose you don't need a permit.

Based on that information I contracted with a Mr. Robert Endicott, a professional plumber and licensed installer of septic systems in Columbia County to lease his equipment and obtain his expertise for

the installation of a regular 450 gallon per day system. I purchased a 1,000 polyethylene tank, drain tile including other materials necessary for the system. Only the highest quality of materials were purchased. With Mr. Endicott's advice and expertise the system was constructed under his supervision. Only after submitting an application for a siting permit for a mobil home in August, 1985 was I aware the information furnished by Mr. Gray may have been incorrect.

FACTS

(1) The regular 450 gallon per day system was installed under the competent supervision of a qualified licensed installer of septic systems in Columbia County. The drain disposal trenches were constructed on level stable ground approximately twenty inches deep. Three standard disposal trenches were constructed eleven feet apart, one hundred and twenty feet in length. The bottom of the trenches were filled with one inch round rock to a depth of six inches. The four inch drain tile was covered with four inches of one inch round rock and then covered with a heavy building paper. After the trenches were covered, all the exposed large rocks were picked up and removed from the drain field area. The total area encompassing the drain field was covered with approximately eight to ten inches of top soil in preparation for planting with a grass seed mixture for producing hay crops in the future. Because of a drop-off near the end of the lines the amount of fill dirt may have exceeded the ten inch layer of top soil. There is no evidence of any damage to the trenches as a result of the application of top soil to the area where the ends of the drain lines were uncovered. Nor was there any evidence the ground preparation

compacted the soil to any degree. With the top soil application one might construe that the trenches were constructed deeper than twenty inches indicated, however, that was not the case. The temporary water table at the site area was determined to be approximately seventy inches prior to the construction of the trenches. The distance between the bottom of the trench and the temporary water table would certainly not change because of any subsequent application of top soil.

(2) The distribution lines were installed in stable ground virtually level except for possibly the last twenty feet of the lines accounting for a somewhat greater elevation drop than the one inch tolerance required.

(3) The disposal trenches were constructed within the maximum thirty six inch depth. Any distortion would be due to the application of top soil as noted.

(4) See (2)

(5) See (2)

(6) No permit was required per Mr. Charles Gray, Department of Environmental Quality.

(7) Since no permit was required no certificate of satisfactory completion was sought for the system installed.

(8) See (6)

ARGUMENT

The evidence presented by Columbia County Subsurface and Sewage Department and Department of Environmental Quality, as to the projected water table on the site area does not square with the facts. Neither department has presented any factual data supporting their contention that the water table is expected to rise to within fifty four inches of the ground surface. Based upon my own factual evaluation of the water table would rise to within only seventy inches of the surface. My determination was not made by projections or guesses but by actual tests performed during January, 1984 during the heart of the rainy season. The tests were performed prior to the installation of the system and prior to the application of top soil to the drain field area. The bottom of the trench to the highest water table would be fifty inches within the guidelines established by OAR 340-71-220 (2) (b) (A).

Mr. Olson at the variance hearing requested transit readings showing the depth of drain tile at the junction box and again at the very end of the drain line for each trench. The drop off varied from three to eight inches. I believe because of the ground sloping off at the end of the trenches the drain tile may have reflected this drop in elevation. The lower trench at the end of the last twenty or so feet was excavated in a fill dirt area which may account for the eight inch elevation variance. The manner in which the transit readings were conducted may have provided inaccurate results. Therefore, I have proposed the readings be taken again near approximate 100' length of the drain lines under the supervision of the Columbia County Subsurface

Sewage Department or Department of Environmental Quality as soon as weather improves. When the drain tile was installed efforts were made to see that the trenches and drain tile were level within the one inch tolerance as required under OAR 340-71-220(5).

The trenches were constructed on level ground to a depth of twenty inches except with the drop off near the end of the lines the amount of fill dirt may have exceeded the ten inch layer of top soil. Again I have good reason to believe that when the ditches are opened at the 100' length they will reflect a maximum depth of disposal trenches under thirty six inches as required by OAR 340-71-220(8)(a).

The Septic system was installed only after Mr. Gray stated that no permit was necessary where the primary use was for an office. While it is regrettable that the system was installed without the benefits of a permit, there was absolutely no intention to disregard any rules or regulations of the Department of Environmental Quality.

The septic system was constructed with the assistance and supervision of one of the most competent licensed installers of septic systems in Columbia County. Every effort was made in meeting or exceeding in quality of construction all aspects of the system. I was not aware that a licensed installer had to perform all the labor in connection with the construction of a septic system. It is normal practice for us to perform all the construction work on any project for the farm.

While Mr. Olson is granting approval of the regular septic system

acknowledged the system would function in a satisfactory manner presenting no future health hazard risk to ourselves or anybody adjoining our property. What Mr. Olson stated in private immediately following the site hearing may be more important than what he stated in his letter. He stated that the system as constructed was a very good installation, that it met or exceeded the requirements of a regular 450 gallon per day system. He remarked "don't be surprised if you are approved for a 450 gallon instead of the 100-150 gallon per day system requested."

Abandonment of the currently installed drain field lines appears to be the most illogical approach possible if in fact Mr. Olson is sincere in his efforts to protect the environment. The present drain lines are installed on stable ground perhaps on the most suitable soil conditions and lowest water table available on the entire acreage for a septic system. Most of the drain field is level and well over the 100 feet distance from the creek. In contrast, the proposed new drain field would be constructed mostly on unstable ground, reclaimed swamp area which has been built-up with fill dirt and semi-rotted manure within the past five years. The proposed drain field location is three feet or more lower in elevation in relation to the current drain field area and therefore can be assumed could have an equally higher water table. The ends of the drain line would also be much closer to the creek possibly less than 100 feet away. The risk of pollution from the proposed system into the creek would be considerably greater. Both Mr. Eastwood and Mr. Olson were made aware of the soil conditions in this area during their inspections. I am not aware of any study that was made by either Columbia County or the Department of Environmental Quality before approval of this area for the drain fields.

While the polyethylene tank shows slight contortion at the lid opening, if the tank is damaged to any extent or in anyway poses an environmental health risk it will be replaced. This was brought to the attention of Mr. Olson during his inspection of the system.

Efforts to obtain approval for the construction of a regular septic system that would accomodate the needs of this farm operation have been most frustrating. It is now going on three years since I initially tried to obtain approval of an acceptable septic system. Needless to say farming at best is a very difficult business economically. Without appropriate facilities it is even worse. I don't know how much our operation has lost as a result of these inconveniences but it could have been substantial. Just the lack of facilities for the employees is costly, our nearest present bathroom facilities are five miles away. It is noted that the Department of Environmental Quality which has been empowered by the Oregon Statutes to formulate policy and establish administration rules shall strive to assist applicants that may have special requirements. Neither Columbia County Subsurface Sewage Department or Department of Environmental Quality have shown any compassion or understanding. Mr. Olson in granting the variance has attempted to establish conditions that will make the system impractical, unfeasible and a potentially a very high risk to the environment. Not to mention the unnecessary additional costs which will be incurred in its construction. Ironically I was originally denied a permit for a regular 100-150 gallon day septic system because of the projected water table was considered too high. Now the granting of a variance for a 300 gallon per day system on the condition that the drain field be relocated to an area where the water table is significantly closer to the surface of the ground be-

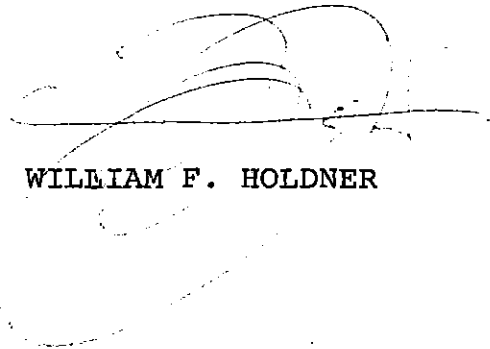
cause of the lower elevation appears to me totally inconsistent with the requirements of the Department of Environmental Quality.

The immediate question arises as who is ultimately responsible for the maintenance and/or correction of such a system which later proves defective. If the owner is responsible which I believe he should be, he should have voice in how and where it is constructed assuming all reasonable measures have been undertaken to protect the environment.

Mr. Olson has made much to do about the installation of the system without a permit. The system has not been used or has it been connected to any facility. Under OAR 340-71-410 (a) through (f) Rural Area Variances The Department of Environmental Quality provides that if a Standard regular septic system is denied under OAR 340-71-220 (2) (a) through (h) may be granted a permit for an on-site sewage disposal system that will function in a satisfactory manner and does not create a public health hazard or cause pollution of public waters. OAR 340-71-185 does not provide for a mandatory abandonment of an installed system where the system has not been connected or operated. It also goes on to state that a permit may be granted and Certificate of Satisfactory Completion may be subsequently issued for the installed system. "My interpretation of the Oregon Statutes and Oregon Administrative Rules of Department of Environmental Quality would indicate that based on all facts such as site conditions, the type of system requested and environment impact of such a system, a permit should have been granted at the outset." I respectfully request a favorable ruling on the location of drain field issue based on the fact the Department of Environmental Quality by their own admission state that the currently installed septic system will function properly and will provide no environmental risk to the public.

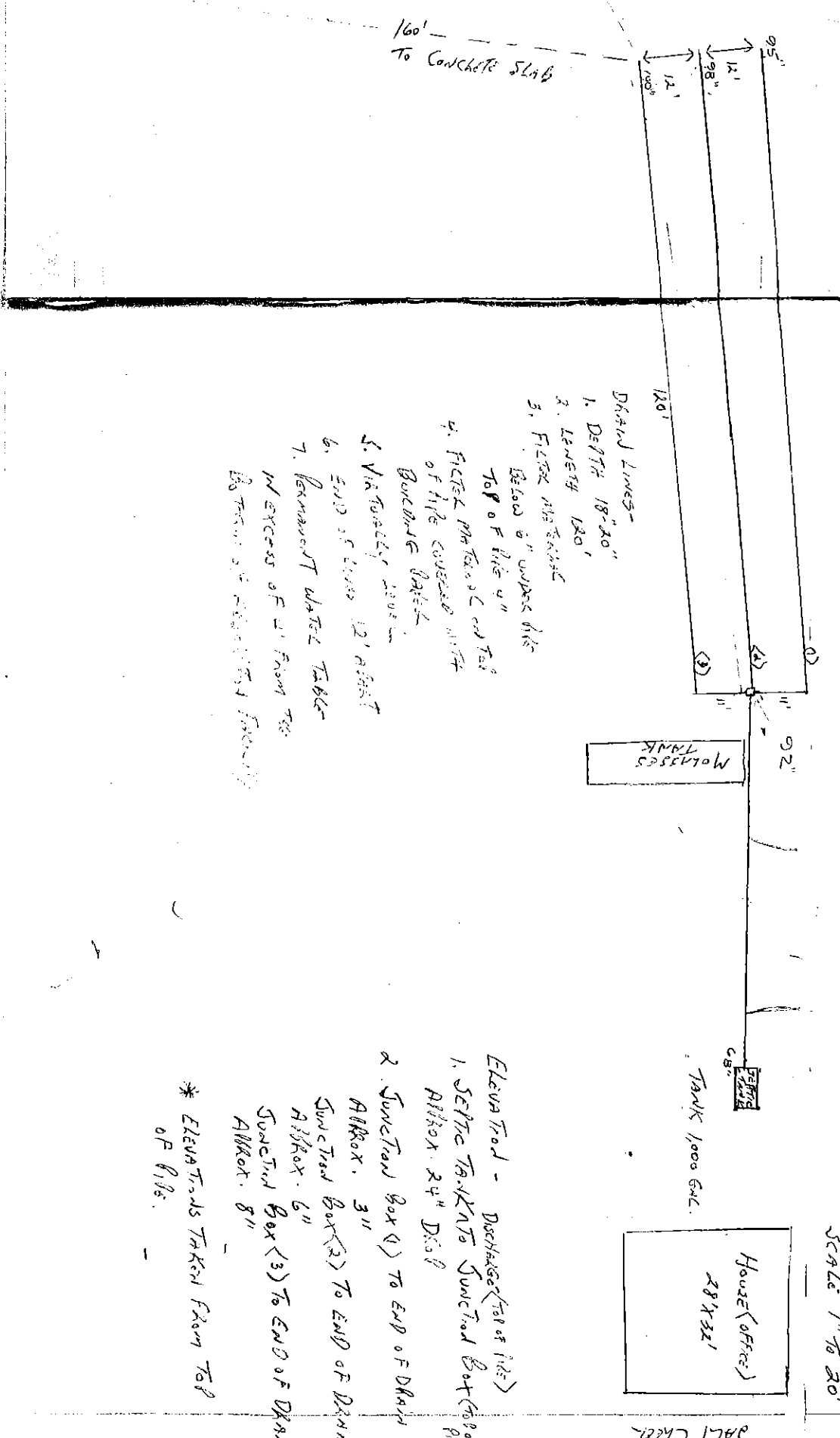
And I request that subject conditions imposed on the approval of the variance shall possess or have no greater requirement than would be imposed on any other individual who has requested and been granted approval of a regular septic system under normal circumstances under the Oregon Statutes.

Sincerely,

A handwritten signature in dark ink, appearing to read 'W. F. Holdner', is written over a horizontal line. The signature is somewhat stylized and includes a large loop at the end.

WILLIAM F. HOLDNER

DITCH CALYON ROAD

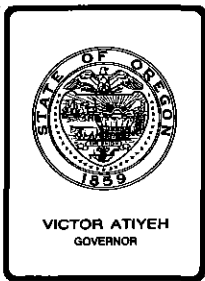


- DRAIN LINES -
1. DEPTH 18" x 20"
 2. LENGTH 120'
 3. FITTED MATERIAL BELOW 6" UNDER DITCH TOP OF PIPE 4"
 4. FITTED MATERIAL END TOP OF PIPE COVERED WITH BOUNDARY MARK
 5. VIRTUALLY LEVEL
 6. END OF DRAIN 12' FROM
 7. REMAINING WATER TABLE
- WEXCESS OF 4" FROM TOP
ELEVATION OF DRAINAGE

- ELEVATION - Discharge (top of pipe)
1. SEPTIC TANK TO JUNCTION BOX (top of pipe) APPROX. 24" DISCH
 2. JUNCTION BOX (1) TO END OF DRAIN APPROX. 3"
 3. JUNCTION BOX (2) TO END OF DRAIN APPROX. 6"
 4. JUNCTION BOX (3) TO END OF DRAIN APPROX. 8"
- * ELEVATIONS TAKEN FROM TOP OF PIPE.

SCALE 1" TO 20'

SALT CREEK



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 J, January 31, 1986, EQC Meeting

Consideration of a Petition to Amend OAR 340-21-027
(Municipal Waste Incinerator in Coastal Areas)

Background and Problem Statement

Brookings Energy Facility (BEF) has submitted a petition asking the Environmental Quality Commission to amend OAR 340-21-027 to revise operating requirements for municipal solid waste incinerators in coastal areas (Attachment A).

The proposed revisions concern the method of assessing incinerator size, the minimum required operating temperature, the periods during which temperature restrictions are imposed, the means of temperature recording, and the applicability of the regulation to very small incinerator units and all existing incinerator units.

The rule the petitioner seeks to revise was adopted in January 1983 to prevent excessive emissions from municipal waste incinerators in coastal areas. The temperature requirements were established to reduce the emission of toxic organic compounds such as dioxins. The particulate emission limit was relaxed to a level which the existing units could meet. The relaxation was appropriate because of the superior ventilation in coastal areas and the protection from excessive toxic organic emissions provided by the temperature requirements.

Evaluation

The issues raised in the petition are examined below.

1. Sizing: Design Capacity Versus Quantity of Waste Burned

The petitioner's item 1 raises an objection to the sizing of the incinerators according to design capacity rather than the actual amount of waste incinerated. The Department finds it important to regulate according to capacity for several environmental and practical reasons. Establishing a fixed size rating for regulated units allows the Department to manage the local airshed. The design capacity is a fixed number which will not vary unless modifications are made to the unit, whereas the actual usage rate will vary from day to day and from season to season, potentially creating a need for daily reassessment of rule applicability or restricted usage of the unit. The use of design capacity in this rule is also consistent with size assessments used in other regulations. For instance, incinerators are classified for Air Contaminant Discharge Permits according to capacity (OAR 340-20-155, Table I, Category 44) and municipal incinerators may be subject to the Prevention of Significant Deterioration regulations if capable of charging more than an established limit (OAR 340-20-245(3)(B)(ix)). Using standardized parameters, such as design capacity, eliminates confusion when considering several different regulations simultaneously. Finally, neither of the facilities subject to this rule is set up to monitor daily amounts of garbage burned.

2. Temperature and Residence Requirements

The petitioner's item 2 raises several objections to the temperature and residence time requirements of the existing rule. The ability of the existing incinerators to comply with the temperature requirements is under investigation. As endorsed by the Commission at the November 22, 1985 meeting, the Department has defined for BEF the basic requirements for conducting temperature testing. The Department is awaiting a response from BEF regarding the test plan and scheduling. Similar testing is being conducted at the only other coastal municipal solid waste incinerators, the Coos County Solid Waste Department's facility at Bandon. Until these tests are conducted, the Department does not have sufficient information to consider or initiate revisions to the current rule concerning temperature and residence time requirements.

The operational standards of the manufacturer of the incinerators at BEF are cited as one reason for the inability of the BEF incinerators to maintain the required temperatures. The initial operating parameters established for the BEF incinerators are within a range of manufacturer's specifications for that incinerator model.

Incinerators with energy recovery systems are installed with minimum operating temperatures of 1800^oF to effect efficient energy recovery. In addition, energy systems generally run around the clock, minimizing start up and shutdown operations. Conversion to energy recovery is scheduled for BEF, which will necessitate the higher temperatures.

3. Start up and Shutdown Periods

In Item 2 the petitioner also objects to "excessive" time periods for monitoring temperatures. The only lengthy time constraint imposed by the current rule is a minimum two hour time period during shutdown. This was established based on data obtained from the manufacturer of the BEF incinerators and other manufacturers on the time required for total burnout of the last charge and temperature capabilities during burnout.

4. Manual and Automatic Temperature Recording

The petitioner requests in item 3 that alternative (manual) temperature recording methods be allowed. The Department feels that the use of automatic temperature recorders is necessary to ensure proper recording of data. The incidence of missing data and human error is reduced with automatic recorders. Furthermore, the continuous record obtained from an automatic recorder can serve as a valuable tool for fine tuning operating procedures and detecting changes or deterioration in the incinerator systems, while a manual log provides little more than a historical record of compliance/non-compliance with the established rule.

5. Low Volume Exemption

Item 3 also relates the actual amount of garbage burned to an existing exemption regarding very small incinerators installed between 1970 and 1982. The petitioner's suggested clarification would delete the installation date restriction from the rule for incinerators with low quantities of garbage burned. However, the restriction is necessary to ensure that incinerators installed after the adoption of the rule comply with the temperature and emission rate limits.

The only incinerators which can be exempted under the existing rule are operated by the Coos County Solid Waste Department. The Coos County facility has two incinerators designed for 49 tons per day each and two incinerators rated at 13 tons per day each. The two large incinerators are not exempt from any of the regulations. The two small units are not used on a routine basis, but only as back-up units for periods of peak waste flow or during shutdown of a large unit. In addition, the Coos County facility is in a remote location. The two small incinerators were exempted from the temperature requirements because of the limited potential for environmental impacts. In contrast, the BEF units have the capacity to incinerate 25 tons per day each, are operated several days per week, and are not remotely located. Potential air quality impacts are therefore significantly greater for the BEF incinerators than for the two exempt incinerators.

6. "Unusual Circumstances"

The petitioner seeks in item 4 to allow existing units operated in accordance with manufacturer's specifications to be exempt from this rule, unless "unusual circumstances" are presented. The phrase "unusual circumstances" is not defined. In addition, the manufacturer's specifications vary with incinerator installation circumstances and the original settings for existing incinerators do not necessarily represent the most appropriate current operating conditions.

As required, the petitioner submitted a proposed revision of OAR 340-21-027 (Attachment A). Several additional items regarding the proposed language are discussed below, according to the subsection involved.

(1)(a)(A) and (B) The wording "processing or processing" is unnecessarily awkward and difficult.

(1)(b) The proposed changes would not provide any regulation of temperatures during the start up or shutdown phases or any limit on the frequency or duration of such operations. The proposed exception for "mechanical malfunctions" is already covered by the Upset Condition provisions of OAR 340-21-065 through -075. The proposed exception for "adverse conditions" is too broad as no definition of the term is provided. In practice, care should be taken to minimize the impact of "adverse" waste conditions, such as premixing the incinerator charges or supplementing the poor quality charges with relatively clean, dry wastes such as wood or cardboard wastes. Such practices should be beneficial for both the incinerator systems and air emissions control.

The suggested 1600^oF operating temperature is significantly lower than the current 1800^oF requirement. At the lower temperature, emissions of toxic organic compounds including dioxins and other products of incomplete combustion would be increased. Numerous reports on municipal waste incineration and various air pollution control agencies recommend a temperature of 1800^oF to minimize toxic air pollutant formation and emissions.

(2) The current requirement to install the pyrometer at a location approved by the Department is in keeping with Air Quality Division preconstruction review and permitting procedures. The intent of requiring Departmental approval is to prevent inappropriate action by a permittee. Changing this language to require installation at a point according to manufacturer's specifications would bypass this useful approval process. Comparing a permittee's proposal to the manufacturer's specifications, when applicable, is an important part of the Department's review.

(4) The last sentence added to the proposed rule would totally exempt BEF and the Coos County facility from regulation as long as they were operating within manufacturer's recommendations. The proposed language would allow the current coastal municipal solid waste incinerators to operate under far more lenient conditions than those to which they are currently or have formerly been subject. Relying solely on manufacturer's specifications would relieve a permittee from complying with any particulate emissions concentration limit and could

allow operation at temperatures which are lower than required for adequate combustion of toxic organic compounds.

Alternatives

As specified in OAR 340-11-047, the Commission may initiate rulemaking proceedings or it may deny the petition and issue a Commission Order pursuant to subsection (4).

Alternative I

Adoption of the rulemaking option would cause the Department to submit the petitioner's proposed OAR 340-21-027 to public notice, public hearing, and the other requirements of the rulemaking process. As interpreted by the Department, the proposed language would eliminate or relax many of the current requirements of the rule. Attachment C compares the current and proposed rule provisions.

Alternative II

The other alternative is to deny the petition. This action would allow the Department to continue on the course of action endorsed by the Commission at the November 22, 1985 meeting. Incinerator rules should reflect best management practices, protect air quality, and consider the economic viability of the operation. The balance of these objectives requires technical information from temperature testing to determine the actual capabilities of the existing units. Using the test data and other pertinent information, the Department will be able to reassess appropriate management practices and initiate a rule revision, facility modifications, and/or other actions. Cooperation between the current permittees and the Department will assist this process.

This alternative would allow the Department to prepare a proposed revision for rulemaking, if necessary. The petitioner's proposed revision could be considered by the Department in developing a proposed course of action.

Procedures

The Department received the petition on November 8, 1985. Brookings Energy Facility subsequently agreed to defer consideration of the petition until the January 31, 1986 meeting of the Commission.

The petition was submitted in accordance with OAR 340-11-047, Petition to Promulgate, Amend or Repeal Rule: Contents of Petitions, Filing of Petition (Attachment B). The timetable prescribed by the rule has been extended as agreed upon by the petitioner. This rule specifies that the Commission shall either deny the petition or initiate rulemaking proceedings in accordance with applicable procedures for Commission rulemaking. If the petition is denied, the Commission shall issue an order setting forth the reasons for the denial.

A Commission Order is required to deny a petition for rulemaking. A draft Commission Order is included as Attachment D.

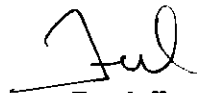
Additional comments have been received in support of the petition (Attachment E).

Summation

1. A Petition to Amend OAR 340-21-027 (Municipal Waste Incinerator in Coastal Areas) has been submitted.
2. OAR 340-21-027 was adopted to prevent excessive emissions from coastal incinerators. Minimum temperature requirements were established to ensure that the revised particulate emission limit would not result in increased emissions of toxic organic compounds.
3. The proposed revision would change the operating requirements for new and existing municipal solid waste incinerators in coastal areas.
4. Under the proposed revision, the existing coastal incinerators could be exempted from particulate emission concentration limits, minimum operating temperatures, or start up and shutdown temperature requirements. Manual, as well as automatic, temperature recording would be allowed.
5. The minimum operating temperature for new coastal incinerators would be reduced from 1800°F to 1600°F under the proposed revision without any compensating tightening of the particulate emission limit.
6. The proposed relaxation of operating requirements would increase the emissions of toxic organic compounds from new and existing incinerators.
7. The Department is currently requiring the operators of existing coastal incinerators to conduct temperature testing which will determine the need and extent of rule revisions, equipment modifications, and/or operating changes. A rule change prior to this testing would be untimely.
8. The Commission has the option to initiate rulemaking using the proposed revision submitted by the petitioner or to deny the petition and issue an Order stating the reasons for the denial.

Director's Recommendation

It is recommended that the Commission deny the Petition to Amend OAR 340-21-027 and issue the attached Commission Order regarding the denial.



Fred Hansen

Attachments:

- A. Letter and petition from John R. Coutrakon
- B. OAR 340-11-047
- C. Comparison of Current Rules to Petitioner's Proposed Rule
- D. Draft Commission Order
- E. Comments Received in Support of Petition

Wendy Sims:s
229-6414
January 17, 1986

AS2250

JOHN R. COUTRAKON, P.C.
JOHN C. BABIN, P.C.

COUTRAKON & BABIN
PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

P.O. Box 1600
(517 CHETCO AVENUE)
BROOKINGS, OREGON
97415-0600
TELEPHONE
(503) 469-5331

* ALSO LICENSED IN
CALIFORNIA

November 5, 1985

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
NOV 08 1985

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

OFFICE OF THE DIRECTOR

Re: Petition to Amend OAR 340-21-027
(Municipal Waste Incinerator in Coastal Areas)

Dear Sirs and Madams:

Please allow this letter to serve as a request, pursuant to OAR 340-11-047, on behalf of Brookings Energy Facility, Inc. that the above-referenced administrative rule be amended from its present form to that proposed on the attachment included herewith.

As the Commission's files and records undoubtedly indicate in reference to the application of the existing rule to BEF (many facets of which were reraised at the EQC's September 27, 1985 meeting), Petitioner BEF is directly affected by the substance of that rule as it operates two of the few incinerators in the State of Oregon to which the rule applies in coastal areas.

Petitioner would rely on the following facts and propositions to substantiate its request, which items would be more fully developed by testimony and evidence at the required hearings under rule making procedures:

1. The present rule speaks in terms "capacity" of the subject incinerators rather than in terms of the actual tonnage incinerated on a per day basis.
2. The exhaust gas temperature requirements are not realistically and consistently maintainable in the actual operation and usage of such incinerators in coastal areas, due both to weather and such other related conditions and beyond the operational standards of the manufacturer of such machines. Furthermore, the time periods appear to be excessive for the objective sought to be achieved; and, without some leeway provided therefore are simply not practical for such operations.
3. The provisions pertaining to continuous temperature recording by pyrometer should permit alternative temperature monitoring methods which would substantially

Environmental Quality Commission
October 23, 1985
Page 2

achieve the monitoring objective so sought. Provision 4 of the rule should be clarified to reflect exemption for the actual tonnage incinerated and, if so, there is no need for further exclusion pertaining to installation dates.

4. The rule should further add that unless unusual circumstance are so presented, that any facility in operation prior to the effective date of the rule and operating within a manufacturer's specifications is exempt from the rule.

Petitioner believes that the operators of incinerator units in Coos County would also have a special interest in this rule sought to be amended, as would the Counties of Curry and Coos, and any cities within a five mile radius of the facilities.

Although perhaps time is too short to enter into a full hearing for rule making amendment by the Commission's November 22, 1985 meeting to be held in Eugene, Oregon, Petitioner would respectfully request that the Commission at that meeting give authority to initiate rule making proceedings in accordance with applicable procedures for consideration of the amendments herein requested.

Very truly yours,

COUTRAKON & BABIN P.C.'S


John R. Coutrakon

JRC:clb

cc: Client
Fred Hansen
Curry County Board of Commissioners
(Chairman John Maeyea)

PROPOSED OAR 340-21-027

(Municipal Waste Incinerator in Coastal Areas)

340-21-027 (1) No person shall cause, suffer, allow or permit the operation of any municipal waste incinerator in coastal areas which violates the following emission limits and requirements:

- (a) Particulate Emissions:
 - (A) For municipal waste incinerators capable of processing or processing not more than 50 tons/day of waste, 0.2 grains per standard cubic foot of exhaust gases.
 - (B) For municipal waste incinerators capable of processing or processing greater than 50 tons/day of waste, 0.08 grains per standard cubic foot of exhaust gases.
- (b) Minimum Exhaust Gas Temperatures:
 - (A) (Prior to the initial charge of wastes and for the first 30 minutes of incineration of the initial charge, 1600°F. for one second.
 - (B) For the period beginning 30 minutes after the initial charge of wastes to the time of the final charge, 1800°F. for one second or 1700°F. for two seconds or a temperature and corresponding residence time linearly interpolated between the aforementioned two points.
 - (C) For a two hour period after the final charge of waste, 1600°F. for one second.)
 - (A) With the exception of initial start-up and shut-down periods and for lag times due to mechanical malfunctions and/or adverse condition of municipal waste, the incinerator secondary chamber shall be operated at 1600°F.
- (c) Visible Emissions and Particle Fallout Limitations of OAR 340-21-015 and 340-31-045, respectively.
- (2) Each operator of a municipal waste incinerator in a coastal area shall monitor the exhaust gas temperatures of each of its incinerators with a continuous recording pyrometer or by accurate time-temperature log. The pyrometer shall be located at a point within the incinerator exhaust system (which has been judged by the Department through plan review to represent a place that can demonstrate compliance or non-compliance with minimum exhaust gas temperature requirements in (1) (b) of this rule) according to manufacturer's specifications. The operator shall retain its (pyrometer) records for

one year unless at the expiration of the year an enforcement matter is pending against the operator, in which case the operator shall retain the records until the enforcement matter is finally terminated by an Order. The operator shall make its pyrometer records or log books available to the Department of Environmental Quality upon request.

- (3) In cases of multiple incinerators at one site, the 0.2 grain per standard cubic foot particulate emission standard in paragraph (1) (a) (A) of this rule for individual municipal waste incinerators up to 50 tons/day capacity, shall apply only up to a combined capacity of 150 tons/day.
- (4) Municipal waste incinerators in coastal areas, (installed between 1970 and 1982, or 13 tons/day capacity and less,) which incinerate an average of less than 13 tons/day are exempt from (1) (a) and (b) of this rule, but shall emit particulate at a concentration less than 0.30 gr/scf. Unless unusual circumstances are so presented, any incinerator in operation prior to the effective date of this rule, if operating within the manufacturer's recommendations is exempt from (1) (a) and (b).

OREGON ADMINISTRATIVE RULES

CHAPTER 340, DIVISION 11 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Petition to Promulgate, Amend or Repeal Rule: Contents of Petition, Filing of Petition

340-11-045 [DEQ 69(Temp), f. & ef. 3-22-74;
DEQ 72, f. 6-5-74, ef. 6-25-74;
Repealed by DEQ 122,
f. & ef. 9-13-76]

Petition to Promulgate, Amend, or Repeal Rule: Contents of Petition, Filing of Petition

340-11-047 (1) Any person may petition the Commission requesting the adoption (promulgation), amendment, or repeal of a rule. The petition shall be in writing, signed by or on behalf of the petitioner, and shall contain a detailed statement of:

(a) The rule petitioner requests the Commission to promulgate, amend, or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in the petition in full with matter proposed to be deleted therefrom enclosed in brackets and proposed additions thereto shown by underlining or bold face;

(b) Ultimate facts in sufficient detail to show the reasons for adoption, amendment, or repeal of the rule;

(c) All propositions of law to be asserted by petitioner;

(d) Sufficient facts to show how petitioner will be affected by adoption, amendment, or repeal of the rule;

(e) The name and address of petitioner and of any other persons known by petitioner to have special interest in the rule sought to be adopted, amended, or repealed.

(2) The petition, either in typewritten or printed form, shall be deemed filed when received in correct form by the Department. The Commission may require amendments to petitions under this section but shall not refuse any reasonably understandable petition for lack of form.

(3) Upon receipt of the petition:

(a) The Department shall mail a true copy of the petition together with a copy of the applicable rules of practice to all interested persons named in the petition. Such petition shall be deemed served on the date of mailing to the last known address of the person being served;

(b) The Department shall advise the petitioner that he has fifteen (15) days in which to submit written views;

(c) The Department may schedule oral presentation of petitions if the petitioner makes a request therefore and the Commission desires to hear the petitioner orally;

(d) The Commission shall, within thirty (30) days after the date of submission of the properly drafted petition, either deny the petition or initiate rule making proceedings in accordance with applicable procedures for Commission rulemaking.

(4) In the case of a denial of a petition to adopt, amend, or repeal a rule, the Commission shall issue an order setting forth its reasons in detail for denying the petition. The order shall be mailed to the petitioner and all other persons upon whom a copy of the petition was served.

(5) Where procedures set forth in this section are found to conflict with those prescribed by the Attorney General, the latter shall govern upon motion of any party other than the Commission or Department.

Stat. Auth.: ORS Ch. 183 & 468
Hist.: DEQ 122, f. & ef. 9-13-76

Notice of Hearing

340-11-050 [DEQ 69(Temp), f. & ef. 3-22-74;

DEQ 72, f. 6-5-74, ef. 6-25-74;
Repealed by DEQ 122,
f. & ef. 9-13-76]

Temporary Rules

340-11-052 The Commission may adopt temporary rules and file the same, along with supportive findings, pursuant to ORS 183.335(5) and 183.355(2).

Stat. Auth.: ORS Ch. 183 & 468
Hist.: DEQ 122, f. & ef. 9-13-76

Subpoenas

340-11-055 [DEQ 69(Temp), f. & ef. 3-22-74;
DEQ 72, f. 6-5-74, ef. 6-25-74;
Repealed by DEQ 122,
f. & ef. 9-13-76]

Intervention

340-11-060 [DEQ 69(Temp), f. & ef. 3-22-74;
DEQ 72, f. 6-5-74, ef. 6-25-74;
Repealed by DEQ 122,
f. & ef. 9-13-76]

Declaratory Rulings: Institution of Proceedings, Consideration of Petition and Disposition of Petition

340-11-062 (1) Pursuant to the provisions of ORS 183.410 and the rules prescribed thereunder by the Attorney General, and upon the petition of any person, the Commission may, in its discretion, issue a declaratory ruling with respect to the applicability to any person, property, or state of facts or any rule or statute enforceable by the Department or Commission.

(2) The petition to institute proceedings for a declaratory ruling shall contain:

(a) A detailed statement of the facts upon which petitioner requests the Commission to issue its declaratory ruling;

(b) The rule or statute for which petitioner seeks declaratory ruling;

(c) Sufficient facts to show how petitioner will be affected by the requested declaratory ruling;

(d) All propositions of law or contentions to be asserted by petitioner;

(e) The question presented for decision by the Commission;

(f) The specific relief requested;

(g) The name and address of petitioner and of any other person known by the petitioner to have special interest in the requested declaratory ruling.

(3) The petition shall be typewritten or printed and in the form provided in Appendix 1 to this rule 340-11-062. The Commission may require amendments to petitions under this rule but shall not refuse any reasonably understandable petition for lack of form.

(4) The petition shall be deemed filed when received by the Department.

(5) The Department shall, within thirty (30) days after the petition is filed, notify the petitioner of the Commission's decision not to issue a ruling or the Department shall, within the same thirty days, serve all specially interested persons in the petition by mail:

COMPARISON OF CURRENT RULE TO PETITIONER'S PROPOSED RULE

	<u>Existing Incinerators Over 13 tons/day</u>		<u>New Units Under 13 tons/day</u>		<u>New Units 13-50 tons/day</u>	
	<u>current</u>	<u>proposed</u>	<u>current</u>	<u>proposed</u>	<u>current</u>	<u>proposed</u>
Particulate Emissions (grains/dscf)	0.20	No Std	0.20	0.30	0.20	0.20
Minimum Temperature (°F)	1800	No Std	1800	No Std	1800	1600
Temperature Recording	automatic	manual or automatic	automatic	manual or automatic	automatic	manual or automatic
Opacity	20%	20%	20%	20%	20%	20%
Particle Fallout Limitations	Yes	Yes	Yes	Yes	Yes	Yes
Sizing	capacity	usage	capacity	usage	capacity	usage
Start up/Shutdown Requirements	Yes	No	Yes	No	Yes	No

1 provide a basis for evaluating the need for changes in the current rule,
2 modification of equipment or operating parameter, and/or other possible
3 actions.

4 The Commission holds that the petition shall be denied. The denial is
5 based on the reasons discussed in the staff report for Agenda Item K,
6 January 31, 1986 Environmental Quality Commission Meeting, which may be
7 summarized as follows:

- 8 1. The proposed amendments are unsuitable because the extreme relaxation
9 of the rule for new and, particularly, existing units would cause an
10 increase in the emissions of toxic organic compounds and allow for an
11 increase in the emission of particulate matter from existing units.
- 12 2. The proposed amendments are unsuitable due to the use of undefined
13 terms and unclear wording.
- 14 3. The timing for the proposed rule change is inappropriate. The
15 required test data for the regulated facilities has not been submitted
16 to DEQ, and other means of resolving any areas of difficulty with the
17 current rule have not, accordingly, been evaluated.

18 ORDER

19 The Commission hereby denies the Petition to Amend OAR 340-21-047 submitted
20 by Brookings Energy Facility, Inc.

21

22 Date: _____

Chairman, James Petersen

23

24

25

26

Curry County Oregon Board of Commissioners

P. O. BOX 746 GOLD BEACH, OREGON 97444
(503) 247-7015



Mack Arch on the Curry Coast

January 7, 1986

Environmental Quality Commission
522 S. W. Fifth Avenue
Box 1760
Portland, Oregon 97207

Dear Commission Members:

Curry County supports the petition to amend Oregon Administrative Rules 340-21-027, Municipal Waste Incinerator in Coastal Areas as requested by Brookings Energy Facility, Inc.

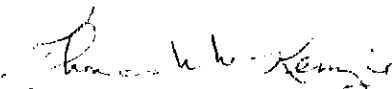
The rule as now written does not appear to us to be realistic or maintainable in the actual operation of the incinerators in the coastal environment. The rule also requires operating temperatures that are beyond the operational standards of the manufacturer. It has been reported to us by the operator that unacceptable damage is being sustained to the incinerators by the increased temperature requirements.


It appears to us that the incinerators have been operated in a satisfactory manner for the past six years with a minimum of problems or public complaints. In our view, they are doing an excellent job of solid waste reduction and will soon be recovering energy through the installation of electrical generating equipment.


To sum it up. Curry County feels that we are pioneers in this field and we have suffered through some difficult and costly experiences. We need your cooperation and help as a partner in this most important part of our economy.

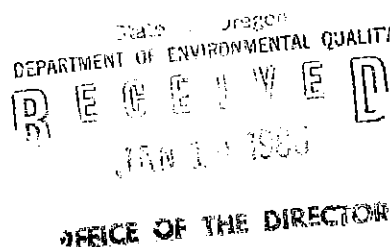
Sincerely yours,

CURRY COUNTY BOARD OF COMMISSIONERS


Thomas M. McKenzie, Chairman


John Glenn Mayea, Commissioner

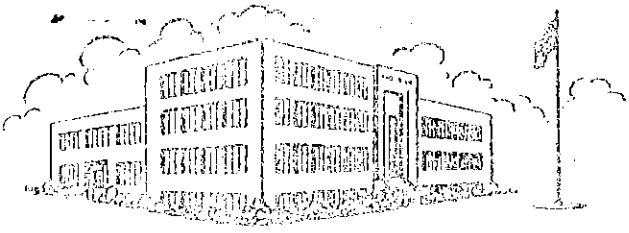

Rocky McVay, Commissioner



County of Coos

BOARD OF COMMISSIONERS

Jack L. Beebe, Sr.
Robert A. Emmett
Doc Stevenson



COOS COUNTY COURTHOUSE
Coquille, Oregon 97423
Phone: (503) 396-3121
Ext. 224, 225

January 9, 1986

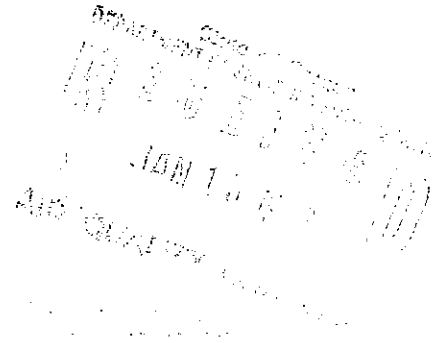
Thomas R. Bispham
Administrator
Air Quality Division
Department of Environmental Quality
522 S.W. Fifth Avenue
Box 1760
Portland, OR 97207

RE: Amendments to OAR 340-21-027
(Municipal Waste Incinerator in Coastal Areas)

Dear Mr. Bispham:

Coos County has received a copy of the amendments to OAR 340-21-027 proposed by Brookings Energy Facility, Inc. Coos County strongly supports all aspects of this proposal and urges the adoption of the proposed amendments by the Environmental Quality Commission.


Of particular interest to Coos County are the changes to OAR 340-21-027(1)(b), Minimum Exhaust Gas Temperatures. Coos County has found it impossible to meet the temperature requirements within the parameters of the current rule. The Department of Environmental Quality has been provided records of tests made by Coos County attempting to meet the start-up temperature using diesel fuel. For a period of four hours, diesel fuel was injected into the incinerator and the maximum temperature achieved was approximately 500°. Obviously, it would be impossible to achieve the requirement of 1600° for one second prior to the initial charge of waste. In order to meet these requirements, the complete overhaul of the incinerators would be necessary, an expense Coos County cannot afford. In any event, the rapid heating requirement of the rule results in damage to the interior of the incinerator thereby shortening the life span of the equipment. Considering the approximate \$750,000 cost for each incinerator, every effort must be made to extend rather than shorten the life span of the equipment. The present rules do not reflect the practical operation of an incinerator and Coos County supports the proposed amendments as a solution to this problem.




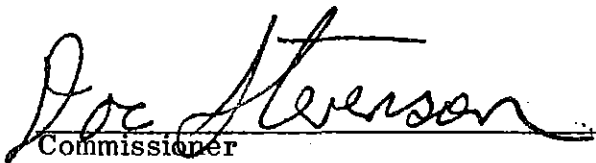
Thomas R. Bispham
January 9, 1986
Page 2

Thank you very much for your attention to these matters.

BOARD OF COMMISSIONERS

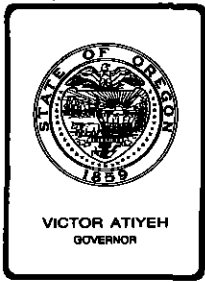

Commissioner


Commissioner


Commissioner

BOC/DRR/cs

cc: County Counsel's Office
Bud Perkins - Roadmaster
Skip Sumstine - Superintendent, Solid Waste



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 K , January 31, 1986, EQC Meeting

Request for Variance from Gilmore (Oregon) Steel from
Classification as Solid Waste Certain Iron Ore Material

Background

Gilmore Steel operates a steel rolling mill in the Rivergate district of north Portland. The facility is also known as Oregon Steel.

The company combines scrap iron and various alloys to produce steel. The mill was built in 1970. The company had used an impoundment to store iron oxide ore. The iron ore pond is about 310 feet by 390 feet and 19 feet deep, and is located south of the main mill, adjacent to the Willamette River. To control air pollution, the company uses a baghouse.

In May of 1980, the company started using recycled scrap iron to replace iron ore in its steel making process. This caused some contaminants from scrap iron (lead, cadmium and chromium) to be generated in the steel making process. The contaminants were collected in the baghouse. The baghouse dust was deposited in the iron ore storage pond from May of 1980 until March, 1981.

Under current state and federal Resource Conservation & Recovery Act (RCRA) hazardous waste regulations, baghouse dust from the primary production of steel in electric furnaces is a listed waste (#K061, Emission Control Dust/Sludge).

Disagreements between EPA, DEQ and Gilmore Steel over the proper regulatory handling of the material in the iron ore pond delayed disposition of the material for several years.

A regulatory light-through-the-tunnel appeared with EPA's revision of the hazardous waste rules to exclude legitimate recycling or reuse from hazardous waste regulations. EPA promulgated these rules January 4, 1985; they were adopted by reference by the Environmental Quality Commission on

July 19, 1985. Under these now-state and federal rules, materials which were legitimately recycled, or reused would no longer be classified as a solid waste. The full recycling/reuse rules are complex. The full discussion is included in the January 4, 1985 Federal Register, pp. 614 through 668. Under the federal hazardous waste rule scheme, "hazardous wastes" are a subset of the total set "solid wastes" (See 40 CFR 261.2 Definition of Solid Waste and 40 CFR 261.3 Definition of Hazardous Waste.)

In a November 1985 letter to Gilmore Steel, EPA indicated that if the material in the iron ore pond was recycled or reused, it would not be regulated as a hazardous waste (see Attachment 1).

Problem

Under the recycling/reuse regulations, 75% of the material on-site must be recycled or reused in the previous calendar year (40 CFR 261.1(c) (8)). If 75% of the material is not recycled, the material is said to have been accumulated speculatively, and reverts back to full regulation, unless a variance is granted. The Regional Administrator/Environmental Quality Commission is granted the authority to grant variances for materials if a sufficient amount has not been recycled/reused in the previous year in 40 CFR 260.31(a). The variance decision must be based on the following factors:

- (1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);
- (2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
- (3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
- (4) The extent to which the material is handled to minimize loss;
- (5) Other relevant factors.

Gilmore's Situation

Gilmore has sold the material in the iron ore pond to a Canadian cement manufacturer (See Attachment 3). The material is to be transported to Canada by barge. Four barge loads will be necessary. Gilmore had made the necessary contractual agreements with a Canadian barge company to have all 4 barge loads removed by December 31, 1985, which would meet the rule prohibiting speculative accumulation.

The first barge departed Portland December 14, 1985 carrying 12,034 tons of iron ore. The load started to shift while at sea, causing the barge to list. The barge was safely secured and off-loaded in Vancouver, British Columbia. However, the barge company placed a hold on further loading of shipments until it investigates the problem and a determination is made about the suitability of its barges for further shipments. Additional barge companies were unavailable for the remaining 3 loads. Thus, Gilmore was unable to meet the December 31, 1985 deadline for recycling at least 75% of the material, and it technically is a hazardous waste. If it were to remain in place, it would be subject to full hazardous waste regulations and require a treatment, storage or disposal permit.

On December 24, 1985, Gilmore Steel filed a petition for variance from classification as solid waste for its iron ore.

Analysis

The Environmental Quality Commission must base its decision on the following standards and criteria (40 CFR 260.31):

- (1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling):

Gilmore has sold the material to Canada Cement Lafarge, Ltd., a Canadian ferro-cement manufacturer (see Attachment 3). The first load of material has been accepted by Canada Cement Lafarge, Ltd. for reuse. Gilmore has indicated that it intends to transport the iron ore to Canada Cement Lafarge, Ltd. as soon as possible. Resolution of the shipping difficulties with the barge company or retaining a different barging company have brought about delays. The staff believes that the material will be recycled as ferro-cement.

- (2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year.

EPA indicated its agreement that the material was covered by the recycling reuse rules in a November 20, 1985 letter. The company would have recycled at least 75% of the material by the end of the calendar year as required had unforeseen shipping difficulties not arisen.

- (3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled.

The company estimates that 47,000 tons (wet weight) was originally stored in the pond. The first shipment included 12,034 tons. The second shipment of about 12,000 tons has been transferred from the pond to the loading pier. This leaves 23,000 tons in the pond and 12,000 tons at an adjacent loading pier.

No additional material has been added to the pond since March of 1981. No additional storage is planned on site. Gilmore presently ships its baghouse dust to Washington to be reused as a soil amendment. The baghouse dust is mostly iron and lime. The receiving facility is regulated by Washington Department of Ecology (DOE) and EPA under interim status standards.

(4) The extent to which the material is handled to minimize loss:

The material can be handled to minimize loss. Since Gilmore has sold the material to another firm, it has an incentive to properly handle the material.

(5) Other relevant factors:

The company removed the majority of the baghouse dust which would have included the heavy-metal-contaminated baghouse dust in May of 1984. Approximately 413 tons were hauled to the Arlington disposal site. Groundwater monitoring at the pond over the past year have not shown any violations of drinking water standards.

Alternatives and Evaluation

The Commission has several alternatives:

1. Grant the variance for a full year.
2. Grant the variance for less than one full year.
3. Deny the variance.

I. Grant The Variance for a Full Year

Since the difficulties with the barge company have yet to be resolved, Gilmore does not know how quickly it will be able to transport the material to Canada for recycling. Another barging bid received by the company was about \$124,000 more expensive than the barging bid received from the company Gilmore previously selected. Gilmore wishes to have the time to resolve these difficulties with the original barging company. The staff believes the additional storage time will not adversely affect public health or the environment, but would like the material recycled as soon as possible.

II. Grant the Variance from Less Than One Year

Since Gilmore was close to having all the material recycled in 1985, it is reasonable to expect it should take less than a year to finish removing the remaining 3 barge loads of material. There is some possibility that the EQC could set a timeframe that the company could not realistically meet, requiring it to again request a variance from the EQC for the remainder of the year.

III. Deny the Variance

If the Commission denies the variance, effective January 1, 1986, the material is subject to full regulation as a surface impoundment. The company would be required to resume its activities for securing a Part B permit for Treatment, Storage, or Disposal Facilities. Additional requirements would include: Financial assurance, closure and post closure care, and continuation of the groundwater monitoring program.

IV. Authority to Act

The EQC has the authority to act under its recycling/reuse rules adopted July 19, 1985. Legal authority for action is included in Oregon Revised Statutes 459.440 "Rules & Orders". Telephone conversations with EPA--Region X have indicated that EPA believes the ability to act on the petition is with the EQC and generally agrees with the Department's approach. After consultation with a majority of the Commission by phone, a public notice was printed in the January 1, 1986 Oregonian (See Attachment 4).

Summary

1. Gilmore Steel Mill (also known as Oregon Steel Mill) operates a steel rolling mill in the Rivergate district of Portland.
2. An iron oxide ore storage pond adjacent to the mill once received baghouse dust.
3. The remaining iron oxide ore can be legitimately recycled or reused, removing it from the definition of a solid waste under the provision of 40 CFR 261.
4. Gilmore has a contract to sell the material to a Canadian ferro-cement company.
5. Shipping difficulties caused Gilmore to not recycle or reuse 75% of the material in 1985. The material therefore becomes fully regulated as a hazardous waste.
6. Variances can be granted by the Environmental Quality Commission for material which has over-accumulated.
7. The Department has reviewed the variance petition submitted by Gilmore and believes that the material will be legitimately recycled or reused, and that no environmental damage will occur from the additional time the material is stored at Gilmore.

Recommendation

The Department believes that all wastes should be recycled or reused wherever possible, including hazardous wastes. Gilmore Steel had tried to recycle its iron ore within the time frame of the regulations, but was hampered by unforeseen problems in shipping.

The Department recommends that the Commission consider the factors listed in 40 CFR 260.31 and basing its decision on those factors, grant Gilmore Steel a variance from classification as solid waste, certain iron ore material for 6 months. The Department recommends that the Commission instruct the company to remove the material as soon as possible, and submit a written report to the Department and Commission on its progress prior to the first day of each successive month until all of the material has been transported off-site.


for
Fred Hansen

Attachments:

1. Gilmore Petition submitted December 23, 1985
2. EPA letter from Chuck Findley to Tom McCue dated November 20, 1985
3. Gilmore contract with Canada Cement Lafarge, Ltd.
4. Public Notice Oregonian 1/1/86

J.A. Gillaspie:y
RY2143.A
229-5292
January 15, 1986



*done CC: FH
- HZ/ SWT
- R.O.*

OREGON STEEL MILLS

DIVISION OF GILMORE STEEL CORPORATION
P.O. BOX 2760 • PORTLAND, OREGON 97208
TELEPHONE (503) 286-9651
TWX: 910 464 1549

Dept. of Environmental Quality

December 20, 1985

RECEIVED
DEC 22 1985
NORTHWEST REGION

Fred Hansen, Director
Oregon Department of Environmental
Quality
P.O. Box 1760
Portland, OR 97207

RE: Gilmore Steel Corporation (OSM) - Petition for
Variance from Classification as a Solid Waste

Dear Mr. Hansen:

Gilmore Steel Corporation hereby petitions the Director of Oregon Department of Environmental Quality (and the Oregon Environmental Quality Commission) to grant a variance until December 31, 1986 from classifying certain iron ore material as a solid waste by virtue of being accumulated speculatively without sufficient amounts being recycled or transferred for offsite recycling. Although Gilmore Steel will ship the material as soon as feasible, we cannot now know when the transportation problem will be solved.

Background. The material in question is certain iron ore material (iron ore, ore fines, and emission control dust) in the DRD ore storage facility at our Rivergate Plant. As you know, material has been held at our plant for recycling, either at our plant or to be sold and shipped offsite for use as an ingredient in making a product, and both DEQ and EPA Region 10 have concurred that if so sold and transferred, without being reclaimed or speculatively accumulated, the material is not a solid waste (and hence not a hazardous waste). (See letter of Kenneth D. Feigner, EPA Region 10, to Thomas C. McCue, Gilmore Steel dated July 29, 1985 with copies to DEQ.)

Gilmore Steel Corporation sold the material to a cement manufacturing company in Canada for use as an ingredient in making ferro cement and arranged transportation by barge. It will all be used in the cement, nothing will be reclaimed. Four barges, each of about 12,000 tons capacity were contemplated to load and depart in the month of December 1985. The first barge, carrying about 12,034 tons departed December 14, 1985 but experienced difficulty at sea. We are told by the barge company that the load shifted and caused the barge to list dangerously. Fortunately, however, the barge did arrive safely at Vancouver, B.C. The second barge is at the loading pier, but the barge company has placed a hold on further loading of shipments until it investigates the problem and determines the suitability of its barges for the loads. Gilmore Steel is working with the barge company on the problem and has contacted other barge companies for bids and time schedules. Because of these unforeseen, temporary, and uncontrollable circumstances, Gilmore Steel may not be able to complete the transfer offsite of 75% or more of the material for shipment to the purchaser by December 31, 1985.

Mr. Fred Hansen, Director
December 23, 1985
Page 2

We understand that the Oregon regulations regarding variances have adopted the federal rules. We submit the following information, therefore, organized in accordance with the requirements of the federal regulations (40 CFR 260.31[a]), which say that variances may be granted for "... materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed on an annual basis, by filing a new application". Information meeting the federal standards and criteria under 261.31(a) is as follows:

(1) The planned recycling. The contents of the ore storage facility at Gilmore Steel's Rivergate plant will be used "as an ingredient in an industrial process to make a product" namely Portland Cement. The materials have been tested by the purchaser and found to meet the standards set forth by the American Society for Testing and Materials designation: C150, Standard Specification for Portland Cement. The ore material will be used to manufacture types II, IIA and IV cements at a concentration of 6 to 6.5% oxides of iron, nothing will be reclaimed. All material from the ore storage facility will be used in this manner over the course of a few years, and all of the accumulated material contained in the ore storage facility has been sold for this purpose. All of the material remaining at Gilmore Steel will be transferred offsite for recycling during 1986.

(2) The reason for the accumulation and not meeting the 75% rule. The material was accumulated for recycling a number of years ago, most of it prior to enactment of RCRA. None has been accumulated for several years, and its use has been under discussion with DEQ and EPA for several years. More than 75% of the material would have been transferred offsite for recycling but for the unforeseen, temporary, and uncontrollable transportation problem which arose. (See above.)

(3) Quantity of material accumulated and to be accumulated. The exact weight and volume of the material can only be approximated, and its weight depends on moisture content. We estimated about 47,000 tons (wet weight) by aerial photography, which, however, may have been somewhat high. 12,034 tons (wet weight) were shipped in the first barge, leaving about 35,000 tons (wet weight). About 12,000 tons (wet weight) more was transferred offsite to the loading pier (which is at another site in the Rivergate Industrial area) before the barge safety problem, leaving about 23,000 tons (wet weight) at our site. No more material is expected to be accumulated. Currently generated emission control dust is shipped offsite to Moxee, Washington.

Mr. Fred Hansen, Director
December 23, 1985
Page 3.

(4) Handling to minimize loss. The material is handled carefully to minimize loss. It is all valuable material. The method of transfer is by truck to a bulk loading facility in the Rivergate Industrial area for loading into the barges for carriage to the purchaser's plant site in Canada.

(5) Other relevant factors. As you know, Gilmore Steel Corporation believes none of the material is hazardous waste by virtue of other criteria, and, at most, the emission control dust could be hazardous waste. (The emission control dust is still iron oxide, but with traces of lead, cadmium and chrome. These traces are absent from the other material.) Out of an abundance of caution, however, Gilmore Steel Corporation makes this request for a variance.

Your attention to this matter and the help of your staff is greatly appreciated. In the interest of time, if further information is needed, please call Tom McCue, Environmental Manager, at 286-9651.

Sincerely,



Thomas B. Boklund
President

TBB:dr

cc: Kenneth Feigner
Chief, Hazardous Waste Branch
U.S. EPA, Region 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Attachment 2
Agenda Item K
1/31/85 EOC Meeting

O. Steel?

JAG
SH
PKR
GBS

NOV 20 1985

Dept. of Environmental Quality
RECEIVED

M/S 533

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NORTHWEST REGION

HW - Thomas B. Boklund, President
Gilmore Steel Corporation
P.O. Box 2760
Portland, Oregon 97208

42 W ST

Dear Mr. Boklund:

This is in response to Gilmore Steel Corporation's (Gilmore) letters of August 29 and September 30, 1985. For your convenience, I have structured this letter to correspond to the format used in your letters. These responses are all based on the assumption that Gilmore will handle the material in the DRD pond in such a manner that it does not meet the definition of a solid waste under §261.2(e)(1), as long as Gilmore did not accumulate speculatively and could document its claim that the materials are not solid wastes or are conditionally exempt from regulations set out in §261.2(f).

A. The Environmental Protection Agency's (EPA) letters dated February 28, 1985, and July 30, 1985: We agree that the info on past practices under 3004(u) of the Resource Conservation and Recovery Act (RCRA) 1984 amendments is not required. Based on review of Gilmore's responses to these letters on April 2 and September 30, 1985, we have found no evidence that there has been any release of a hazardous waste or hazardous constituent to the environment from the facility.


B. EPA's letter of July 18, 1985: We agree that the Exposure Information Report under the RCRA amendments is not required.

C. EPA's letter of July 29, 1985:

1. DRD Ore Storage facility: We agree that Gilmore does not require interim status, nor a RCRA permit, nor a closure plan, with respect to the DRD Ore Storage facility. Gilmore should also be aware if the K061 dust that is stored in the pond were to escape from the unit (i.e., toxic contaminants were to leach from the waste and contaminate groundwater), this would constitute disposal and meet the definition of abandoned, and thus would be defined as a solid waste. Since the material would also be a hazardous waste, the material leaking from the unit would be subject to the hazardous wastes rules.


SURNAME	WMB: C. Massimino; cm; 11/8/85; 454		
DATE	11/8/85		
EPA Form 1320-1 (12-70)			

OFFICIAL FILE COPY

 Pond: We agree that the cooling pond does not require a RCRA permit as a hazardous waste management unit due to the placement of the ponded water from the DRD pond into it.

3. Baghouse Dust Loading Facility: Based on the documentation provided on production and offsite shipment of the electric arc furnace (EAF) emission control dust, it does not appear that the EAF dust was accumulated in the railcars over ninety days prior to shipment and consequently would not require a RCRA permit.

4. Waste Solvent Container Area: Based on the analytical data and certifications provided and subject to EPA's evaluation of the information identified in items i-v below, it appears that the waste solvent storage area was adequately closed and would not require a RCRA permit. Gilmore is requested to submit the information identified in items i-v below, to enable EPA to perform this evaluation.


i. Drawing depicting the grid which was set up, the location of the sample points and the location of the soil which was removed. 

ii. Methodology utilized to choose the number, quantity, and location of samples to assure that they were representative.

iii. Procedures utilized to obtain samples and quality assurance/quality control procedures followed for sampling.

iv. Was there evidence of spills and were these areas sampled?

v. Milestones at which the Independent Professional Engineer inspected the facility to support his certification.

 that the RCRA Part B application deadline be extended to the end of the public comment period for the closure plan of the Waste Solvent Container area, is granted.

You should be aware that any solidification of hazardous waste would be considered treatment and require a RCRA permit. Under §260.10, treatment is defined as "any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; amenable for storage, or reduced in volume."



of August 7, 1985: We agree that Gilmore's facility is not a land disposal facility.

The above information is being requested pursuant to Section 3007 of RCRA. Your response should be directed to Catherine Massimino at the letterhead address within 45 days of your receipt of this letter. Failure to respond to a Section 3007 request could subject Gilmore to enforcement action including monetary penalties.

Please direct any further questions on this matter to Catherine Massimino of my staff at (206) 442-4153.

Sincerely,

Charles E. Findley

Charles E. Findley, Director
Hazardous Waste Division



cc: Michael Gearheard, EPA
Michael Downs, DEQ

bcc: A. Whitson, EPA
C. Massimino, EPA
✓ Janet Gillespie, DEQ



December 9, 1985

TO: File
FROM: Dick Bird
SUBJ: Telephone Call To Brian Acton

I talked to Brian Acton of Pacific Basin Coal & Carbon in Canada this afternoon and he passed on to me that LaFarge wants the 4th barge of iron ore material.

This then will empty the DRD storage pond of all iron ore and will raise the total quantity to ship to approximately 47,000 tons.

LaFarge will issue a purchase order change to cover the additional material on the 4th barge when our transportation problems are solved.

The necessity for the 4th barge was caused by the high moisture content in the iron ore.



CANADA CEMENT LAFARGE LTD.

PACIFIC REGION

100 MAIN STREET VANCOUVER B.C. V5A 0V8 • TELEPHONE 685-9155 • TELEX 04 57236

TO THE VENDOR:

OREGON STEEL MILLS

DATE **Nov. 29, 1985.**

18386 H


Box 2760

Portland, Oregon 97208

PLEASE SHOW THIS NUMBER ON ALL CORRESPONDENCE, INVOICES, PACKING SLIPS AND BILLS OF LADING

SHIPPING INSTRUCTIONS

LINE NO.	REC'D CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1		35,000 tons (approx.)	iron ore material		
2			- Material in the former Direct Reduction Division		
3			burned storage facility at Oregon Steel Mills		
4			(OSM) in Portland, Oregon.		
5			Specifications: If the material shipped averages		
6			less than 65.0 % (dry basis), the price will be		
7			lowered to reflect the lower Fe content as set		
8			out under Price Adjustments below.		
9					
10			Price: \$16.09 US per short ton on a dry basis		
11			delivered by barge to C.C.L.'s Richmond Plant.		
12			Off loading at Richmond plant is at OSM's		
13			expense. cont'd .../2		

C <input checked="" type="checkbox"/>	RECEIVER	CHARGE TO ACCOUNT NUMBER(S)	ACCOUNT	COST CENTRE	EQUIPMENT NO.	FED. SALES TAX	CHARGE <input type="checkbox"/>	INCLUDED <input type="checkbox"/>
	ORIGINATOR	5040080	1015			EXEMPT <input checked="" type="checkbox"/>		
O <input type="checkbox"/>		TO BE USED FOR (IF RESALE, D/S NOS.)				PROV SALES TAX	CHARGE <input type="checkbox"/>	
A <input type="checkbox"/>						EXEMPT <input checked="" type="checkbox"/>	NO. 238475	
SIGNATURE						CANADA CEMENT LAFARGE LTD. PACIFIC REGION		
TO BE APPROVED BY						 AUTHORIZED SIGNATURE		
APPROVED FOR PAYMENT								
SIGNATURE								

PURCHASE ORDER - PART 5

PURCHASING AGENT OR BUYER

PACIFIC REGION

1000 W. STEELWAY ST. STEELTON, ONT. L0R 1E0-7A1 TEL: 516-5111 FAX: 516-5112

TO THE VENDOR

OREGON STEEL MILLS

DATE Nov. 29, 1985 NO. 18386 H.

Page 2.

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CORRESPONDENCE, INVOICES, PACKING
SLIPS AND BILLS OF LADING
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SHIPPING INSTRUCTIONS

LINE NO	RECE CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			Price Adjustments		
2			a) Iron Content - if the average Fe content		
3			(dry basis) of the material shipped is		
4			less than 65.0% by weight (dry basis), the		
5			\$16.09 US per short ton (dry basis) price		
6			will be lowered in proportion as the per-		
7			centage Fe content is to 65.0%.		
8			eg. Average Fe content is 64.0% (dry basis)		
9			Price is adjusted as follows:		
10			$\frac{64.0}{65.0} = .98$		
11					
12			Price (dry basis) = 1609 x .98 = \$15.77		
13			This price is now subject to the moisture		

adjustment as per (b).

...../3

TO THE VENDOR

OREGON STEEL MILLS

DATE NOV. 29, 1985. NO. 18386 H.

Page 3.

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ING SLIPS AND BILLS OF LADING
INVOICE IN TRIPLI

SHIPPING INSTRUCTIONS

LINE NO	RECE CORREC	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			b) Moisture: The \$16.09 US per short ton (dry basis)		
2			cost will be adjusted for moisture content by		
3			reducing the weight as received (wet basis) in		
4			proportion to the moisture content of the material		
5			received (i.e. measured in the barge as it is		
6			unloaded at C.C.L.'s plant site).		
7			eg. If material received contains 13% moisture		
8			by weight, the dry basis weight will be 100% - 13%		
9			or 87% of the as received weight (wet basis). The		
10			price will be \$16.09 x .87 x weight as received		
11			which is equivalent to \$14.00 x weight (wet basis).		
12					
13			<u>Analysis:</u> Analysis of Fe content and moisture will be		

done by C.C.L. at its own expense at the time of arrival at its Richmond Plant. A sample split of each shipment will be retained for a referee sample should OSM question C.C.L.'s analysis.

...../4

TO THE VENDOR

OREGON STEEL MILLS

DATE Nov. 29, 1985. NO. 18386 H.

Page 4.

PLEASE SHOW THIS NUMBER ON
CORRESPONDENCE, INVOICES P.
PING SLIPS AND BILLS OF LADING
INVOICE IN TRIPlicate

SHIPPING INSTRUCTIONS

LINE NO	RECEIVED CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			<u>Weight Determination:</u> The weight of material		
2			purchased will be determined in the loaded barges		
3			at Portland Oregon by a licensed marine surveyor and		
4			will constitute the basis of OSM invoices to C.C.L.		
5			If disputed, the parties will discuss and reach a		
6			mutually acceptable conclusion.		
7					
8			<u>Payment Terms:</u>		
9			a) <u>Up Front Payment:</u> C.C.L. agrees to pay \$30,000 US		
10			on completion of unloading first barge.		
11			b) <u>Deferred Payments:</u> The balance of the first ship-		
12			ment as well as all subsequent barge shipments		
13			will be paid for by C.C.L. to OSM based on C.C.L.'s		

actual monthly usage of the iron ore material. The price of the material will be calculated upon arrival of the three barges and after adjustments for iron content and moisture.

...../5

TO THE VENDOR

OREGON STEEL MILLS

DATE NOV. 29, 1985. NO. 18386 H.

Page 5.

PLEASE SHOW THIS NUMBER ON
CORRESPONDENCE, INVOICES,
LOADING SLIPS AND BILLS OF LADING
INVOICE IN TRIPLI

SHIPPING INSTRUCTIONS

LINE NO	REC'D CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			Sample calculation is as follows:		
2			Total Shipment - 35,000 short tons (wet basis)		
3			- assume 13% moisture		
4			Shipment (dry basis) is $35,000 \times .87 = 30,450$ short tons		
5			Dry basis price - \$16.09 US per short ton		
6			Iron adjustment - assume nil.		
7					
8			Total owing to OSM - $30,450 \times \$16.09 =$	\$489,940	
9			Less: up front payment	= 30,000	
10			Balance owing	= \$459,940	
11					
12			Balance owing per dry ton used	= \$459,940	
13				30,450	

= \$15.10

C.C.L. will provide OSM with actual monthly material usage reports so that OSM can invoice C.C.L. for their monthly consumption.

...../6

TO THE VENDOR

OREGON STEEL MILLS

DATE NOV. 29, 1985. NO. 18386 H.

Page 6.

PLEASE SHOW THIS NUMBER ON
CORRESPONDENCE, INVOICES,
LOADING SLIPS AND BILLS OF LADING
INVOICE IN TRIPLICATE

SHIPPING INSTRUCTIONS

LINE NO	REC'D CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			c) C.C.L. anticipates but does not guarantee using		
2			4,000 short tons per year of the OSM iron ore material		
3			or an average of 333 tons per month.		
4					
5					
6					
7					
8			Effect of Permanent Closure of Richmond Plant:		
9			The parties have no expectation at this time of		
10			permanent closure of the Richmond plant, but		
11			recognize that use of the materials by C.C.L. in		
12			making cement will stretch out over a number of		
13			years. In the event that C.C.L.'s Richmond plant		

is permanently shut down before all the material has been used, C.C.L. will have no further obligation for any additional payments for the material remaining unused and title to this remaining unused material shall revert to OSM. OSM will have a reasonable time, which shall be not less than two years, to resell the material and transfer it off C.C.L.'s plant site or make other arrangements. OSM will not be required to pay to C.C.L. any rent, storage charge, insurance, or any other fees, costs, or rebates of any kind in connection with the reversion of title of the material and its presence on C.C.L.'s sites during the reasonable period and OSM will have the right itself or through its agents to enter C.C.L.'s property as appropriate to carry out the sales or other arrangements for the material. If title to any of the material shall revert to OSM as a result of the permanent closure of C.C.L.'s Richmond plant,

TO THE VENDOR

OREGON STEEL MILLS

DATE NOV. 29, 1985. NO. 18386 H.

Page 7.

PLEASE SHOW THIS NUMBER ON ALL CORRESPONDENCE, INVOICES, SHIPPING SLIPS AND BILLS OF LADING
INVOICE IN TRIPLICATE

SHIPPING INSTRUCTIONS

LINE NO	PRICE CORRECT	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1			C.C.L. shall turn over the material in safe condition		
2			to OSM and shall be responsible for protecting the		
3			material and keeping it in a safe condition (at its		
4			own expense) during the reasonable period of sale or		
5			other disposition provided for above.		
6					
7			<u>Transfer of Title:</u> Title to the materials sold will		
8			be in OSM until the barge arrives and material is		
9			transferred into C.C.L.'s hopper at C.C.L.'s		
10			Richmond plant site at which time it shall shift		
11			to C.C.L. Except as provided above for material		
12			for which title may have reverted to OSM, all risks		
13			of loss or damage shall be borne by the party having title.		

THE OREGONIAN, WEDNESDAY, JANUARY 1, 1986

national cemetery, Portland.

HOLBROOK - Joseph (Ted) Theodore, Dec 29 in Milwaukie; husband of Mrs. Myrtha Holbrook; father of Mrs. Richard (Leiba) Keyes, Portland; brother of Elmer Holbrook, Portland; Sumner Holbrook, Ola, ID; John Holbrook, Seattle, WA; grandfather of Eric and Kirk Keyes, Portland. Funeral services Thursday, Jan 2, 10 am, St Paul United Methodist Church, Milwaukie. Final interment following, Lincoln Memorial Park, Portland. Those wishing may contribute to St Paul United Methodist Church or Shriners Crippled Childrens Hospital, Portland Unit. Visitation 12 noon to 4 pm Wed., Jan 1, STEHNS Milwaukie. Funeral Home 2906 Harrison 654-7717

JACOBSON - Frieda; beloved sister of Rose E. Groce, Portland and Caroline Kerbleski, Los Angeles; 10 grandchildren and nieces and nephews also survive. Services Friday, Jan 3, 1 pm at ROSS HOLLYWOOD CHAPEL, NE 48th & Sandy. Friends invited. Private vault entombment Riverview Abbey mausoleum. The casket will be open Thursday 12 noon to 8 pm at the chapel. In lieu of flowers, contributions to Shriners Crippled Childrens Hospital. Member of Mt Hood Chapter No 144 OES; Nydia Temple No 4, Daughters of the Nile, Melophysical Study group and Unity Church.

JANSON - Kurt H. Memorial service 2 pm Thursday, Jan 2, Lutheran Church of the Resurrection, 1700 NE 132nd. Friends invited. Private committal. In lieu of flowers, family suggests contributions to Oregon Kidney Assn, PO Box 222, Portland 97207 or Lutheran Church of Resurrection memorial fund. Arrangements by ROSS HOLLYWOOD CHAPEL.

JOHNSON - Luella Vielle. Service 2 pm Friday at Immanuel Temple Church, 1032 N Sumner. Visiting hrs 4-6 pm Wed., 1-7 pm Thurs at VANN & VANN, 5211 N Williams. Interment Rose City cemetery.

KLUDT - Bruce C., husband of Robyn; father of Corey; son of Elmer and Helen Kludt; brother of Roberta Long, John, Elizabeth, Cynthia, Connie and Lance Kludt; 2 nieces and 2 nephews; son-in-law of Laverne Phillips. Mass of Christian Burial 10 am Thursday at Holy Cross Catholic Church, 5227 N Bowdoin. Concluding services Skyline Memorial Gardens. Directed by CALDWELL'S COLONIAL MORTUARY.

LUDWICK - Lester M., husband of Mary Jean; father of Beverly Jean Bieker, John Ludwick, Barbara Crilenden and Sr Rosemary Ludwick; brother of Nora Taylor and Merrill Ludwick; 8 grandchildren, 3 great grandchildren. Service 10 am Thursday at HOLMAN'S FUNERAL SERVICE, SE Hawthorn, 27th. Concluding service Gethsemani cemetery. For those who wish, contributions may be made to Hospice Fund c/o Providence Medical Foundation, 4805 NE Gisan, 97213

5211 N Williams. Interment Rose City cemetery.

PETERSON - David Conrad, SW Chellenham st., Portland, Dec 30; beloved husband of Inez; brother of Melvin "Pete" Peterson. At the request of the family there will be no services held. CARROLL FUNERAL HOME, Gresham

PINKSTON - Violet Virgie, Dec 29 in Portland; mother of Melvin Pinkston, Portland; Mrs. Charles (Louella) Delp, Seaside, OR; grandmother of 9 grandchildren, 12 great grandchildren. Funeral services Thursday, Jan 2, 1 pm FOSTER RD FUNERAL HOME 6747 SE Foster rd 777-3366 Private interment following Lincoln Memorial Park, Portland. Those who wish may visit Wed., Jan 1, 12 noon-8 pm

POST - Yolanda C. Mass of Christian Burial 9:30 am Thursday, Jan 2, St John Catholic Church, 10955 SE 25th, Milwaukie. Interment Gethsemani cemetery. Directed by PEAKE MEMORIAL CHAPEL.

QUIGLEY - Virginia G., sister of Juanita E. Brossard and Marie J. Lowe. At request of deceased no funeral service. Visitation 9 am-5 pm Thurs, Jan 2 at WILHELM FUNERAL HOME, 6637 SE Milwaukie. Private interment River View cemetery. Friends who wish may contribute to American Cancer Society.

RICKERT - Lloyd Robert; beloved husband of Natalie Rickert; father of Lorraine Sinclair, Dale Robert Rickert, Wayne Robert Rickert, Ralph Robert Rickert and Bruce Robert Rickert; 2 grandchildren. Funeral services 1 pm Friday, Jan 3, Chapel of CARROLL FUNERAL HOME, Gresham.

RIGGLE SR. - Raymond E., late of Palo Alto, CA formerly of Oregon City; father of Jim, Gladstone; Raymond E. Jr., Palo Alto; Mike, Sall Lake City; brother of James, Roanoke, VA; Norman, Trona, CA; 4 grandchildren. Services Saturday, Jan 4, 11 am at Mt View cemetery, Oregon City. Family suggests contributions to Lutheran Family Services of Oregon in Mr Riggle's name. HOLMAN-HANKINS-BOWKER & WAUD, Oregon City, directors.

RITCHIE - Gordon R.; beloved husband of Ethel; father of Ronald R. Ritchie, Shirley Jean Richards & William A. Ritchie; 10 grandchildren. Funeral services 11 am Thursday, Jan 2nd, THE GATEWAY LITTLE CHAPEL OF THE CHIMES, NE Halsey at 106th. Private interment Gateway Little Chapel of the Chimes Memorial Gardens.

SCHMIDT - Casper; beloved husband of Lydia A. Schmidt; Beaverton; brother of Louis Schmidt, Canada. Friends invited to funeral service 3 pm Wednesday, Jan 1, Pilgrim Lutheran Church, Beaverton. Interment 10 am Thursday, Crescent Grove PEGG, PAXSON & SPRINGER, Beaverton, Directors.

SCHWAB - Susan M. Funeral services 10 am Thursday at BATEMAN'S, Gresham Committal Willamette National Contributions to Make A Wish at Emanuel Hospital

SIMS - Dessie P. Services 2 pm Thursday, Jan 2, Chapel of HOLMAN-HANKINS-BOWKER & WAUD, Oregon City. Interment Mt View cemetery. Family

white M Himalayan, Blue ID tag. Lost nr Sunset Presbyterian Church, 12/25/85, Reward 292-6394

LOST: Large black & white male cal near Companion Pets, Stark St. Info dead or alive. 659-0378

LOST: Large orange male tabby, red collar & bell vicin Jantzen Beach Mall, Reward. Call collect: 1-206-582-1300.

LOST: Wedding Ring Set, lost betw Lake Grove & Taalatin 12/27. Reward. 1-538-3983 collect.

15 Meeting Notices

COLUMBIA LODGE 114 AFLAAM 1110 SW Park. Stated Communication 7:30 pm Thurs., Jan. 2nd

KENTON LODGE 145 AFLAAM 8730 N Denver. Thurs. 7: pm, Trustees & Officers meeting

20 Public Notices

DATE PREPARED: December 30, 1985

Comments Due: January 30, 1986
 What is Proposed: Gilmore (Oregon) Steel Mills has petitioned the Environmental Quality Commission for a variance from classification as solid waste certain iron ore material. The iron ore material has been accumulated on-site without a sufficient amount being recycled, during calendar year 1985.

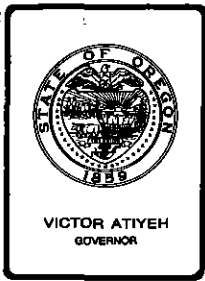
Who is Affected: Residents and business in or near the Rivergate district of Portland.
 What are These Highlights: Gilmore (Oregon) Steel Mills variance request, if granted, would allow the iron ore material to continue to be used for recycling and reclamation. Under applicable state and federal regulations (40 CFR 260.31) these factors (summarized here) should be considered when making the variance decision:

1. MANNER IN WHICH THE MATERIAL IS TO BE RECYCLED. The material is to be used in manufacturing cement.
2. REASON THE APPLICANT HAS NOT USED SUFFICIENT QUANTITIES DURING THE PREVIOUS YEAR. Shipping difficulties.
3. QUANTITY OF MATERIAL ACCUMULATED AND QUANTITY OF MATERIAL TO BE GENERATED. 23,000 tons remain at the site with an additional 12,000 tons at the loading facility. All is expected to be recycled, and no additional material will be stored on-site.
4. HANDLING TO MINIMIZE LOSS. Material has been carefully handled.
5. OTHER RELEVANT FACTORS. None considered.

What is next: The Department of Environmental Quality has made a tentative determination that the variance request should be granted. The Environmental Quality Commission may agree or disagree. Action will likely come at the EQC January 31, 1986 meeting.

Where to Get Additional Information: For a copy of the petition, the staff report or meeting agenda contact the DEQ, Northwest Region Office, 229-5263. Written comments are due to the DEQ, PO Box 1740, Portland, Oregon 97207, by January 30, 1986.

More



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 L, January 31, 1986 EQC Meeting

Proposed Adoption of Plastics Recycling Tax
Credit Rules, OAR Chapter 340, Division 17

Background and Problem Statement

The 1985 Oregon State Legislature passed a law (ORS 468.925 to 468.965; Senate Bill 871) to provide tax credits to persons making capital investments in equipment for production of plastic products from reclaimed plastics. The proposed rules are intended to assist implementation of the statute by providing direction to the Department, Commission, and the applicant. The significant issues in the proposed rules are as follows:

1. Determination of percentage of certified investment costs allocable to manufacturing a reclaimed plastic product (OAR 340-17-025).

The statute, ORS 468.960 allows the EQC to adopt rules establishing methods to be used to determine the portion of costs properly allocable to the manufacture of a reclaimed plastic product. In determining this percentage, the statute allows the Commission to consider any relevant factors, including the extent to which the manufacturing process for which the capital investment is made is used to make reclaimed plastic products. Specifically excluded from the determination of this percentage is the consideration of return on the capital investment. The proposed rule makes this percentage equal to the percent of time the manufacturing process is used to make reclaimed plastics products.

2. Amount of tax credits available (OAR 340-17-030) - The statute, ORS 468.965, sets limits on the amount of tax credits available. Not more than \$1.5 million in investment costs will be issued preliminary certificates in any calendar year. Each year at least \$500,000 of the \$1.5 million will be reserved for investments costing \$100,000 or less.

If applications exceed the \$1.5 million limit, the proposed rule specifies that the EQC shall prioritize projects eligible for tax credit according to the date the Department receives a complete application, with applications received first getting priority.

3. Similarities between the Plastics Recycling Tax Credit Rule and the Pollution Control Tax Credit Rule.

The definitions in the proposed Plastics Recycling Tax Credit Rules for "circumstances beyond the control of the applicant," "Commission," "Department" and "Special Circumstances" (OAR 340-17-010(2), (3), (4), (8)) are identical to those in the Pollution Control Tax Credit Rules (OAR 340-16-010). Also, the proposed Plastics Recycling Tax Credit Rules for Procedures to Revoke Certification (OAR 340-17-035), Procedures to Transfer Tax Credit (OAR 340-17-040), Fees for Final Tax Credit Certification (OAR 340-17-045), Taxpayers Receiving Tax Credit (OAR 340-17-050) are similar to Pollution Control Tax Credit Rules (OAR 340-16-035 through 340-16-050). The only differences between these rules is that Division 16 refers to tax credits for "pollution control facilities" and Division 17 refers to tax credits for "capital investments made in machinery necessary to manufacture a reclaimed plastic product."

The procedures in the proposed Plastics Recycling Tax Credit Rules for reviewing preliminary and final certification (OAR 340-17-015 and 340-17-020) are generally the same as the procedures in the Pollution control Tax Credit Rules (OAR 340-16-015 and 340-16-020). The main difference is that applications for Plastics Recycling Tax Credits must be submitted between January 1, 1986 and December 31, 1988 as required by ORS 468.935.

Rule Development Process

Upon receiving hearing authorization, the Department mailed the proposed rule to Associated Oregon Industries, the Oregon Environmental Council, Association of Oregon Recyclers and approximately 20 other interested parties and state agencies. A hearing was held in Portland on December 16, 1985 and the Hearings Officer Report is Attachment IV. The only comments received were from the Oregon Department of Revenue.

The concerns raised are as follows:

1. The Plastics Recycling Tax Credit Statute (ORS 468.955(3)) incorrectly stated that the Plastics Recycling Tax Credit would be allowed under ORS 316.097 and ORS 317.116, which refer to personal and corporate income tax credit for pollution control facilities rather than for plastics recycling equipment investments. When the draft rule was written, this error was corrected and an accurate reference was made to ORS 316.103 and ORS 317.106 which allow personal and corporate income tax credit for investments in plastics recycling equipment.

The Department of Revenue recommended that:

"OAR 340-17-035(3) should state that the references to ORS 316.097 and ORS 317.116 in ORS 468.955(3) are in error and that the reclaimed plastics product credit allowed under ORS 316.103 and ORS 317.106 will be recaptured per legislative intent."

A note was added at the end of the rules to address this concern.

2. OAR 340-17-035(5) allows the Department to withhold revocation.

"The Department may withhold revocation of a certificate when the capital investment ceases to be used for the manufacture of a recycled plastic product if the certificate holder indicates in writing that manufacture of a recycled product will commence again within five years time. In the event that the facility is not returned to operation as indicated, the Department shall revoke the certificate."

The Department of Revenue recommended that the rule:

"should state that the DEQ will provide the Department of Revenue with a copy of the certificate holder's written indication of intent to recommence manufacture of a recycled product. Also, that the DEQ will provide the Department of Revenue with a copy of any determination it makes regarding the cessation or recommencement of the manufacture of a reclaimed plastic product by the certificate holder."

This change has been incorporated into the rule in Section 340-17-035(5).

In addition to making changes suggested by the Department of Revenue, the Department made an additional amendment to the proposed rule. After additional review by staff of the statute and tapes of the legislative hearings held prior to passage of the bill, the rule was amended to exclude plastics shredding equipment from eligibility for Plastics Recycling Tax Credit. During the legislative hearings discussions of the intent of the bill, clearly indicated that shredding equipment was not intended to be eligible for the tax credit under this bill. The legislative intent was to provide a new incentive for purchasing equipment to make an end product from reclaimed plastic. Plastics shredding equipment only grinds plastics into pellets and does not result in an end product. It would, therefore, not be consistent with legislative intent to provide them tax credits. Furthermore, shredding equipment already is eligible for certification for Recycling and Pollution Control Tax Credits (OAR 330-90-005; 340-16-005). Since the intent of the statute is to provide a tax credit for equipment not previously eligible for tax credit, it would not be consistent with the intent of the statute to provide tax credits for shredders.

Comments were received by Associated Oregon Recyclers and incorporated into the proposed rule early in the drafting of the rule before the EQC authorized holding a public hearing.

Alternatives and Discussion

The EQC could adopt Plastics Recycling Tax Credit Rules only for establishing percent allocable and for methods of prioritizing applications as specifically authorized by the statute. Existing Pollution Control Tax Credit Rules OAR Chapter 340, Division 16, could be amended to address application procedures and fees for pollution control tax credits and plastics recycling tax credits. However, it would be easier for applicants to work with separate Plastics Recycling Tax Credit Rules.

During development of these proposed rules, assistance was sought from the Associated Oregon Industries; The Department of Energy; Association of Oregon Recyclers; and the John Inskip Environmental Learning Center of Clackamas Community College.

Summation

1. New legislation was adopted in 1985 to develop a Plastics Recycling Tax Credit Program.
2. Specific authority was given to DEQ in this legislation to develop rules related to fees and the determination of the portion of costs properly allocable to the manufacture of reclaimed plastic products.
3. Adoption of the proposed rules would meet the recognized need to provide guidance on procedures for tax credit certification.
4. The proposed rules implement the statutory authority given the EQC to adopt rules to provide guidance for calculation of fees and the portion or costs allocable to the manufacture of reclaimed plastics products.
5. Notice was given Secretary of State.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the attached proposed Plastics Recycling Tax Credit Rules, Chapter 340, Division 17.



Fred Hansen

- Attachments
- I Public Notice of Rules Adoption
 - II Statement of Need for Rules
 - III Statement of Land Use Consistency
 - IV Hearing's Officer Report
 - V Proposed OAR Chapter 340, Division 17
 - VI Statute

M. Conley:y
MY2121
229-6408
January 14, 1986

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

**Proposed Plastics Recycling Credit Rules
Notice of Public Hearing**

Date Prepared: October 28, 1985
Hearing Date: December 16, 1985
Comments Due: December 16, 1985

**WHO IS
AFFECTED:**

Adoption of the rules will affect people making capital investments in machinery to manufacture products from reclaimed plastics.

**WHAT IS
PROPOSED:**

The DEQ proposes to adopt OAR Chapter 340, Division 17 to assist the Department and Commission in implementation of the Plastic Recycling Tax Credit Statute (ORS 468.925 to .965) and to provide additional guidance to applicants.

**WHAT ARE THE
HIGHLIGHTS:**

Adoption of the rules would provide notice of the agency's interpretation of the tax credit statute to the tax credit applicant.

Adoption of the rules would establish procedures for determination of the cost properly allocable to plastics recycling.

**HOW TO
COMMENT:**

Copies of the proposed rules can be obtained from:

Maggie Conley
Intergovernmental Coordinator
P.O. Box 1760
Portland, OR 97207
Telephone: 229-6408
toll-free 1-800-452-4011

Written comments must be received by DEQ at the same address by December 16, 1985. Oral and written comments may be given before hearings officer during the public hearing scheduled as follows:

11:00 a.m.
December 16, 1985
Room 1400
522 SW Fifth Avenue
Portland, Oregon



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.

**WHAT IS THE
NEXT STEP:**

After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberations should come on January 31, 1986 as part of the agenda of a regularly scheduled Commission meeting.

ATTACHMENTS:

Statement of Need for Rules (including Fiscal Impact)
Statement of Land Use Consistency

MY2121.A

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING)
OAR CHAPTER 340,) STATEMENT OF NEED FOR RULES
DIVISION 17)

Statutory Authority:

ORS 468.925 to 468.965 gives authority for rule adoption. Specifically, ORS 468.960 gives the Commission authority to adopt rules establishing methods to be used to determine the portion of costs properly allocable to capital investments in machinery to manufacture products from reclaimed plastic. ORS 468.935 gives the Commission authority to adopt a schedule of fees for the program.

Need for the Rules:

The proposed rules are needed to carry out the authority given the EQC to adopt rules and to provide better guidance to tax credit applicants.

Principal Documents Relied Upon:

None.

Fiscal and Economic Impact:

New tax credits are available to people making capital investments in machinery used to manufacture products from reclaimed plastics. Small businesses should benefit since each year \$500,000 must be reserved for tax credits for capital investments of \$100,000 or less.

MC:y
MY2121.B

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING)
OAR CHAPTER 340,) LAND USE CONSISTENCY
DIVISION 17)

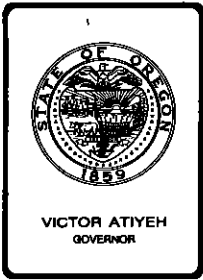
The proposal described appears to be consistent with all statewide planning goals. Specifically, the rules comply with Goal 11 because they would provide an alternative to disposal of plastics and result in waste reduction.

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

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

After public hearing, the Commission may adopt permanent rules identical to the proposal, adopt modified rules on the same subject matter, or decline to act. The Commission's deliberation should come on January 31, 1986 as part of the agenda of a regularly scheduled Commission meeting.

MC:y
MY2121.C



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: Maggie Conley, Hearings Officer
Subject: Report from Hearing held December 16, 1985 on Proposed
Plastics Recycling Tax Credit Rules

Summary of Proceedings

No one attended the hearing which was held at 11:00 a.m. in Portland, 522 S.W. 5th, Room 1400. Notice of the meeting and copies of the proposed rules were sent to 24 interested parties. Maggie Conley, Intergovernmental Coordinator for DEQ, presided. Also attending from DEQ were Bob Brown and Bill Bree from the Hazardous and Solid Waste Division.

No oral or written testimony was received at the hearing. One written comment was received by mail before the December 31, 1985 deadline. This comment is attached.

Summary of Comments

The Department of Revenue submitted written testimony asking for clarification of a statutory citation in the rules and a statement that DEQ will notify the Department of Revenue of changes in the operational status of facilities.

M. Conley:Y
MY2121.D
229-6408
January 14, 1986



Oregon Department of Revenue
PORTLAND DISTRICT OFFICE

1500 S.W. FIRST AVENUE, PORTLAND, OREGON 97201

December 16, 1985

Fred Hansen, Director
Department of Environmental Quality
522 S.W. Fifth Avenue, Room 1400
Portland, OR 97204

SUBJECT: Proposed Plastics Recycling Credit Rules

The Department of Revenue has reviewed the DEQ's proposed rules on the plastics recycling tax credit. We request that two changes be made:

- 1) 340-17-035, Procedure to Revoke Certification
OAR 340-17-035(3) should state that the references to ORS 316.097 and ORS 317.116 in ORS 468.955(3) are in error and that the reclaimed plastics product credit allowed under ORS 316.103 and ORS 317.106 will be recaptured per legislative intent.
- 2) 340-17-035, Procedure to Revoke Certification
OAR 340-17-035(5) should state that the DEQ will provide the Department of Revenue with a copy of the certificate holders written indication of intent to recommence manufacture of a recycled product. Also, that the DEQ will provide the Department of Revenue with a copy of any determination it makes regarding the cessation or recommencement of the manufacture of a reclaimed plastic product by the certificate holder.

The tax credit is only allowable when the certificate holder manufactures a reclaimed plastic product. DEQ's notification will facilitate proper administration of the tax credit.

Gary Heilig / nos

Gary Heilig
Auditor
Department of Revenue

njw:2/A3

Telephone: (503) 373-7388

OREGON ADMINISTRATIVE RULES
FOR PLASTICS RECYCLING TAX CREDITS
CHAPTER 340, DIVISION 17

340-17-050 PURPOSE

The purpose of these rules is to prescribe procedures and criteria to be used by the Department and Commission for issuance of tax credits to Oregon businesses that make capital investments in order to manufacture a reclaimed plastic product. These rules are to be used in connection with ORS 468.925 to 468.965 and apply only to capital investments made on or after January 1, 1986 and before January 1, 1989.

340-17-010 DEFINITIONS

- (1) "Capital investment" means the amount of money a person invests to acquire or construct equipment or machinery necessary to manufacture a reclaimed plastic product. A capital investment shall be determined to have been made on the date a sales contract is agreed to by the buyer or the date of issuance of a purchase order.
- (2) "Circumstances beyond the control of the applicant" means facts, conditions and circumstances which applicant's due care and diligence would not have avoided.

- (3) "Commission" means Environmental Quality Commission.
- (4) "Department" means Department of Environmental Quality.
- (5) "Qualifying business" means a manufacturing business that manufactures a reclaimed plastic product in Oregon.
- (6) "Reclaimed plastic" means plastic that originates within Oregon from industrial consumers or post-consumer waste and is intended to be used to manufacture a nonmedical or nonfood plastic product. The reclaimed plastic must not be an industrial waste generated by the person claiming the tax credit, but must be purchased from a plastic recycler other than the person claiming the tax credit.
- (7) "Reclaimed plastic product" means a plastic product of real economic value for which more than 50 percent of the plastic used in the product is reclaimed plastic. Shredded plastic, regrind or any similar product which is sold for the purpose of making an end product of reclaimed plastic does not qualify as a reclaimed plastic product.
- (8) "Special circumstances" means emergencies which call for immediate erection, construction or installation of a facility, cases where applicant has relied on incorrect information provided by Department personnel as demonstrated by letters, records of conversations or other written evidence, or similar adequately documented circumstances which directly resulted in applicant's failure to file a timely

application for preliminary certification. Special circumstances shall not include cases where applicant was unaware of tax credit certification requirements or applied for preliminary certification in a manner other than that prescribed in 340-17-015(1).

340-17-015 PROCEDURES FOR RECEIVING PRELIMINARY TAX CREDIT CERTIFICATION

(1) Filing of Application

- (a) Any person proposing to apply for final certification of a capital investment made in Oregon to manufacture a reclaimed plastic product pursuant to ORS 468.935 shall file an application for preliminary certification with the Department of Environmental Quality 30 days before making the capital investment. The application shall be made on a form provided by the Department. The preliminary certificate need not be issued prior to construction for compliance with this requirement.

- (b) If the application is filed less than 30 days before the capital investment is made, the application will be rejected as incomplete due to failure to comply with ORS 468.945 and OAR 340-17-015(a). However, if the Department reviews the application within 30 days of filing, and finds it complete, the Department shall notify the applicant in writing that the application is complete and ready for processing, and that the applicant may proceed with the investment without waiting 30 days and without being rejected as incomplete.

- (c) The Commission may waive the filing of the application if it finds the filing inappropriate because special circumstances render the filing unreasonable and if it finds such investment would otherwise qualify for tax credit certification pursuant to ORS 468.925 to 468.965.
 - (d) Within 30 days of the filing of an application the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. After examination of the application, the Department may also request corrections and revisions to the plans and specifications. The Department may require any other information necessary to determine whether the proposed capital investment is in accordance with Department statutes, rules and standards.
 - (e) The application shall not be considered complete until the Department receives the information requested and notifies the applicant in writing that the application is complete and ready for processing. However, if the Department does not make a timely request pursuant to subsection (d) above, the application shall be deemed complete 30 days after filing.
- (2) Approval of Preliminary Certification
- (a) If the Department determines that the proposed investment is eligible it shall within 60 days of receipt of a completed application issue a preliminary certificate approving the investment. It is not

necessary for this certificate to include a determination of the full extent to which a facility is eligible for tax credit.

- (b) If within 60 days of the receipt of a completed application, the Department fails to issue a preliminary certificate of approval and the Commission fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The capital investment must comply with the plans, specifications and any corrections or revisions previously submitted.
- (c) Issuance of a preliminary tax credit certification does not guarantee final tax credit certification.

(3) Denial of Preliminary Certification

- (a) If the Department determines that the capital investment does not comply with the Department statutes, rules and standards, the Commission shall issue an order denying certification within 60 days of receipt of a completed application.
- (b) Notice of the Department's recommended action to deny an application shall be mailed to the applicant at least seven calendar days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing.

(4) Appeal

Within 20 days from the date of mailing of the order the applicant may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the Director of the Department. The hearing shall be conducted in accordance with the applicable provisions of ORS 183.310 to 183.550.

340-17-020 PROCEDURES FOR FINAL TAX CREDIT CERTIFICATION

(1) Filing of Application

- (a) A written application for final tax credit certification shall be made to the Department on a form provided by the Department.
- (b) Within 30 days of receipt of an application, the Department shall request any additional information that applicant needs to submit in order for the application to be considered complete. The Department may also require any other information necessary to determine whether the capital investment is in accordance with Department statutes, rules and standards.
- (c) An application shall not be considered filed until all requested information is furnished by the applicant, and the Department notifies the applicant in writing that the application is complete and ready for processing.

- (d) The application must be filed between January 1, 1986 and December 31, 1988. Failure to file a timely application shall make the capital investment ineligible for tax credit certification.
- (e) The Commission may grant an extension of time to file an application if circumstances beyond the control of the applicant would make a timely filing unreasonable.
- (f) An extension shall only be considered if applied for between January 1, 1986 and December 31, 1988. An extension may be granted for no more than one year. Only one extension may be granted.
- (g) An application may be withdrawn and resubmitted by applicant at any time between January 1, 1986 and December 31, 1988 without paying an additional processing fee, unless the amount of the investment has increased. An additional processing fee shall be calculated by subtracting the cost of the capital investment on the original application from the cost of the capital investment on the resubmitted application and multiplying the remainder by one-half of one percent.
- (h) If the Department determines the application is incomplete for processing and applicant fails to submit requested information within 180 days of the date when the Department requested the information, the application will be rejected, unless applicant requests in writing additional time to submit requested information.

(2) Commission Action

(a) Notice of the Department's recommended action on the application shall be mailed to the applicant at least seven days before the Commission meeting where the application will be considered unless the applicant waives the notice requirement in writing.

(b) The Commission shall act on an application for certification before the 120th day after the filing of a complete application. Failure of the Commission to act constitutes approval of the application.

(c) The Commission may consider and act upon an application at any of its regular or special meetings. The matter shall be conducted as an informal public informational hearing, not a contested case hearing, unless ordered otherwise by the Commission.

(d) Certification

(A) If the Commission determines that the capital investment is eligible, it shall certify the actual cost of the facility and the portion of the actual cost properly allocable to the capital investment made for the purpose of manufacturing a reclaimed plastic product. Each certificate shall bear a separate serial number for each such facility.

(B) No determination of the proportion of the capital investment to be certified shall be made until receipt of the application.

(C) A certificate is effective for purposes of tax relief in accordance with ORS 316.103 and 317.106 if investment was made on or after January 1, 1986 and before January 1, 1989.

(D) Certification under ORS 468.935 shall be granted for a period of 5 consecutive years. The 5-year period shall begin with the tax year of the person in which the facility is certified under this section.

(c) Rejection

If the Commission rejects an application for certification, or certifies a lesser actual cost of the capital investment or a lesser portion of the actual cost properly allocable to the manufacture of a reclaimed plastic product than was claimed in the application for certification, the Commission shall cause written notice of its action, and a concise statement of the findings and reasons therefore, to be sent by registered or certified mail to the applicant within 120 days after the filing of the application.

(3) Appeal

If the application is rejected, or if the applicant is dissatisfied with the certification of actual cost or portion of the actual cost allocated to the manufacture of a reclaimed plastic product, the applicant may appeal as provided in ORS 468.110. The rejection of the certification is final and conclusive on all parties unless the applicant appeals as provided in ORS 468.110 before the 30th day after notice was mailed by the Commission.

340-17-025 DETERMINATION OF PERCENTAGE OF CERTIFIED INVESTMENT COSTS
 ALLOCABLE TO MANUFACTURING A RECLAIMED PLASTIC PRODUCT

- (1) The percent of costs properly allocable to the investment costs incurred to allow a person to manufacture a reclaimed plastic product shall be equal to the estimated percent of time the manufacturing process will convert reclaimed plastic into a saleable or usable commodity, based on projections for the first year of operation of the manufacturing process.
- (2) The portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent, the commission shall issue an order denying certification.

OAR 340-17-030 AMOUNT OF TAX CREDITS AVAILABLE

- (1) For purposes of monitoring the Department's tax credit limit the Department will consider the sum of the preliminary certifications issued in each calendar year. When preliminary certification is waived under OAR 340-17-015, the year of final certification will be used. A preliminary certificate which is granted and then cancelled within the same calendar year shall not be counted as part of the \$1.5 million annual certification limit after it has been cancelled.

- (2) Not more than \$1.5 million in investment costs will be issued preliminary certification in any calendar year. In each calendar year a minimum of \$500,000 of the \$1.5 million will be reserved for investments costing \$100,000 or less. The maximum cost certified for each investment shall not exceed \$500,000 except as permitted by OAR 340-17-030(4).
- (3) If the applications exceed the \$1,500,000 limit, the Commission shall prioritize capital investments, based on the date of filing of applications for final certification. Those applications filed first will receive first priority for certification. The total amount for which the investment is eligible shall be certified so long as there are adequate funds to do so.
- (4) If the applications certified in any calendar year do not total \$1,000,000, the Commission may increase the certified costs above the \$500,000 maximum for previously certified capital investments. The increases shall be allocated based upon the method of prioritization used in subsection (3) of this section. The increased allocation to previously certified capital investments under this subsection shall not include any of the \$500,000 reserved under subsection (2) of this section.

- (1) Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, the Commission may order the revocation of the final tax credit certification issued under ORS 468.940, if:
 - (a) The certification was obtained by fraud or misrepresentation or
 - (b) The holder of the certificate has failed substantially to operate the qualifying business to manufacture a reclaimed plastic product as specified in such certificate.
- (2) As soon as the order of revocation under this section has become final, the Commission shall notify the Oregon Department of Revenue.
- (3) If the certification of a capital investment is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax relief provided to the holder of such certificate shall be forfeited and the Department of Revenue or the proper county officers shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder under any provision of ORS 316.103 and 317.106.
- (4) If the certification of a capital investment is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further relief provided under ORS 316.103 or 317.106 in connection with such facility from and after the date that the order of revocation becomes final.

- (5) The Department may withhold revocation of a certificate when the capital investment ceases to be used for the manufacture of a recycled plastic product if the certificate holder indicates in writing that manufacture of a recycled product will commence again within five years time. The Department will provide the Department of Revenue with a copy of the certificate holder's written indication of intent to recommence manufacture of a recycled product. In the event that the facility is not returned to operation as indicated, the Department shall revoke the certificate.

340-17-040 PROCEDURES FOR TRANSFER OF A TAX CREDIT CERTIFICATE

To transfer a tax credit certificate from one holder to another, the Commission shall revoke the certificate and grant a new one to the new holder for the balance of the available tax credit following the procedure set forth in ORS 316.103 and 317.106.

340-17-045 FEES FOR FINAL TAX CREDIT CERTIFICATION

- (1) An application processing fee of one-half of one percent of the cost claimed in the application for final certification but no more than \$5,000 shall be paid with each application. However, if the application processing fee is less than \$50, no application processing fee shall be charged. In addition, a non-refundable filing fee of \$50 shall be paid with each application. No application is complete until the filing fee and processing fee are submitted. An amount equal to the filing fee and processing fee shall be submitted

as a required part of any application for a plastics recycling tax credit.

- (2) Upon the Department's receipt of an application, the filing fee becomes non-refundable.
- (3) The application processing fee shall be refunded in whole if the application is rejected.
- (4) The fees shall not be considered by the Environmental Quality Commission as part of the cost of the capital investment to be certified.
- (5) All fees shall be made payable to the Department of Environmental Quality.

340-17-050 TAXPAYERS RECEIVING TAX CREDIT

- (1) A person receiving a certificate under this Division may take tax relief only under ORS 316.103 or 317.106, depending upon the tax status of the person's trade or business.
- (2) If the person receiving the certificate is an electing small business corporation as defined in section 1361 of the Federal Internal Revenue Code, each shareholder shall be entitled to take tax credit relief as provided in ORS 316.103, based on that shareholder's pro rata share of the certified cost of the capital investment.

- (3) If the person receiving the certificate is a partnership, each partner shall be entitled to take tax credit relief as provided in ORS 316.103, based on that partner's pro rata share of the certified cost of the capital investment.
- (4) Upon any sale, exchange or other disposition of a facility written notice must be provided to the Department of Environmental Quality by the company, corporation or individual for whom the tax credit certificate has been issued. Upon request, the taxpayer shall provide a copy of the contract or other evidence of disposition of the property to the Department of Environmental Quality.
- (5) The company, corporation or individual claiming the tax credit for a leased facility must provide a copy of a written agreement between the lessor and lessee designating the party to receive the tax credit and a copy of the complete and current lease agreement for the facility.
- (6) The taxpayer claiming the tax credit for a facility with more than one owner shall provide a copy of a written agreement between the owners designating the party or parties to receive the tax credit certificate.

NOTE: ORS 468.955(3) refers in error to ORS 316.097 and 317.116, which relate to Pollution Control Tax Credits, rather than Plastics Recycling Tax Credits. OAR 340-17-035(3) refers instead to claiming plastics recycling tax credit under ORS 316.103 and 317.106, consistent with legislative intent.

POLLUTION CONTROL

the owner or person in control of the underground storage tank to the department within the time provided in subsection (2) of this section, the Attorney General, upon the request of the director, shall bring action in the name of the State of Oregon in the Circuit Court of Marion County or the circuit court of any other county in which the spill or leak may have taken place to recover the amount specified in the order of the department.

(4) In addition to any other penalty provided by law, if reasonable prevention measures are not used, or if the spill or leak is not reported promptly, the commission or the court may award double the sum of money sufficient to compensate for the costs of investigating the spill or leak. [1985 c.737 §11]

468.915 [1977 c.867 §28; repealed by 1979 c.32 §1]

468.916 Revolving fund to finance investigations of spills or leaks from underground storage tanks. (1) When requested in writing by the Director of the Department of Environmental Quality, the Executive Department shall draw a warrant on amounts appropriated to the department for operating expenses in favor of the Department of Environmental Quality for use as a revolving fund. Warrants drawn to establish or increase the revolving fund, rather than to reimburse it, may not exceed the aggregate sum of \$75,000. The State Treasurer shall hold the revolving fund in special account against which the Department of Environmental Quality may draw checks.

(2) The Department of Environmental Quality may use the revolving fund created in subsection (1) of this section only to finance investigations authorized by ORS 468.907 into spills or leaks from underground storage tanks pending the recovery of costs from the responsible party.

(3) All claims for reimbursement of advances paid from the revolving fund are subject to approval by the Director of the Department of Environmental Quality and by the Executive Department. When such claims have been approved, a warrant covering them shall be drawn in favor of the Department of Environmental Quality, charged against the appropriate funds and accounts, and used to reimburse the revolving fund. [1985 c.737 §12]

468.917 Uses of revolving fund. All moneys received by the department under ORS 468.914 shall be paid into the General Fund in the State Treasury and credited to the revolving fund created in ORS 468.916. All moneys in the revolving account are appropriated continuously to the Department of Environmental Quality for carry-

ing out the purposes of ORS 468.901 to 468.917. [1985 c.737 §13]

468.918 [1977 c.867 §29; repealed by 1979 c.32 §1]

468.921 [1977 c.867 §30; renumbered 466.530]

**RECLAIMED PLASTIC PRODUCT
TAX CREDIT**

468.925 Definitions for ORS 468.925 to 468.965. As used in ORS 468.925 to 468.965:

(1) "Capital investment" means the amount of money a person invests to acquire or construct equipment or machinery necessary to manufacture a reclaimed plastic product.

(2) "Qualifying business" means a manufacturing business that manufactures a reclaimed plastic product in Oregon.

(3) "Reclaimed plastic" means plastic that originates within Oregon from industrial consumers or post-consumer waste and is intended to be used to manufacture a nonmedical or nonfood plastic product.

(4) "Reclaimed plastic product" means a plastic product for which the majority of the plastic used in the product is reclaimed plastic. [1985 c.684 §3]

468.930 Policy. In the interest of the public peace, health and safety, it is the policy of the State of Oregon to assist in the prevention, control and reduction of solid waste in this state by providing tax relief to Oregon businesses that make capital investments in order to manufacture a reclaimed plastic product. [1985 c.684 §2]

468.935 Application for certification of capital investment to manufacture reclaimed plastic product. (1) Any person may apply to the commission for certification under ORS 468.940 of a capital investment made by the person in Oregon to allow the person to manufacture a reclaimed plastic product if the investment was made on or after January 1, 1986, and before January 1, 1989.

(2) The application shall be made in writing in a form prescribed by the department and shall contain information on the actual capital investment including a description of the materials incorporated therein, all machinery and equipment made a part thereof, the existing or proposed operational procedure thereof, and a statement of the purpose of manufacturing a reclaimed plastic product and the portion of the actual cost properly allocable to the process of manufacturing such reclaimed plastic product as set forth in ORS 468.960.

(3) The director may require any further information the director considers necessary before a certificate is issued.

(4) The application shall be accompanied by a fee established under subsection (5) of this section. The fee may be refunded if the application for certification is rejected.

(5) By rule and after hearing the commission may adopt a schedule of reasonable fees which the department may require of applicants for certificates issued under ORS 468.940. Before the adoption or revision of any such fees the commission shall estimate the total cost of the program to the department. The fees shall be based on the anticipated cost of filing, investigating, granting and rejecting the applications and shall be designed not to exceed the total cost estimated by the commission. Any excess fees shall be held by the department and shall be used by the commission to reduce any future fee increases. The fee may vary according to the size and complexity of the capital investment. The fees shall not be considered by the commission as part of the cost of the capital investment to be certified.

(6) Any person applying for certification of investment costs shall submit an application between January 1, 1986, and December 31, 1988. Failure to file a timely application shall make the investment cost ineligible for tax credit certification. An application shall not be considered filed until it is complete and ready for processing. The commission may grant an extension of time to file an application for circumstances beyond the control of the applicant that would make a timely filing unreasonable. [1985 c.684 §4]

468.940 Action on application; rejection; appeal; certification of investment.

(1) The commission shall act on an application for certification before the 120th day after the filing of the application under ORS 468.935. The action of the commission shall include certification of the actual cost of the capital investment and the portion of the actual cost properly allocable to the manufacture of a reclaimed plastic product as set forth in ORS 468.960. Each certificate shall bear a separate serial number for each such facility.

(2) If the commission rejects an application for certification, or certifies a lesser actual cost of the capital investment or a lesser portion of the actual cost properly allocable to the manufacture of a reclaimed plastic product than was claimed in the application for certification, the commission shall cause written notice of its action, and a concise statement of the findings and reasons therefor, to be sent by registered or certified mail

to the applicant before the 120th day after the filing of the application. Failure of the commission to act constitutes approval of the application.

(3) If the application is rejected for any reason, including the information furnished by the applicant as to the cost of the capital investment, or if the applicant is dissatisfied with the certification of actual cost or portion of the actual cost properly allocable to the manufacture of a reclaimed plastic product, the applicant may appeal from the rejection as provided in ORS 468.110. The rejection or the certification is final and conclusive on all parties unless the applicant takes an appeal therefrom as provided in ORS 468.110 before the 30th day after notice was mailed by the commission.

(4)(a) The commission shall certify a capital investment, for which an application has been made under ORS 468.935, if the commission finds that the capital investment was made in accordance with the requirements of ORS 468.935 and 468.945.

(b) No determination of the proportion of the actual cost of the capital investment to be certified shall be made until receipt of the application.

(5) A person receiving a certificate under this section may take tax relief only under ORS 316.103 or 317.106, depending upon the tax status of the person's trade or business.

(6) If the person receiving the certificate is an electing small business corporation as defined in section 1361 of the Internal Revenue Code, each shareholder shall be entitled to take tax credit relief as provided in ORS 316.103, based on that shareholder's pro rata share of the certified cost of the capital investment.

(7) If the person receiving the certificate is a partnership, each partner shall be entitled to take tax credit relief as provided in ORS 316.103, based on that partner's pro rata share of the certified cost of the capital investment.

(8) Certification under this section of a capital investment qualifying under ORS 468.935 shall be granted for a period of five consecutive years which five-year period shall begin with the tax year of the person in which the capital investment is certified under this section. [1985 c.684 §5]

468.945 Preliminary certification of capital investment. (1) Any person proposing to apply for certification of a capital investment under ORS 468.935, before making the investment, shall file a request for preliminary certification with the Department of Environmental

Quality. The request shall be in a form prescribed by the department. For capital investments made, the commission may waive the filing of the application if it finds the filing inappropriate because special circumstances render the filing unreasonable and if it finds such capital investment would otherwise qualify for tax credit certification pursuant to ORS 468.925 to 468.965.

(2) Within 30 days of the receipt of a request for preliminary certification, the department may require, as a condition precedent to issuance of a preliminary certificate of approval, the submission of plans and specifications. After examination thereof, the department may request corrections and revisions to the plans and specifications. The department may also require any other information necessary to determine whether the proposed capital investment is in accordance with the provisions of this chapter and ORS chapter 459 and applicable rules and standards adopted pursuant thereto.

(3) If the department determines that the proposed capital investment is in accordance with the provisions of this chapter and ORS chapter 459 and applicable rules or standards adopted pursuant thereto, it shall issue a preliminary certificate approving the capital investment. If the department determines that the capital investment does not comply with the provisions of this chapter and ORS chapter 459 and applicable rules or standards adopted pursuant thereto, the commission shall issue an order denying certification.

(4) If within 60 days of the receipt of plans, specifications or any subsequently requested revisions or corrections to the plans and specifications or any other information required pursuant to this section, the department fails to issue a preliminary certificate of approval and the commission fails to issue an order denying certification, the preliminary certificate shall be considered to have been issued. The capital investment must comply with the plans, specifications and any corrections or revisions thereto, if any, previously submitted.

(5) Within 20 days from the date of mailing of the order, any person against whom an order is directed pursuant to subsection (3) of this section may demand a hearing. The demand shall be in writing, shall state the grounds for hearing and shall be mailed to the director of the department. The hearing shall be conducted in accordance with the applicable provisions of ORS 183.310 to 183.550. [1985 c.684 §6]

468.950 Final certification. Except if the commission, under ORS 468.945 (1), waives

the requirement for preliminary certification, no final certification shall be issued by the commission under ORS 468.940 unless the capital investment was made in accordance with the requirements of ORS 468.945 and in accordance with the applicable provisions of this chapter and ORS chapter 459 and the applicable rules or standards adopted pursuant thereto. [1985 c.684 §7]

468.955 Revocation of certificate; consequences. (1) Pursuant to the procedures for a contested case under ORS 183.310 to 183.550, the commission may order the revocation of the certification issued under ORS 468.940 of any capital investment, if it finds that:

(a) The certification was obtained by fraud or misrepresentation; or

(b) The holder of the certificate has failed substantially to operate the qualifying business to manufacture a reclaimed plastic product as specified in such certificate.

(2) As soon as the order of revocation under this section has become final, the commission shall notify the Department of Revenue of such order.

(3) If the certification of a capital investment is ordered revoked pursuant to paragraph (a) of subsection (1) of this section, all prior tax relief provided to the holder of such certificate by virtue of such certificate shall be forfeited and the Department of Revenue shall proceed to collect those taxes not paid by the certificate holder as a result of the tax relief provided to the holder under any provision of ORS 316.097 and 317.116.

(4) If the certification of a capital investment is ordered revoked pursuant to paragraph (b) of subsection (1) of this section, the certificate holder shall be denied any further relief provided under ORS 316.103 or 317.106 in connection with such capital investment, as the case may be, from and after the date that the order of revocation becomes final. [1985 c.684 §8]

468.960 Allocation of costs to manufacture reclaimed plastic product. (1) In establishing the portion of costs properly allocable to the investment costs incurred to allow a person to manufacture a reclaimed plastic product qualifying for certification under ORS 468.940, the commission shall consider the following factors:

(a) If applicable, the extent to which the manufacturing process for which the capital investment is made is used to convert reclaimed plastic into a salable or usable commodity.

(b) Any other factors which are relevant in establishing the portion of the actual cost of the capital investment except return on the capital

investment properly allocable to the process that allows a person to manufacture a reclaimed plastic product.

(2) The portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent the commission shall issue an order denying certification.

(3) The commission may adopt rules establishing methods to be used to determine the portion of costs properly allocable to the manufacture of a reclaimed plastic product. [1985 c.684 §9]

468.965 Limit on costs certified by commission for tax credit. (1) The total of all costs of capital investments that receive a preliminary certification from the commission for tax credits in any calendar year shall not exceed \$1,500,000. If the applications exceed the \$1,500,000 limit, the commission, in the commission's discretion, shall determine the dollar amount certified for any capital investments and the priority between applications for certification based upon the criteria contained in ORS 468.925 to 468.965.

(2) Not less than \$500,000 of the \$1,500,000 annual certification limit shall be allocated to capital investments having a certified cost of \$100,000 or less for any qualifying business.

(3) With respect to the balance of the annual certification limit, the maximum cost certified for any capital investments shall not exceed \$500,000. However, if the applications certified in any calendar year do not total \$1,000,000, the commission may increase the certified costs above the \$500,000 maximum for previously certified capital investments. The increases shall be allocated according to the commission's determination of how the previously certified capital investments meet the criteria of ORS 468.925 to 468.965. The increased allocation to previously certified capital investments under this subsection shall not include any of the \$500,000 reserved under subsection (2) of this section. [1985 c.684 §10]

PENALTIES

468.990 Penalties. (1) Wilful or negligent violation of ORS 468.720 or 468.740 is a misdemeanor and a person convicted thereof shall be punishable by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year, or by both. Each day of violation constitutes a separate offense.

(2) Violation of ORS 468.775 is a Class A misdemeanor. Each day of violation constitutes a separate offense.

(3) Violation of ORS 468.760 (1) or (2) is a Class A misdemeanor.

(4) Violation of ORS 454.415 or 454.425 is a Class A misdemeanor.

(5) Violation of ORS 468.770 is a Class A misdemeanor. [1973 c.835 §28; subsection (5) formerly part of 448.990, enacted as 1973 c.835 §177a]

468.992 Penalties for pollution offenses. (1) Wilful or negligent violation of any rule, standard or order of the commission relating to water pollution is a misdemeanor and a person convicted thereof shall be punishable by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year, or by both. Each day of violation constitutes a separate offense.

(2) Refusal to produce books, papers or information subpoenaed by the commission or the regional air quality control authority or any report required by law or by the department or a regional authority pursuant to 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 this chapter is a Class A misdemeanor.

(3) Violation of the terms of any permit issued pursuant to ORS 468.065 is a Class A misdemeanor. Each day of violation constitutes a separate offense. [1973 c.835 §26]

468.995 Penalties for air pollution offenses. (1) Violation of any rule or standard adopted or any order issued by a regional authority relating to air pollution is a Class A misdemeanor.

(2) Unless otherwise provided, each day of violation of any rule, standard or order relating to air pollution constitutes a separate offense.

(3) Violation of ORS 468.475 or of any rule adopted pursuant to ORS 468.460 is a Class A misdemeanor. Each day of violation constitutes a separate offense.

(4) Violation of the provisions of ORS 468.605 is a Class A misdemeanor. [1973 c.835 §27; subsection (6) enacted as 1975 c.366 §3; 1983 c.338 §938]

468.997 Joinder of certain offenses. Where any provision of 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 this chapter provides that each day of violation of 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 or a section of this chapter constitutes a separate offense, violations of that section that occur within the same court jurisdiction may be joined in one indictment, or com-

the facility. In all other respects, the allowance and effect of the tax credit shall apply to the corporation as otherwise provided by law. [See 316.480; 1973 c.831 §8; 1974 c.795 §11; 1977 c.866 §10; 1979 c.691 §6; 1981 c.408 §1; 1983 c.637 §6]

316.999 Personal credit for handicapped child. (1) As used in this section, unless the context requires otherwise:

(a) "Early intervention services" means programs of treatment and habilitation designed to address a child's developmental deficits in sensory, motor, communication, self-help and socialization areas.

(b) "Handicapped child" means a child from the age of identification of the handicap to the age of 18 who has been determined eligible for early intervention services or is diagnosed for the purposes of special education as being autistic; trainable mentally retarded, multihandicapped, deaf-blind, orthopedically impaired or other health impaired, all as defined by the Department of Education.

(c) "Special education" means specially designed instruction to meet the unique needs of a handicapped child, including regular classroom instruction, instruction in physical education, home instruction and instruction in hospitals, institutions and special schools.

(2) The Department of Education shall adopt rules further defining "handicapped child" for purposes of this section. A diagnosis obtained for the purposes of entitlement to special education or early intervention services shall serve as the basis for a claim for the additional credit allowed under subsection (3) of this section.

(3) In addition to the personal credit allowed by this chapter for state personal income tax purposes for a dependent child of the taxpayer, there shall be allowed an additional personal credit for a handicapped child if the child is a handicapped child at the close of the tax year. The amount of the credit shall be equal to the amount allowed as the personal credit for the dependent child for state personal income tax purposes for the tax year.

(4) Each taxpayer qualifying for the additional personal credit allowed by this section may claim the credit on the personal income tax return. However, the claim shall be substantiated by any proof of entitlement to the credit as may be required by the department by rule. [1985 c.531 §2]

316.102 Credit for political contributions. (1) Unless a taxpayer has claimed a deduction for a political contribution on the tax-

payer's federal tax return for the taxable year, a credit against taxes shall be allowed for voluntary contributions in money made in the taxable year:

(a) To a national political party as defined in section 24 of the Internal Revenue Code or to a committee thereof or to a minor political party as defined in ORS 248.008;

(b) To or for the use of a candidate for federal, state or local elective office whose name is listed on a primary, general or special election ballot in this state, or who has filed, or on behalf of whom has been filed in this state a declaration of candidacy or a certificate of nomination as provided by law or a copy of the candidate's nominating petition filed pursuant to ORS chapter 249; or

(c) To any trust, committee, association or organization (whether or not incorporated) organized and operated exclusively for any part or all of the following purposes:

(A) Influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any federal, state or local elective public office to be voted upon within this state if used by the trust, committee, association or organization to further the candidacy of an individual or individuals for nomination or election to such office; or

(B) Supporting or opposing ballot measures or questions to be voted upon within this state if the trust, committee, association or organization has certified the name of its political treasurer to the filing officer in the manner provided by law.

(2) The credit allowed by subsection (1) of this section shall be the lesser of:

(a) One-half of the total contribution, not to exceed \$25 on a separate return; one-half of the total contribution, not to exceed \$50 on a joint return; or

(b) The tax liability of the taxpayer.

(3) Tax claim for tax credit shall be substantiated by submission, with the tax return, of official receipts of the candidate, agent, trust, committee, association or organization to whom contribution was made. [1969 c.432 §2; 1973 c.119 §3; 1975 c.177 §1; 1977 c.268 §1; 1979 c.190 §413; 1985 c.802 §6]

Note: See note under 314.415.

316.103 Credit for investment for recycling plastics. (1) A credit against taxes imposed by this chapter for the capital investments certified under ORS 468.940 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

(2) A taxpayer shall be allowed a tax credit under this section each year for five years begin-

ning in the year the capital investment receives final certification under ORS 468.940. The maximum credit allowed in any one tax year shall be the lesser of the tax liability of the taxpayer or 10 percent of the certified cost of the taxpayer's investment.

(3) To qualify for the credit the capital investment must be made in accordance with the provisions of ORS 468.935.

(4)(a) The taxpayer who is allowed the credit must be:

(A) The owner of the business that manufactures a reclaimed plastic product;

(B) A person who, as a lessee or pursuant to an agreement, conducts the business that manufactures a reclaimed plastic product; or

(C) A person who, as an owner, lessee or pursuant to an agreement, owns, leases or has a beneficial interest in a business that manufactures a reclaimed plastic product. Such person may, but need not, operate or conduct such a business that manufactures a reclaimed plastic product. If more than one person has an interest under this subparagraph in a qualifying business and one or more persons receive a certificate, such person or persons may allocate all or any part of the certified investment cost among any persons and their successors or assigns having an interest under this subparagraph. Such allocation shall be evidenced by a written statement signed by the person or persons receiving the certificate and designating the persons to whom the certified investment costs have been allocated and the amount of certified investment cost allocated to each. This statement shall be filed with the Department of Revenue not later than the final day of the first tax year for which a tax credit is claimed pursuant to such agreement. In no event shall the aggregate certified investment costs allocated between or among more than one person exceed the amount of the total certified cost of the capital investment. As used in this paragraph, "owner" includes a contract purchaser;

(b) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except as otherwise provided in subparagraph (C) of paragraph (a) of this subsection, and must have been manufacturing a reclaimed plastic product during the tax year for which the credit is claimed; and

(c) The reclaimed plastic used to manufacture the reclaimed plastic product must not be an industrial waste generated by the person claiming the tax credit, but must be purchased from a plastic recycler other than the person claiming the tax credit.

(5) A credit under this section may be claimed by a taxpayer for a manufacturing business receiving final certification of a capital investment under ORS 468.940 only if the investment is made on or after January 1, 1986, but before January 1, 1989.

(6) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the capital investment to which the taxpayer otherwise may be entitled under this chapter for such year.

(7) Upon any sale, exchange, or other disposition of a qualifying business, notice thereof shall be given to the Environmental Quality Commission who shall revoke the certification covering the capital investment of such business as of the date of such disposition. The transferee may apply for a new certificate under ORS 468.940, but the tax credit available to such transferee shall be limited to the amount of credit not claimed by the transferor. The sale, exchange or other disposition of shares in an electing small business corporation as defined in section 1361 of the Internal Revenue Code or of a partner's interest in a partnership shall not be deemed a sale, exchange or other disposition of a business for purposes of this subsection.

(8) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in ORS 468.935.

(9) The taxpayer's adjusted basis for determining gain or loss shall not be further decreased by any tax credits allowed under this section.

(10) If the taxpayer is a shareholder of an electing small business corporation, the credit shall be computed using the shareholder's pro rata share of the corporation's certified cost of investing in equipment necessary to manufacture a reclaimed plastic product. In all other respects, the allowance and effect of the tax credit shall

apply to the corporation as otherwise provided by law. [1985 c.684 §12]

316.105 [1953 c.304 §14; 1953 c.552 §5; repealed by 1969 c.493 §99]

316.106 [1967 c.274 §7; repealed by 1969 c.493 §99]

316.107 Federal tax credits allowable only as specified. No credits applied directly to the income tax calculated for federal purposes pursuant to the Internal Revenue Code shall be applied in calculating the tax due under this chapter except those prescribed in this chapter. [1969 c.493 §20; 1973 c.402 §19; 1985 c.802 §7]

316.108 [1967 c.118 §2; repealed by 1969 c.493 §99]

316.109 Credit for tax by another jurisdiction on sale of residential property.

(1) For taxable years beginning on and after January 1, 1979, if gain on the sale of residential property is taxed under this chapter the adjusted basis of the property for purposes of this chapter shall be the same as its adjusted basis for federal income tax purposes.

(2) A credit against the tax otherwise due under this chapter shall be allowed to the taxpayer for the amount of any taxes imposed on the taxpayer by another state of the United States, a foreign country or the District of Columbia which tax is attributable to gain which is subject to tax as described in subsection (1) of this section.

(3) The amount of the credit allowed under subsection (2) of this section shall not exceed the amount of the gain taxed by the other taxing jurisdiction multiplied by eight percent.

(4) The Department of Revenue shall provide by rule the procedure for obtaining credit provided by subsection (2) of this section and the proof required.

(5) No credit allowed under subsection (2) of this section shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction for Oregon personal income tax purposes, unless the tax is restored to income on the Oregon return. [1979 c.579 §2; 1981 c.705 §2]

316.110 [1953 c.304 §15; 1953 c.552 §6; 1957 c.582 §1; 1961 c.506 §1; 1953 c.253 §1; repealed by 1969 c.493 §99]

316.111 [1965 c.360 §2; repealed by 1969 c.493 §99]

316.112 [1959 c.211 §2; 1963 c.627 §5; referred and rejected); repealed by 1969 c.493 §99]

316.113 [1967 c.61 §2; repealed by 1969 c.493 §99]

316.114 [1967 c.449 §2; repealed by 1969 c.493 §99]

316.115 [1953 c.304 §16; 1959 c.555 §1; subsection (4) derived from 1959 c.555 §2; repealed by 1969 c.493 §99]

316.116 Credit for alternative energy device. (1) A resident individual shall be

allowed a credit against the taxes otherwise due under this chapter, based upon the cost of the alternative energy device which has been certified under ORS 469.160 to 469.180.

(2)(a) To qualify for the credit under this section:

(A) The alternative energy device must be constructed, installed and operated in accordance with the provisions of ORS 469.160 to 469.180 and a certificate issued thereunder.

(B) The taxpayer who is allowed the credit must be the owner or contract purchaser of the dwelling or dwellings served by the alternative energy device or the tenant of the owner or of the contract purchaser.

(C) Except as provided in paragraph (b) of this subsection, the taxpayer who is allowed the credit must use the dwelling or dwellings served by the alternative energy device as a principal or secondary residence; and

(D) The credit must be claimed for the tax year during which the alternative energy device which has been certified under ORS 469.160 to 469.180 first is placed in service. However, for tax years beginning on or after January 1, 1982, the credit may be claimed for the tax year in which the application for preliminary certification is filed with the Department of Energy if the system is operational by April 1 of the next following tax year.

(b) Notwithstanding the requirements of subparagraph (C) of paragraph (a) of this subsection, a taxpayer who otherwise qualifies for the credit allowed under this section but who does not use the dwelling or dwellings served by the alternative energy device as a principal or secondary residence, shall be allowed the credit if the taxpayer rents or leases the dwelling or dwellings to a tenant who uses the dwelling or dwellings as a principal or secondary residence.

(3) The taxpayer who is allowed the credit shall not be entitled to more than one credit under this section for any one taxable year.

(4) For collective or noncollective investment, the credit allowed under this section for each dwelling shall not exceed the lesser of the portion of the actual cost of the acquisition, construction and installation of the alternative energy device paid by the taxpayer, multiplied by 25 percent or:

(a) \$1,000 per dwelling utilizing the alternative energy device for tax years beginning on or after January 1, 1978, but before January 1, 1986;

(b) \$500 per dwelling utilizing the alternative energy device for tax years beginning on or after January 1, 1986, but before January 1, 1988; and

allowed a credit against the taxes otherwise due under this chapter, based upon the cost of providing alternative transportation as defined by section 2 of this 1985 Act. The amount of the credit shall not exceed \$100 annually.

(2) To qualify for the credit allowed under this section:

(a) The credit must be claimed for the year for which alternative transportation costs are claimed and shall be in lieu of a business deduction for the same expenses.

(b) The taxpayer that is allowed the credit must be the entity that actually expended funds for providing the transportation either directly or by participation in a nonprofit organization.

(3) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused on such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, but may not be carried forward for any tax year thereafter.

(4) If the taxpayer qualifying for the credit under this section is an electing small business corporation as defined in section 1371 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. Each shareholder shall be entitled to take tax credit relief as provided in section 2 of this 1985 Act based on that shareholder's pro rata share of the corporation's cost of the transportation.

(5) The Department of Revenue shall adopt rules applicable to substantiation of the credit allowed under this section.

Sec. 7. The provisions of sections 2 and 4 of this Act apply to tax years beginning on and after January 1, 1986, and prior to January 1, 1990.

317.105 [Repealed by 1983 c.162 §57]

317.106 Investment in plastics recycling. (1) A credit against taxes imposed by this chapter for the capital investments certified under ORS 468.940 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

(2) A taxpayer shall be allowed a tax credit under this section each year for five years beginning in the year the capital investment receives final certification under ORS 468.940. The maximum credit allowed in any one taxable year shall be the lesser of the tax liability of the taxpayer or 10 percent of the certified cost of the taxpayer's investment.

(3) To qualify for the credit the capital investment must be made in accordance with the provisions of ORS 468.935.

(4)(a) The taxpayer who is allowed the credit must be:

(A) The owner of the business that manufactures a reclaimed plastic product;

(B) A person who, as a lessee or pursuant to an agreement, conducts the business that manufactures a reclaimed plastic product; or

(C) A person who, as an owner, lessee or pursuant to an agreement, owns, leases or has a beneficial interest in a business that manufactures a reclaimed plastic product. Such person may, but need not, operate or conduct such a business that manufactures a reclaimed plastic product. If more than one person has an interest under this subparagraph in a qualifying business, and one or more persons receive a certificate, such person or persons may allocate all or any part of the certified investment cost among any persons and their successors or assigns having an interest under this subparagraph. Such allocation shall be evidenced by a written statement signed by the person or persons receiving certification and designating the persons to whom the certified investment costs have been allocated and the amount of certified investment cost allocated to each. This statement shall be filed with the Department of Revenue not later than the final day of the first tax year for which a tax credit is claimed pursuant to such agreement. In no event shall the aggregate certified investment costs allocated between or among more than one person exceed the amount of the total certified cost of the capital investment. As used in this paragraph, "owner" includes a contract purchaser;

(b) The business must be owned or leased during the tax year by the taxpayer claiming the credit except as provided in subparagraph (C) of paragraph (a) of this subsection, and must have been manufacturing a reclaimed plastic product during the tax year for which the credit is claimed; and

(c) The reclaimed plastic used to manufacture the reclaimed plastic product must not be an industrial waste generated by the person claiming the tax credit, but must be purchased from a plastic recycler other than the person claiming the tax credit.

(5) A credit under this section may be claimed by a taxpayer for a manufacturing business receiving final certification of a capital investment under ORS 468.940, only if the investment is made on or after January 1, 1986, but before January 1, 1989.

(6) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the capital investment to which the taxpayer otherwise may be entitled under this chapter for such year.

(7) Upon any sale, exchange, or other disposition of qualifying business, notice thereof shall be

given to the Environmental Quality Commission who shall revoke the certification covering the capital investment of such business as of the date of such disposition. The transferee may apply for a new certificate under ORS 468.940, but the tax credit available to such transferee shall be limited to the amount of credit not claimed by the transferor. The sale, exchange or other disposition of a partner's interest in a partnership shall not be deemed a sale, exchange or other disposition of a business for purposes of this subsection.

(8) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in such next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise, any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter. Credits may be carried forward to and used in a tax year beyond the years specified in ORS 468.935.

(9) The taxpayer's adjusted basis for determining gain or loss shall not be further decreased by any tax credits allowed under this section. [1985 c.684 §14]

317.110 [Amended by 1953 c.385 §9; 1973 c.233 §1; repealed by 1983 c.162 §57]

317.111 Weatherization loan interest; commercial lending institutions. (1) A credit against taxes otherwise due under this chapter for the taxable year shall be allowed commercial lending institutions in an amount equal to the difference between:

(a) The maximum amount of interest allowed to be charged during the taxable year under section 6b, chapter 887, Oregon Laws 1977, for loans made before November 1, 1981, by the lending institution to space-heating customers for the purpose of financing weatherization services; and

(b) The amount of interest which would have been charged during the taxable year by the lending institution for such loans at an annual interest rate which is the lesser of the following:

(A) The average interest rate charged by the commercial lending institution for home improvement loans made during the calendar

year immediately preceding the year in which the loans for weatherization services are made; or

(B) Twelve percent.

(2) Any tax credit otherwise allowable under this section which is not used by the taxpayer in a particular year may be carried forward and used in each of the 15 years following the unused tax credit year. However, the entire amount of the unused credit for an unused credit year shall be carried forward to the earliest of the 15 years to which it may be carried.

(3) No credit shall be allowed under this section for loans made on or after November 1, 1981. [Formerly 317.071; 1985 c.712 §1]

Note: Section 2, chapter 712, Oregon Laws 1985, provides:

Sec. 2. The amendments to ORS 317.111 by section 1 of this Act apply to interest charged in tax years beginning on or after January 1, 1977. However, no credit carry forward shall be claimed based upon interest charged in a tax year beginning in 1977 in a tax year beginning in 1985 or 1986, and no credit carry forward shall be claimed based upon interest charged in a tax year beginning in 1978 in a tax year beginning in 1986. Notwithstanding this section, in determining the 15-year limit in credit loss carry forward based upon interest charged in a tax year beginning in 1977 or 1978, the tax years beginning in 1985 and 1986 shall be included.

317.116 Pollution control facility; unused credit. (1) A credit against taxes imposed by this chapter for a pollution control facility or facilities certified under ORS 468.170 shall be allowed if the taxpayer qualifies under subsection (4) of this section.

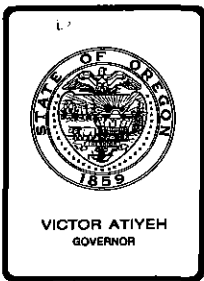
(2) For a facility certified under ORS 468.170, the maximum credit allowed in any one taxable year shall be the lesser of the tax liability of the taxpayer or one-half of the certified cost of the facility multiplied by the certified percentage allocable to pollution control, divided by the number of years of the facility's useful life. The number of years of the facility's useful life used in this calculation shall be the remaining number of years of useful life at the time the facility is certified, but not less than one year or more than 10 years.

(3) To qualify for the credit the pollution control facility must be erected, constructed or installed in accordance with the provisions of ORS 468.165 (1).

(4)(a) The taxpayer who is allowed the credit must be:

(A) The owner of the trade or business that utilizes Oregon property requiring a pollution control facility to prevent or minimize pollution;

(B) A person who, as a lessee or pursuant to an agreement, conducts the trade or business that operates or utilizes such property; or



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item M, January 31, 1986, EQC Meeting

Proposed Adoption of 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 area, of 25 urban areas in the United States needing ozone plans in 1982, 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 latest 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. (Closely related to this are proposed rule relaxations for metal coaters in Agenda Item N.) 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 reevaluated the ozone modeling using 1982-84 ambient ozone and precursor data.

The Department established the Portland Ozone Task Force in July 1985. The membership of the task force is outlined in Attachment 1. The task force reviewed the recent ozone analysis and recommended that the Portland ozone plan be updated. The task force also recommended some changes in the growth increment allocation procedures.

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.

At the September 27, 1985 EQC meeting, the Commission authorized a public hearing for November 19, 1985 on proposed revisions to the SIP. The proposed action included an addendum updating the ozone control plan for the Portland area and revisions to the new source review rules regarding allocation of growth increments. The notice of public hearing (included in Attachment 2) was published in the October 15, 1985 Secretary of State Bulletin.

The Metro Council endorsed the updated ozone plan and growth allocation revisions on December 19, 1985 following review by the Transportation Policy Alternatives Committee and Joint Policy Advisory Committee on Transportation.

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 and marketing; and industrial coating and degreasing operations.

Summary of Public Hearing Testimony

A public hearing was held November 19, 1985 on the proposed ozone plan update and growth allocation revisions. The public testimony is summarized in the hearing officer report (Attachment 3).

Ten people submitted oral or written testimony on the proposed action. The testimony was generally supportive or neutral. Exceptions were: general opposition by an individual to any loosening of standards or limits that would endanger public health; opposition by the Chamber of Medford/Jackson County to proposed revisions of growth increment allocation procedures in the Medford area; and requests for some additional analysis, documentation, and clarification by the Environmental Protection Agency. Several key issues raised in the testimony are evaluated in the following discussion.

Issue No. 1: General concern about possible effects on health.

One individual expressed concern about any loosening of air quality standards or limits that might endanger public health. The proposed action to update the Portland ozone plan does not change the primary goal of the existing ozone plan which is to attain the ozone air quality standard by no later than 1987, and sooner if practicable. The state and federal ozone standard is designed to protect the health of even sensitive individuals with a margin of safety.

The proposed update of the Portland ozone plan does include a higher estimate of airshed capacity (ability of the airshed to accept VOC emissions without violating the ozone standard) than the 1982 ozone plan. The new estimate of airshed capacity is considered more accurate than the old estimate because of a larger and more current database. But the new

estimate of airshed capacity in the proposed plan update is primarily for informational purposes. Other factors in the proposed plan are more limiting. Only a limited growth cushion is available until redesignation as an ozone attainment area (expected in late-1987) for increased VOC emissions from new or expanding industrial sources. In addition, these new or expanding industries must demonstrate need for any significant increase in emissions and limit VOC emissions to the lowest achievable emission rate (LAER).

After redesignation as an ozone attainment area, the airshed capacity would represent the upper limit of allowable emissions in the Portland-Vancouver airshed. But new or expanding industries would still be required to demonstrate need for any significant increase in emissions and provide best available control technology (BACT). The airshed capacity would be confirmed or reevaluated (adding 1986-87 data) at the time of redesignation.

Small increases in allowable emissions would result from proposed actions in a separate agenda item (Item N). However, those proposed increases are not considered significant (much less than one percent of airshed capacity) and would not interfere with reasonable further progress to attain the ozone standard on schedule in the Portland area.

Issue No 2: Growth increment allocation in Medford.

The Chamber of Medford/Jackson County opposed the proposed revisions to growth increment allocation procedures (OAR 340-20-241). The American Lung Association of Oregon, Southern Region, supported the proposed revisions but recognized that the retention of a defined VOC growth increment, rather than the procedures for allocation of that increment, was the more important factor for protecting ozone air quality in the Medford area.

The Commission redesignated the Medford-Ashland AQMA as attainment for ozone in January 1985. Ozone levels in the Medford-Ashland area have been well below the state and federal ozone standard from 1979 to present. (But the Medford area continues to have serious carbon monoxide and particulate problems.) The ozone maintenance plan for the Medford-Ashland area identifies the airshed capacity and available growth increment. VOC emissions in that airshed could be increased by 20 percent without causing violations of the ozone standard. VOC emissions are expected to stay well below the airshed capacity in future years, primarily due to newer cars (with more effective pollution control equipment) replacing older cars. Only a small part of the growth increment has been requested by new or expanding industries in the Medford-Ashland area.

The Department initially proposed to change the general growth increment allocation procedures (OAR 340-20-241) that apply throughout the state. The only two growth increments currently identified are for VOC emissions

in the Portland and Medford-Ashland areas. The proposed allocation procedures recommended by the Portland Ozone Task Force (100 tons per year plus 25 percent of the remaining growth cushion) could be made specific to the Portland area. This would keep the existing procedures (up to 50 percent of the remaining growth cushion) in effect for the Medford area as recommended by the Chamber of Medford/Jackson County.

The Department has revised the proposed changes to OAR 340-20-241 (Attachment 4) based on the testimony by the Chamber of Medford/Jackson County. The existing allocation procedures appear reasonable for the Medford-Ashland area since the airshed is in attainment with the ozone standard and has a large and increasing VOC growth increment. In addition, the Medford-Ashland area has a lower demand for use of the growth increment than the Portland area.

Issue No. 3: Baseline period for airshed analysis.

The Department calculated the ozone design value and VOC airshed capacity based on 1982-84 data. These three years appeared to be representative of normal weather conditions and were the three most recent years for which complete air quality information (including seasonal average VOC emissions) was available.

EPA recommended that the baseline period include 1985. The Department reevaluated the Portland ozone situation using a 1982-85 baseline period. This required the use of projected, rather than actual, 1985 VOC emissions since actual 1985 emissions will not be available until early 1986 (when industrial annual reports are submitted and traffic reports are verified).

The results using a 1982-85 baseline are essentially the same as the previous results (using a 1982-84 baseline). The ozone design value is calculated to be 0.12 ppm (about 235 micrograms per cubic meter, or $\mu\text{g}/\text{m}^3$), the airshed capacity is 154 megagrams per average summer weekday (Mg/d), and the available growth cushion is 1.8 Mg/d (until redesignation as attainment for ozone).

Issue No. 4: Ambient air quality.

The 1985 ozone season was not yet over at the time the updated ozone plan was prepared. EPA asked that the 1985 ozone data be included in the ambient data summary of the updated plan. The Department has added the following data.

<u>Site</u>	<u>Year</u>	<u>Maximum (Date)</u>	<u>2nd Highest (Date)</u>	<u>Number of Days Over 235 $\mu\text{g}/\text{m}^3$</u>
Carus	1985	266 (07/19)	255 (07/20)	2
Milwaukie	1985	304 (07/19)	231 (07/08)	1
Sauvie Island	1985	183 (07/19)	181 (08/23)	0

All of the exceedances of the ozone standard during 1985 (two at Carus and one at Milwaukie) occurred during July. July 1985 had 25 days with maximum temperatures of 85°F or greater. This is more than any other month on record at the Portland Airport and about three times the normal for July. The July 1985 data was included in the 1982-85 database but did not have a significant effect on the analysis results as discussed under Issues 3 and 6.

Issue No. 5: Ozone season.

The designated ozone season identifies those months of the year in which violations of the ozone standard are possible. The Department proposed to reduce the designated ozone season (from April through October) by two months (to May through September). EPA asked for documentation of ozone levels during April and October. EPA indicated that maximum ozone levels during April and October must be at least 20 percent below the ozone standard during the last three years for EPA to approve the change.

The maximum ozone level in April over the last four years (1982-85) was 135 ug/m³ which was over 40 percent below the ozone standard. The maximum ozone level in October during 1982-85 was 117 ug/m³ or over 50 percent below the standard. During 1982-85, the earliest day of the year that reached 80 percent of the ozone standard was May 27 (in 1983 at Carus) and the latest day of the year was September 2 (in 1982 at Sauvie Island).

Issue No. 6: Ozone design value and VOC airshed capacity.

EPA guidance indicates that at least the three most recent complete years of data should be used to calculate the ozone design value and the VOC airshed capacity. Databases longer than three years are preferred if there is no significant change in emissions. EPA defines a significant change in emissions as a 20 percent change (+/- 10 percent of average) from lowest to highest years. The Department used a 1982-84 database in the initial proposal since the 1985 data was not yet complete.

EPA has indicated that 1985 data must be included for EPA to approve the updated ozone plan. EPA has outlined two acceptable approaches for analyzing the 1982-85 data. In the first approach, the Department could model the five highest ozone days during 1982-85 and use the fifth most stringent VOC level as the airshed capacity. This is similar to the modeling approach used by the Department on the 1982-84 data.

A second, more direct approach, can be used for areas such as Portland that are very close to attainment with the federal ozone standard over a four year period. The second approach can be used since the ozone design value for the Portland area is 0.12 ppm (whether 1982-84 or 1982-85 databases are used) and the average number of exceedances of the federal 0.12 ppm

standard has not exceeded 1.0 per year (during 1982-84 or 1982-85). In the second approach, the average seasonal emission rate during the baseline period is the calculated airshed capacity.

The seasonal emission rates during 1982-85 were 163, 154, 149 and 149 Mg/d, respectively, or 154 Mg/d +/- 6 percent. The calculated VOC airshed capacity using the direct approach and 1982-85 data is 154 Mg/d. This is the same airshed capacity identified by the Department in the initial proposal using 1982-84 data and the modeling approach. The Department has summarized this analysis in the proposed ozone plan.

Issue No. 7: VOC growth cushion.

In the initial proposal the Department contrasted the additional airshed capacity (6.6 Mg/d) and the available growth cushion (1.8 Mg/d). EPA asked for further clarification that the only available growth cushion in the Portland area (until redesignation as attainment for ozone) is the 1.8 Mg/d credit for the older, more effective, Portland automobile inspection and maintenance (I/M) program. The Department has further emphasized this point in the proposed ozone plan.

Issue No. 8: Reasonable further progress (RFP).

The Department included a new RFP line in the proposed plan update, which was a straight line between the original 1980 base year emissions and the 1987 compliance level emissions (or airshed capacity). EPA commented that the Department should demonstrate that 1987 is the first year that allowable emissions (projected emissions plus unused plant site emissions limits plus the I/M credit) drop below the compliance level. If the allowable emissions are less than the compliance level prior to 1987, then the RFP line should intersect the compliance level in the earlier year.

The Department has documented the trend in annual allowable emissions as outlined in the following table.

<u>Year</u>	<u>Allowable Emissions (Mg/d)</u>
1982	175.5
1983	169.8
1984	167.3
1985	161.7
1986	156.1
1987	150.5

The first year that allowable emissions drop below the compliance level of 154 Mg/d is 1987. The Department has documented this in the RFP graph of the proposed ozone plan.

Issue No. 9: Lack of I/M in Clark County, Washington.

Tom Donaca of Associated Oregon Industries (AOI) expressed concern that the Washington portion of the Portland-Vancouver AQMA did not have an automobile I/M program. Mr. Donaca pointed out that if an I/M program had been implemented in Clark County, Washington, the Portland-Vancouver AQMA might have been in attainment with the ozone standard in 1985.

Victor Feltin of the Washington Department of Ecology discussed this issue with the Portland Ozone Task Force on September 23, 1985. Mr. Feltin indicated that an I/M program was not implemented in Clark County because the State of Washington was not convinced that adding Clark County to the I/M program area would make a significant difference in the Portland-Vancouver ozone strategy.

The federal Clean Air Act required metropolitan areas that could not attain the ozone standard by 1982 to begin I/M programs by not later than January 1983. EPA did not require an I/M program in Clark County because the older, more effective I/M program that began in 1975 in Clackamas, Multnomah and Washington Counties of Oregon met the requirements for the entire Portland-Vancouver AQMA. EPA concluded that the I/M program in the three Oregon counties was at least as effective as a minimum I/M program in all four counties beginning in January 1983 would have been.

As evidenced by the projected VOC emissions in future years, it doesn't appear that a Clark County I/M program is necessary to attain the ozone standard by 1987 or maintain the ozone standard through the 1990s. The major immediate detrimental effects of no I/M in Clark County are that the Oregon I/M credit for use as a growth cushion was reduced from 2.6 Mg/d down to 1.8 Mg/d and that the Vancouver area has no I/M credit for use as a growth cushion. In the long-term, a Clark County I/M program would provide additional room for growth and development in the airshed.

Washington has favored an offset approach, rather than a growth cushion approach, for new sources in the Vancouver area. The Washington legislation (that authorized the Seattle I/M program) automatically terminates an I/M program upon attainment of standards. Thus, it appears that the existing Washington legislation would not allow a Clark County I/M program if the sole purpose of the program was to provide airshed space for growth and development.

Issue No. 10: VOC emission inventories.

The Department completed the Oregon Annual Report on Reasonable Further Progress (RFP) and received a copy of the Washington RFP report during September 1985. These RFP reports include emission inventory information related to the proposed ozone plan update. This information has been incorporated where appropriate.

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 the federal deadline of 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 N.) The Commission directed the Department at the November 1983 EQC meeting to work with an advisory committee to evaluate additional control measures for implementation if necessary 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 changes 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 reevaluated 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 airshed capacity is 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. The updated growth cushion is slightly larger than that identified in the 1982 plan due to more recent EPA mobile source emission factors (Mobile 3.0).
5. The Portland Ozone Task Force reviewed the recent ozone analysis and recommended that the 1982 plan be updated. The task force has also recommended some changes in the growth cushion allocation procedures.
6. On September 27, 1985, the Commission authorized a public hearing for November 19, 1985 on the proposed update of the Portland area ozone plan and proposed revision of the growth increment allocation procedures. The notice of public hearing was published in the October 15, 1985 Secretary of State Bulletin.

7. The Department received oral or written testimony from ten people. Testimony was generally supportive or neutral as summarized in the hearing report (Attachment 3). Exceptions were: general opposition by an individual to any loosening of standards or limits that would endanger public health; opposition by the Chamber of Medford/Jackson County to proposed revisions of growth increment allocation procedures in the Medford area; and requests for some additional analysis, documentation, and clarification by the Environmental Protection Agency.

8. The Department has responded to the public hearing comments and revised the proposed actions where it deemed appropriate. The key responses and revisions to the original proposals include:

- a) Clarification that the primary goal of the Portland area ozone plan continues to be attainment of the ozone air quality standard by no later than 1987, and sooner if practicable. The state and federal ozone standard is designed to protect the health of even sensitive individuals with a margin of safety.

Small increases in allowable emissions would result from proposed actions in a separate agenda item (Item N). However, those proposed increases are not considered significant (much less than one percent of airshed capacity) and would not interfere with reasonable further progress to attain the ozone standard on schedule in the Portland area.

- b) Separation of the proposed rule for growth increment allocation into two sections. The first section would include the proposed changes in the allocation formula (100 tons per year plus 25 percent of the remaining growth increment) and be specific to the Portland airshed. The second section would be essentially the same as the existing rule (up to 50 percent of the remaining increment) and be applicable to the Medford-Ashland airshed. The only two growth increments currently identified in Oregon are for volatile organic compounds (VOC) in the Portland and Medford areas.
- c) Expansion of the baseline analysis period from 3-years (1982-84) to 4-years (1982-85). However, the results of the analysis remain unchanged with a calculated airshed capacity of 154 megagrams VOC per day (Mg/d) and an available growth cushion of 1.8 Mg/d through 1987.
- d) Documentation that the ozone season in the Portland area is May to September rather than April to October. The maximum ozone levels in April and October during 1982-85 were over 40 percent below the ozone standard.

9. 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.

DIRECTOR'S RECOMMENDATION

Based on the Summation, the Director recommends that the Commission adopt 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. Hearing Officer Report
 4. Proposed Revisions to the New Source Review Rules Regarding Growth Increment Allocation (OAR 340-20-241).
 5. 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
January 14, 1986

AS2202

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

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**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



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: Merlyn L. Hough, Hearing Officer

Subject: Public Hearing Regarding the Ozone Control Strategy for the Oregon Portion of the Portland-Vancouver Interstate AQMA and Growth Increment Allocation

SUMMARY OF PROCEDURE

A public hearing on the referenced subject was held at the DEQ Conference Room in Portland at 1:00 p.m. on November 19, 1985. The purpose of the hearing was to receive testimony regarding the proposed revisions to the Oregon Clean Air Act State Implementation Plan (OAR 340-20-047) which would update the ozone control strategy for the Portland area and amend the statewide procedures for allocation of growth increments (OAR 340-20-241).

The notice of public hearing was published in the October 15, 1985 Secretary of State Bulletin. The hearing was also advertised in the Oregonian and Medford Mail Tribune on October 20, 1985. The proposed action was distributed for intergovernmental review on October 16, 1985.

Approximately ten persons attended the hearing. One person offered oral testimony and seven persons submitted written testimony. In addition, the Department completed the Oregon Annual Report on Reasonable Further Progress (RFP) and received a copy of the Washington RFP report during September 1985. These RFP reports include emission inventory information related to the proposed amendments to the Portland ozone control plan and have been included in the hearing record.

SUMMARY OF TESTIMONY

Tom Donaca, Associated Oregon Industries (AOI), testified that AOI supports the proposed update of the Portland ozone control plan and the proposed revisions to the growth increment allocation procedures. He indicated that he is concerned that an automobile inspection and maintenance (I/M) program has never been implemented in Clark County, Washington. He commented that an I/M in the Vancouver area might well have made the difference between

December 23, 1985

Page 2

the ozone violations recorded in July 1985 (without Vancouver I/M) and no violations during 1985 (if Vancouver had implemented I/M). He indicated that Vancouver emissions are especially important since they occur upwind of the peak ozone area.

Mark McQueen, President, The Chamber of Medford/Jackson County, submitted written testimony dated November 12, 1985. He indicated that The Chamber of Medford/Jackson County opposes the proposed revisions to the growth increment allocation procedures. He commented that the proposed revisions are unnecessary in the Medford-Ashland area since ozone levels have improved in recent years to the point that the area is now designated as attainment for ozone. He also pointed out that pollutant emissions related to ozone formation are expected to further decrease in future years.

Genevieve Pisarski Sage, Southern Region Director, American Lung Association of Oregon, submitted written testimony dated November 19, 1985. She indicated that the growth increment for the Medford-Ashland area recognizes the sensitivity of the airshed but allows growth to proceed as long as it does not conflict with maintenance of the ozone standard. She commented that the proposed revisions to the growth increment allocation procedures appear more equitable than the current procedures and more consistent with the desired effect of both allowing growth and protecting air quality.

Katharine Engleheart, 1414 NE Jarrett, Portland, submitted written testimony dated November 21, 1985. She expressed a general concern about any lowering of air quality standards that would cause public health problems.

George Abel, Environmental Protection Agency (EPA), Region X submitted written testimony dated November 20, 1985. In this testimony, and followup telephone conversations on December 13, 1985 between the Department, EPA Region X, and EPA Research Triangle Park, EPA recommended that the baseline analysis period be expanded from 3-years (1982-84) to 4-years (1982-85). EPA also requested additional documentation or clarification of airshed capacity, available growth increment, ozone season, ambient air quality data, and reasonable further progress demonstration.

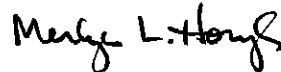
Dolores Streeter, Clearinghouse Coordinator, Oregon Intergovernmental Relations Division, submitted the conclusions of the Oregon Intergovernment Project Review dated November 12, 1985. She indicated that no significant conflict with the plans, policies or programs of state or local government had been identified with the Department's proposed action.

Steven Siegel, Administrator, Intergovernmental Resource Center, Metropolitan Service District, submitted written testimony dated December 4, 1985. He indicated that the proposal does not violate any adopted regional plans or policy, and appears to be consistent with existing local plans and policies.

December 23, 1985
Page 3

Richard Brandman, Senior Transportation Planner, Metropolitan Service District, forwarded a copy of a resolution by the Council of the Metropolitan Service District dated December 19, 1985. The resolution endorses the proposed update of the Portland ozone control plan and the proposed revisions to the growth allocation procedures.

Respectfully submitted,



Merlyn L. Hough
Hearing Officer

Attachments: Copies of Written Testimony

AS2195

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 23 1985

Nov 21st

AIR QUALITY CONTROL
Dear D E Q -

As a citizen who is concerned about my own health I write to say that any lowering of air quality standards is really not wise or in the public interest.

The Oregonian article of Wed. Nov. 20th by Mr. Spencer Heinz seems to say the overall standard will be raised. On the phone with a man from your office I think he said that only certain industries (aircraft metal parts)

would have their exemptions
who is correct?

In the long run health
costs will rocket as al-
ready there are plenty of
people with lung, heart
and allergy problems here.
I have allergies. My
husband has emphysema.

Sincerely yours,

Katharine Sigleheart
1414 NE Jarrett
Port. Or. 97211

THE
CHAMBER

OF MEDFORD/JACKSON COUNTY

November 12, 1985

DEQ Air Quality Division
PO Box 1760
Portland, OR 97207

SUBJECT: Proposed Ozone Growth Increment Allocation Changes

Department of Environmental Quality:

The Chamber of Medford/Jackson County opposes the proposal to enact Portland standards in the Medford area. The Chamber believes that the problem with ozone in Portland and Medford are entirely different:

1. Portland is not in attainment for ozone nor expected to be in attainment until 1987. Medford/Ashland has been in attainment for several years now and ozone continues to decrease in our area.
2. Portland has a vehicle inspection and maintenance program that has been in affect for some years. The Medford/Ashland I & M program will not begin until January 1986. Within several years, the automobile inspection program is projected to further reduce the ozone in our area, further, reducing the necessity for additional regulation on ozone in our community.
3. The existing rules for allocation of ozone growth increment in our area have been acceptable. However, it is our position that even these rules should be removed because of the declining problem in our area and the absence of the need to regulate an area that has no problem.

At best, no regulation is necessary given the above facts. If regulation is determined necessary, the present regulations seems to be adequate controlling the ozone problem in the Medford/Ashland AQMA. We believe that this would allow for expansion of existing industry and new industry to come in to our area without significant deterioration of the ozone standard.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 18 1985
AIR QUALITY CONTROL



Page two
DEQ Air Quality Division

We respectfully request that the proposed rules not be adopted,
and consideration be given to eliminating ozone requirements
for the Medford/Ashland AQMA.

Respectfully submitted for the Board of Directors,

A handwritten signature in cursive script, appearing to read 'Mark McQueen', written in black ink.

Mark McQueen
President

MM:cm



AMERICAN
LUNG
ASSOCIATION
of Oregon

Southern Region
243 South Holly St.
Medford, Oregon 97501
(503) 772-4466

November 19, 1985

American Lung Association of Oregon
Southern Region
Comments on
Proposed Amendments to OAR 340-20-241
Ozone Control Strategy Growth Margins

Retain Growth Margin for Medford Ashland AQMA

This recognizes the sensitivity of the area airshed, and the need to allow growth to proceed, but prudently, in order not to jeopardize continuing attainment status for ozone in the area.

It is important also because the area is still in the process of trying to achieve attainment for carbon monoxide and particulates. The ozone control strategy, though separate, does have a bearing on the success of those other attainment strategies. Woodstove and motor vehicle owners are even more sensitive than the area airshed itself to the appearance of abuse by industrial polluters.

The growth margin does not unduly restrict growth; the size can be, and is being, adjusted to reflect as much room for growth as possible. It merely works to keep resulting pollution in proportion and so helps to prevent real, or apparent, abuse by a large industrial polluter. "Clean" industry will always have to be the first choice for economic development in this area.

100 TPY + 25% Formula for Growth Margin Allocation

In principal this formula seems more equitable than the current formula and also more consistent with the desired effect described above.

Submitted By: Genevieve Pisarski Sage, Southern Region Director

GPS/ssh

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 21 1985

AIR QUALITY CONTROL



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

Mr. Hough

NOV 20 1985

REPLY TO
ATTN OF: M/S 532

Mr. John Kowalczyk, Supervisor
Technical Services Section
Air Pollution Control
Oregon Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
NOV 20 1985
AIR QUALITY CONTROL

Dear Mr. Kowalczyk:

We have reviewed the proposed amendments to the Portland-Vancouver ozone (O₃) control strategy, to the growth allocation rules (OAR 340-20-241), and to the volatile organic compound (VOC) rules (OAR 340-22-100 through 220). Our detailed comments are included in Enclosures 1 and 2. Please make them a part of the November 19, 1985 public hearing record.

In general, we feel that most of the proposed changes would not be approvable as revisions to the currently-approved SIP. We are concerned about the proposed relaxation of the volatile organic compound (VOC) regulations in the face of the recent violation of the O₃ standard. In addition, the 1984/1985 violation must be accounted for in determining the VOC compliance level for any revised O₃ strategy. Furthermore, attainment must be achieved as expeditiously as practicable and the attainment date may only be extended to December 31, 1987, if absolutely necessary. There is, therefore, no available airshed growth until after the standard is attained and the area redesignated to attainment, except for that specifically authorized for new major sources and major modifications through an approved growth allowance under Section 173(1)(B) of the Clean Air Act.

We would like to discuss our comments with you as soon as it is mutually agreeable. Please contact Rick White (telephone 206-442-4232) if you have any questions on our comments and to arrange a time to discuss our concerns.

Enclosures

Sincerely,

George A. Abel
George A. Abel, Chief
Air Programs Branch

ENCLOSURE 1

Comments on Proposed Amendments to the State Implementation Plan Regarding the Ozone Control Strategy for the Oregon Portion of the Portland-Vancouver Interstate AQMA and Growth Increment Allocation

1. Page 4 - Airshed Capacity for Growth: Because of the measured violation of the ozone standard in 1984/1985, the modeled VOC compliance level of 154 megagrams per day or less (based on 1982-1984 ozone levels) is not approvable. Figure 1 clearly shows that the Portland-Vancouver VOC emissions were below 154 megagrams per day in both 1984 and 1985, when this violation occurred. A compliance level must be established which is less than the 1984/1985 emissions in order to be approvable.
2. Page 7 - Airshed Capacity for Growth: Section 172(b) of the Clean Air Act requires attainment of the ozone standard "as expeditiously as practicable but not later than December 31, 1987." December 31, 1987 is only an outside date. Figure 1, as currently presented, would indicate that the standard had been attained in 1983. Any discussion of airshed capacity which is based on the difference between the modeled VOC compliance level and expected VOC emissions in 1987 is therefore erroneous and cannot be approved as part of ozone control strategy. As required by the Act, the legal attainment date is determined by when the area's VOC emissions are projected to reach the SIP's modeled compliance level. As such, there is no airshed capacity for growth until the ozone standard is attained.
3. Page 7 - Available Growth Cushion: EPA's policy for establishing a growth allowance for new or modified major stationary sources under Section 173(1)(B) has never allowed for the "additional airshed capacity that is available to accommodate new VOC emissions without violating the ambient ozone standard." Only reductions beyond that achieved by the application of Reasonably Available Control Technology (RACT) or the emission controls needed to attain the ozone standard, whichever is lesser, can be used to create a growth allowance. In this way, the existence of a growth allowance does not delay attaining the standard as expeditiously as practicable. The attainment date should be no different than if each source had to obtain 100% offsetting emission reductions under a Section 173(1)(A) case-by-case offset program.
4. Page 7 - Available Growth Cushion: The discussion of the Portland I/M program effectiveness should be revised to clarify that (1) the 1.8 megagrams per day difference is for the year 1987, and (2) since this difference is not needed to attain the ozone standard before December 31, 1987, it can be allocated as a growth allowance for new or modified major sources under Section 173(1)(B) of the Act. Delete the sentence discussing 1.8 Mg/d of the airshed capacity.
5. Pages 7 and 8 - Available Growth Cushion: A growth allowance established and approved by EPA under the provisions of Section 173(1)(B) can only be used for new or modified major stationary sources under the auspices of the EPA-approved New Source Review Rules. It cannot be used for transportation adjustments or VOC rule relaxations. Such transportation adjustments or rule relaxations can only be accomplished through SIP revisions and must include demonstrations that the relaxed requirements represent RACM or RACT as appropriate. (Section 172(b) of the Act requires

the implementation of all reasonably available control measures and the application of reasonably available control technology for all sources, even if more than needed to attain before December 31, 1987.) Such relaxations, if approvable, would not need to count against the available growth allowance created by more-than-RACT controls on other sources, so long as attainment is still achieved before December 31, 1987.

6. Page 8 - Available Growth Cushion: Based on the above comments, the table must be revised to delete the columns labeled "Additional Airshed Capacity" and the rows labeled "Transportation Adjustments" and "Proposed Metal Coater Rules Relaxation." The EPA-approved growth cushion can only be used for accommodating the increased emissions from new or modified major sources obtaining permits under the New Source Review rules.

7. Page 9 - Available Growth Cushion: The first paragraph must be revised to delete the discussion of the difference between additional airshed capacity and available growth cushion, since no airshed capacity exists until the ambient ozone standard is attained. A discussion can be included which describes the potential growth cushion under an ozone maintenance strategy which would be adopted after the area is redesignated as attainment for ozone.

8. OAR 340-20-241: EPA has established the ozone season for Oregon to be April 1 through October 31 (and has even proposed such in federal regulations). The DEQ must submit documentation to EPA which demonstrates that the ozone standard cannot possibly be exceeded during the months of April and October. This documentation cannot be based solely on existing ambient monitoring data, since the monitoring sites may not be located at the point of maximum concentration.

9. Section 4.3.8 AMBIENT AIR QUALITY UPDATE - This section must be updated to include the 1985 data in order to portray correctly the current ozone air quality status of the Portland area.

10. Section 4.3.10 OZONE MODELING - This section must be updated to determine a VOC compliance level which accounts for the 1984/1985 violation of the ozone standard. A compliance level of 154.0 Mg/d, which was met in both 1984 and 1985 when the violation occurred, is not approvable.

11. Section 4.3.11 GROWTH CUSHION ALLOCATION - As discussed in comments #3 through 7, this section must be entirely revised to delete the discussion of additional airshed capacity, since it is not a consideration in establishing a growth allowance under the provisions of Section 173(1)(B) of the Act.

12. Figure 4.3.12-1 REASONABLE FURTHER PROGRESS - The RFP line shown on this figure is not acceptable. Ideally, the RFP line should represent the emissions which are actually projected to occur under the adopted control strategy. However, EPA does allow the RFP line to be a straight line from the base year to the year that the projected emissions reach the compliance level. The RFP line can only be drawn to the year 1987 if the compliance level will not be reached until 1987. In this figure, the appropriate RFP line would be a straight line between 1980 and the mid-point between 1982 and 1983. However, the compliance level must be revised downward to account for the 1984/1985 violation so the final attainment date will probably be sometime after 1986.



OREGON INTERGOVERNMENTAL PROJECT REVIEW

State Clearinghouse
Intergovernmental Relations Division
155 Cottage Street N. E.
Salem, Oregon 97310

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: DEPARTMENT OF ENVIRONMENTAL QUALITY

PROJECT TITLE: REVISION OF OZONE CONTROL STRATEGY FOR PORTLAND & MEDFORD AREA

DATE: November 12, 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 851016-017-6

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
NOV 18 1985
AIR QUALITY CONTROL
IPR #3

Solomon Streeter
Clearinghouse Coordinator



METROPOLITAN SERVICE DISTRICT
Providing Zoo, Solid Waste and Local Government Services

December 4, 1985

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
DEC 10 1985
AIR QUALITY CONTROL

527 S.W. Hall St.
Portland, Oregon
97201-5287
(503) 221-1646

Mr. Merlyn Hough
Air Quality Division
Department of Environmental Quality
P. O. Box 1760
Portland, OR 97207

Rick Gustafson
Executive Officer

Dear Mr. Hough:

Metro Council

Ernie Bonner
Presiding Officer
District 8

Re: Areawide Clearinghouse Review
Portland Ozone Control Strategy
Metro File #8510-1

Richard Waker
Deputy Presiding
Officer
District 2

In conformance with federal Executive Order 12372, "Intergovernmental Review of Federal Programs," and state of Oregon Administrative Rule 120.30.000 - 120.30.030, "Intergovernmental Project Review," Metro serves as the designated Areawide Clearinghouse for the Portland tri-county metropolitan area. Through the Clearinghouse, Metro reviews numerous federally assisted programs. The primary purpose of this review is to assure coordination of proposed projects with state, areawide and local plans and policies. This assists the federal agencies to allocate our federal tax dollars in a way that is as consistent as possible with local views.

Bob Oleson
District 1

Jim Gardner
District 3

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharon Kelley
District 7

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

The proposed project has been reviewed by interested jurisdictions and agencies within the region. It has been determined that the project does not violate any adopted regional plans or policies and appears to be consistent with existing local plans and policies. Therefore, Metro recommends favorable Intergovernmental Project Review (IPR) action on this project.

If we can be of further assistance in processing this matter, feel free to call our IPR Coordinator, Mel Huie.

Sincerely,

Steven Siegel, Administrator
Intergovernmental Resource Center

SS/MCH/gl
4799C

cc: State of Oregon Intergovernmental Relations Division

NOTE: Your organization is responsible for forwarding a copy of this letter to the federal agency that it is dealing with.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

Certified A True Copy of the Original Thereof
[Signature]
Clerk of the Council

FOR THE PURPOSE OF ENDORSING THE) RESOLUTION NO. 85-610
REVISED OZONE CONTROL STRATEGY)
FOR THE PORTLAND-VANCOUVER INTER-) Introduced by the Joint
STATE AIR QUALITY MAINTENANCE) Policy Advisory Committee
AREA (AQMA)) on Transportation

WHEREAS, The Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) is in violation of the federal ozone standard; and

WHEREAS, This status results in certain limitations on industrial development in this region; and

WHEREAS, The Metropolitan Service District (Metro) and the Oregon Department of Environmental Quality (DEQ) jointly adopted an Ozone Control Strategy in 1982 which provided for a balanced approach of controlling mobile and stationary sources to attain the federal ozone standard; and

WHEREAS, The Ozone Control Strategy established a "growth cushion" as a mechanism to accommodate industrial development in the region; and

WHEREAS, Metro and DEQ continue to cooperatively work toward attaining the federal ozone standard; and

WHEREAS, DEQ has formed an Ozone Task Force to recommend revisions to the Ozone State Implementation Plan with respect to accommodating industrial development; and

WHEREAS, DEQ has requested that Metro review the recommendations of the Ozone Task Force; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District endorses the following recommendations of the Ozone Task Force:

1. That the ozone growth cushion for accommodating industrial development be revised to 1,780 kg/day, based on new emission forecasts prepared by Metro and DEQ.

2. That the methodology for allocating the growth cushion be revised to create a more even distribution by allowing no applicant to receive more than 100 tons/year plus 25 percent of the available growth cushion.

3. That the entire growth cushion for the Portland-Vancouver AQMA be allocated to the Oregon portion because it was created by the DEQ automobile inspection/maintenance program.

4. That no additional ozone control strategies be adopted at this time, because there is projected to be sufficient room in the revised growth cushion to accommodate expected development for the next two years.

ADOPTED by the Council of the Metropolitan Service District
this 19th day of December, 1985.



Richard C. Waker
Deputy Presiding Officer

RB/gl
4733C/435-3
11/26/85

CONSIDERATION OF RESOLUTION NO. 85-610 FOR THE
PURPOSE OF ENDORSING THE REVISED OZONE CONTROL
STRATEGY FOR THE PORTLAND-VANCOUVER INTERSTATE
AIR QUALITY MAINTENANCE AREA (AQMA)

Date: November 19, 1985

Presented by: Richard Brandman

FACTUAL BACKGROUND AND ANALYSIS

Proposed Action

Adopt the attached Resolution which endorses amending the Ozone State Implementation Plan (SIP), as recommended by the Department of Environmental Quality's (DEQ) Ozone Task Force. The major changes to the plan are as follows:

1. Revises the ozone growth cushion available to new or expanding industries to 1,780 kg/day. (DEQ estimates that this would be sufficient to accommodate expected development in the region during the next two years.)
2. Changes the allocation procedure of the growth cushion to allow a more even distribution to new applicants. (The proposed rule change would reduce the amount of the growth cushion available to the first and second applicants and increase the amount available to the third, fourth and subsequent applicants.)
3. Allocates the entire growth cushion to the Oregon portion of the AQMA. (Fifteen percent of present cushion is allocated to the state of Washington.)

TPAC and JPACT have reviewed the revised Ozone Control Strategy for the Portland-Vancouver Interstate AQMA and recommend approval of Resolution No. 85-610.

Background

The Portland-Vancouver Interstate AQMA remains a nonattainment area for the pollutant ozone. This status requires that there be certain constraints on new industrial development in the region.

The Ozone SIP adopted by the Metro Council and the Environmental Quality Commission in 1982 established a mechanism for accommodating development known as an "ozone growth cushion." The cushion allowed for a limited amount of industrial growth in the

region without requiring new or expanding industries to purchase costly "emission offsets" from existing industries. There is currently insufficient capacity in the existing growth cushion to meet pending requests.

In response to this situation, DEQ appointed an Ozone Task Force to examine the allocation procedure for the growth cushion and to recommend whether additional ozone control measures are desired at this time to increase the size of the cushion. In addition, Metro and DEQ reestimated 1987 emission forecasts, based on new population and employment projections adopted by Metro in 1985, to determine how the impact of the recession (fewer jobs, less travel, and less industrial output) would affect air quality forecasts. These efforts have resulted in the following recommended changes to the ozone plan:

1. The size of the available growth cushion will be increased to 1,780 kg/day, based on the new emission inventory forecasts prepared by Metro and DEQ. DEQ estimates that the new cushion will be sufficient to accommodate expected industrial growth for the next two years. By 1987, DEQ projects that the region will be in attainment of the ozone standard, which will allow for a substantial increase in the growth cushion.
2. No new ozone control measures are called for at this time. The Task Force and DEQ feel that because the growth cushion will be sufficient to accommodate expected growth for the next two years, no additional control measures are desirable now.
3. The procedure for allocating the growth cushion will be revised. The current rule allows allocations to new or expanding industries on a first-come, first-served basis, with no more than 50 percent of the remaining cushion being allocated to any one applicant. This process has the potential to make the amount of the growth cushion available to any applicant 50 percent less than to the preceding applicant. The Ozone Task Force felt this was unfair and that the allocation of the cushion should be more evenly distributed. Furthermore, the Task Force also felt that all applicants should be guaranteed a minimum piece of the cushion so as to not make Oregon's growth management rules more restrictive than in other states.

The proposed revision would allocate 100 tons/year plus 25 percent of the remaining cushion to any applicant. This will make Oregon's rules for accommodating growth generally more flexible than in neighboring states and will more evenly distribute the available cushion.

4. The entire growth cushion will be allocated to the Oregon portion of the AQMA. Fifteen percent of the present growth cushion has been allocated to the Washington portion of the

AQMA, based on population distribution. (Washington chose not to use a growth cushion approach, however, and requires all new or expanding industries to purchase emission offsets.) The Task Force felt that because the entire 1,780 kg/day growth cushion is a result of the DEQ automobile inspection/maintenance program, the entire cushion should be allocated to Oregon.

The Ozone Task Force, which was composed of representatives of industry, the environmental community, and local governments (Attachment A) unanimously recommended these revisions to the Ozone SIP.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 85-610.

RB/gl
4733C/435-3
12/05/85

ATTACHMENT "A"

PORTLAND OZONE TASK FORCE

Membership List

1. City of Portland
2. Multnomah County
3. Clackamas County
4. Washington County
5. Oregon Department of Transportation
6. Port of Portland
7. Western Oil and Gas Association
8. Associated Oregon Industries
9. Portland Chamber of Commerce
10. Oregon Environmental Council
11. League of Women Voters
12. Oregon Lung Association
13. Tri-Met
14. Academic Institution
15. American Electronics Association
16. Medical Community
17. Public-at-Large (City of Portland)
18. Public-at-Large (Multnomah County)
19. Public-at-Large (Clackamas County)
20. Public-at-Large (Washington County)

Non-Voting Members

1. Washington State Department of Ecology
2. Southwest Washington Air Pollution Control Authority
3. Intergovernmental Resource Center of Clark County

RB/gl
4733C/435-2
11/20/85

Growth Increments

340-20-241 The ozone control strategies for the Medford-Ashland and Portland Air Quality Maintenance Areas (AQMA) [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. In the Medford-Ashland AQMA, no [No] single source shall receive an allocation of more than 50% of any remaining growth margin. In the Portland AQMA, no single source shall receive an allocation of more than 100 tons per year plus 25% 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

47

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)

January 1986

Oregon Department of Environmental Quality

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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 1982-85 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 1979-85 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 ($\mu\text{g}/\text{m}^3$) Hourly Average				Number of Days Over 235 $\mu\text{g}/\text{m}^3$
		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	236 (06/10)	229 (07/25)		1	
	1983	207 (05/27)	182 (07/30)		0	
	1984	280 (08/08)	255 (07/24)		2	
	1985	266 (07/19)	255 (07/20)		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	
	1985	304 (07/19)	231 (07/08)		1	
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	
	1985	183 (07/19)	181 (08/23)		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 Oregon 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. The fourth highest ozone days during 1983-85 were 255 ug/m^3 at Carus, 231 ug/m^3 at Milwaukie, and 181 ug/m^3 at Sauvie Island.

Table 4.3.8-2. Highest Ozone Days at Each Site During 1982-85.

Maximum Hourly Ozone (ug/m^3) During 1982-85

<u>Rank</u>	<u>Carus</u>	<u>(Date)</u>	<u>Milwaukie</u>	<u>(Date)</u>	<u>Sauvie Island</u>	<u>(Date)</u>
1	280	(8/08/84)	304	(7/19/85)	240	(9/02/82)
2	266	(7/19/85)	245	(7/30/83)	235	(6/24/82)
3	255	(7/24/84)	244	(5/24/83)	202	(7/24/84)
4	255	(7/20/85)	235	(7/25/82)	186	(7/23/84)
5	236	(6/10/82)	231	(7/08/85)	183	(7/19/85)
6	229	(7/25/82)	226	(6/19/82)	181	(8/23/85)
7	221	(7/24/82)	216	(7/26/82)	178	(6/18/82)

The federal ozone standard is 0.12 ppm which is essentially identical to 235 ug/m^3 . The ozone design value is the ozone concentration exceeded an average of once per year over a period of three or more years with similar emissions. The ozone design value for the Portland area during 1982-85 was 0.12 ppm.

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>	
	<u>1983</u>	<u>1987</u>
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. 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.

<u>Area</u>	<u>VOC Emissions (Kg/d)</u>	
	<u>1983</u>	<u>1987</u>
Oregon	60,440	75,820
Washington	10,450	12,000
Total	70,890	87,820

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 megagrams per day (Mg/d) in 1983 to about 149 Mg/d in 1987.

Table 4.3.9-3. Total VOC Emission Inventories for the Portland-Vancouver AQMA.

<u>Area/Category</u>	<u>VOC Emissions (Kg/d)</u>	
	1983	1987
Oregon		
Mobile Sources	68,860	49,270
<u>Stationary Sources</u>	<u>60,440</u>	<u>75,820</u>
Oregon Subtotal	129,300	125,090
Washington		
Mobile Sources	14,540	11,600
<u>Stationary Sources</u>	<u>10,450</u>	<u>12,000</u>
Washington Subtotal	24,990	23,600
<u>AQMA Total</u>	<u>154,290</u>	<u>148,690</u>

The annual VOC emission inventories for 1980-87 are outlined in Figure 4.3.9-1. The 1980-84 inventories are based on actual emissions. The 1985-87 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.

Figure 4.3.9-1
 PORTLAND-VANCOUVER VOC EMISSIONS
 Short Range Projection

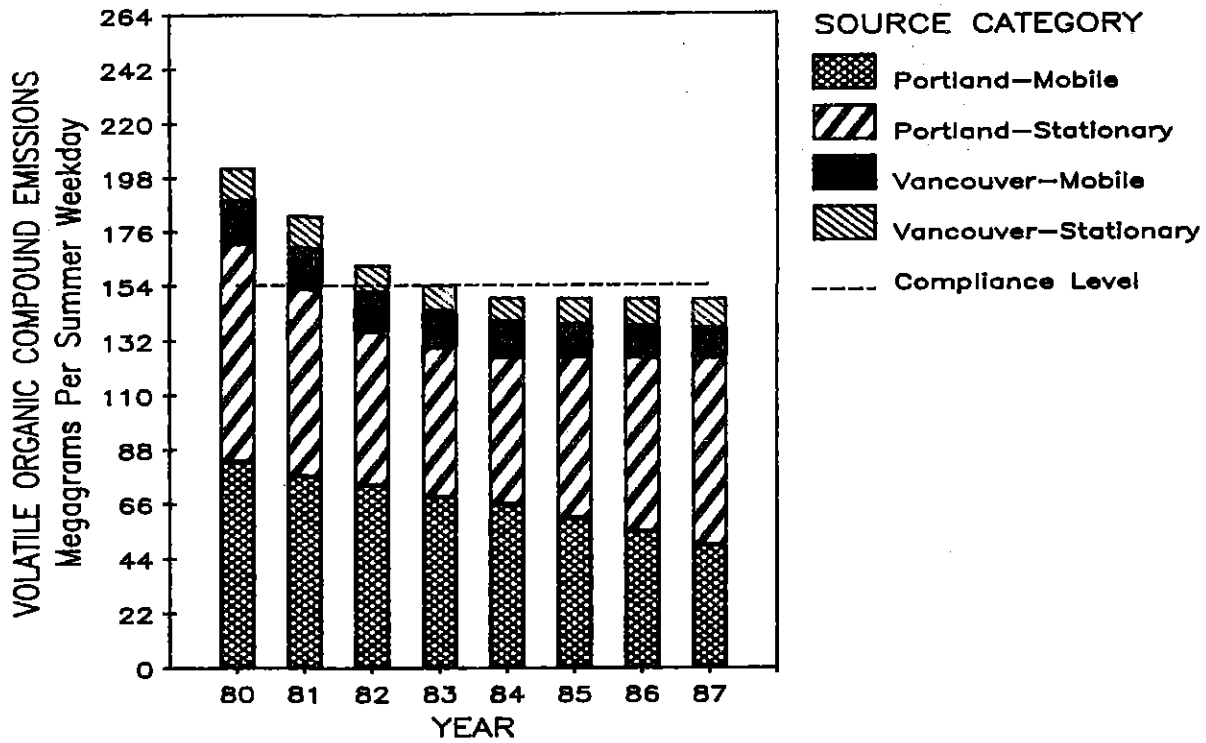


Figure 4.3.9-2
 PORTLAND-VANCOUVER VOC EMISSIONS
 Long Range Projection

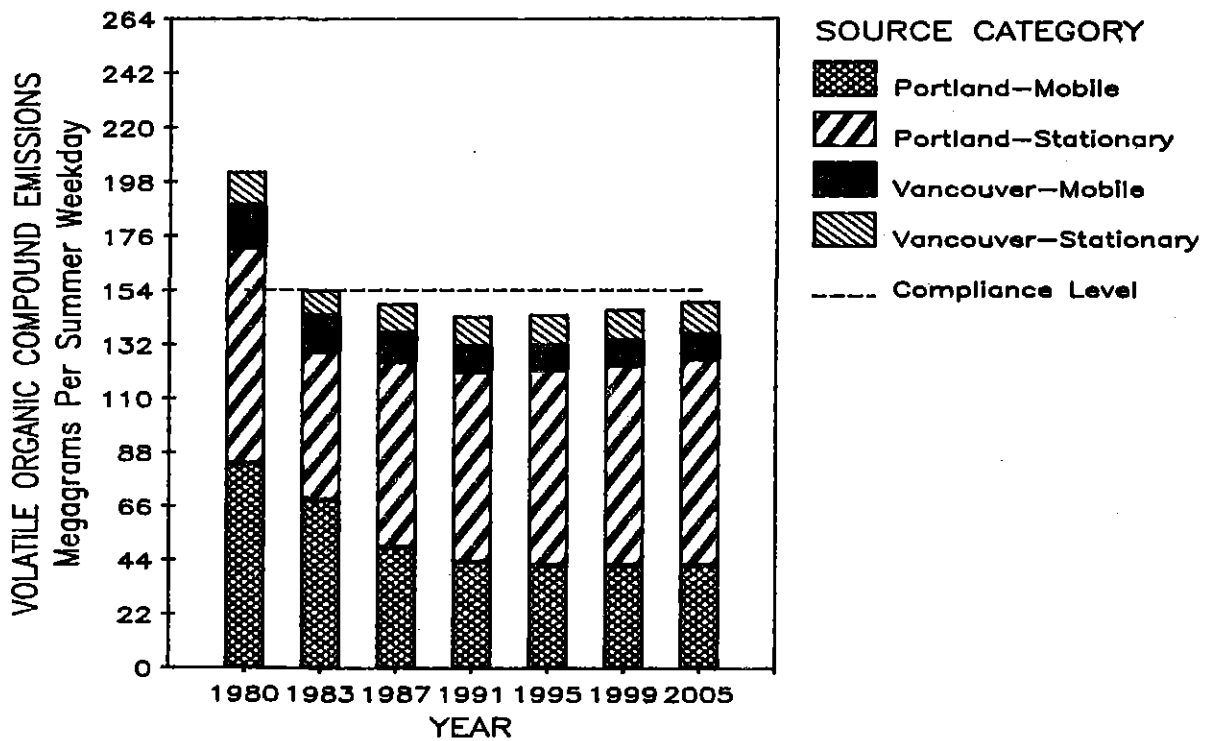
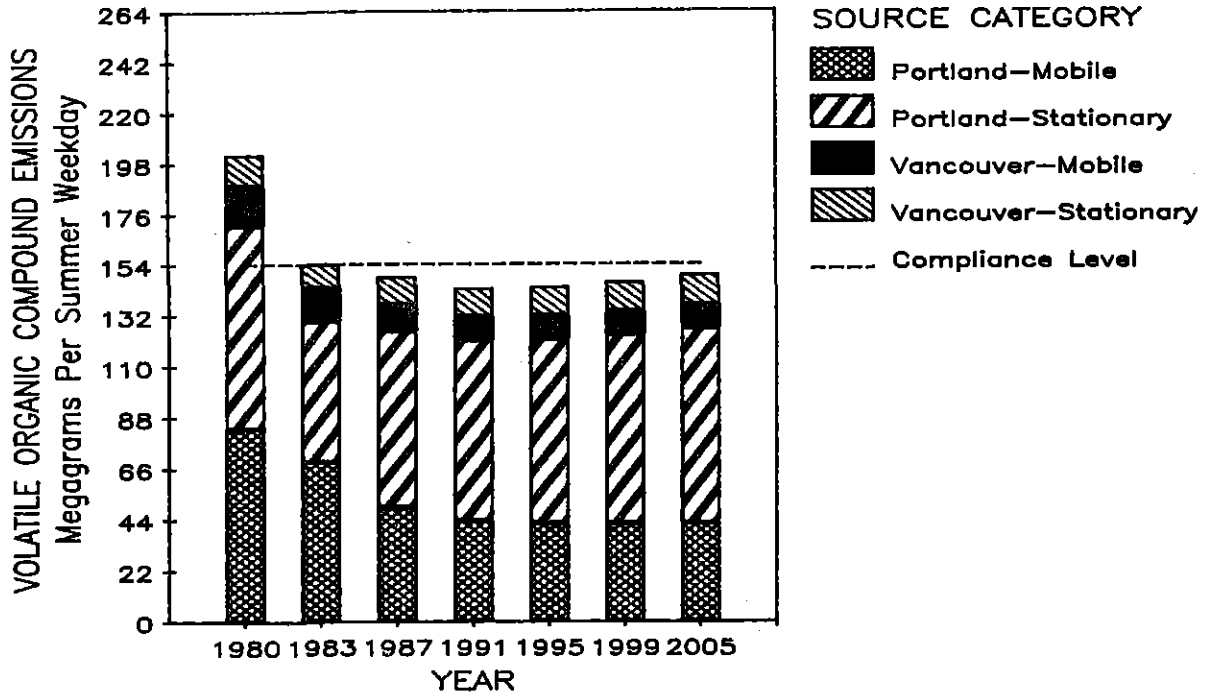
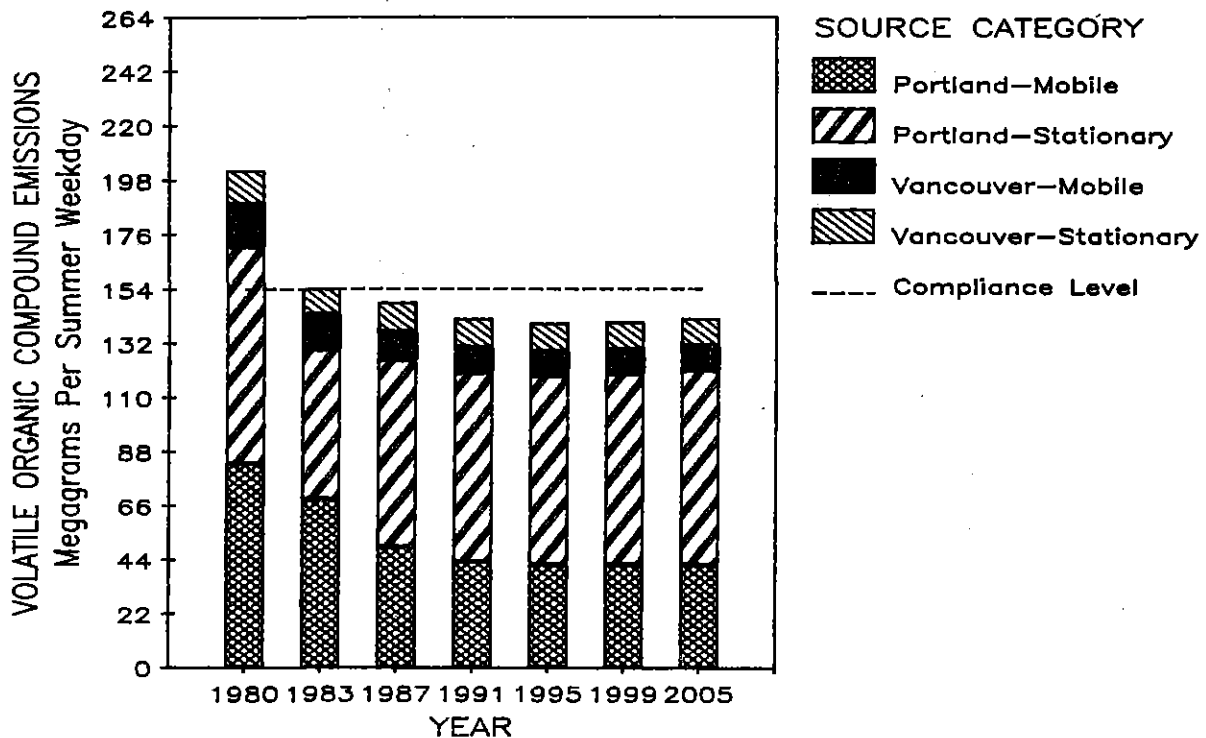


Figure 4.3.9-2*
PORTLAND-VANCOUVER VOC EMISSIONS
 Assumed: No Additional Controls



* This figure is repeated for comparison to the figure below.

Figure 4.3.9-3
PORTLAND-VANCOUVER VOC EMISSIONS
 Assumed: Onboard Controls in 1989



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 during 1982-84 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 in a 3-year period 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 Mg/d is the VOC compliance level for the airshed in 1987.

The Department also evaluated airshed capacity over the most recent 4-year period (1982-85). During 1982-85 there were 1.0 exceedances per year of the federal 0.12 ppm ozone standard, the ozone design value was calculated to be 0.12 ppm, and seasonal average VOC emissions were 163, 154, 149, and 149 Mg/d, respectively, for an average of 154 Mg/d. This confirms 154 Mg/d as the VOC compliance level.

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 Mg/d (154 Mg/d airshed capacity minus 24 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 1.8 Mg/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 the end of 1987 is about 7 Mg/d. Thus, the 1.8 Mg/d is the more restrictive of the two criteria and is the amount of growth cushion available until either:

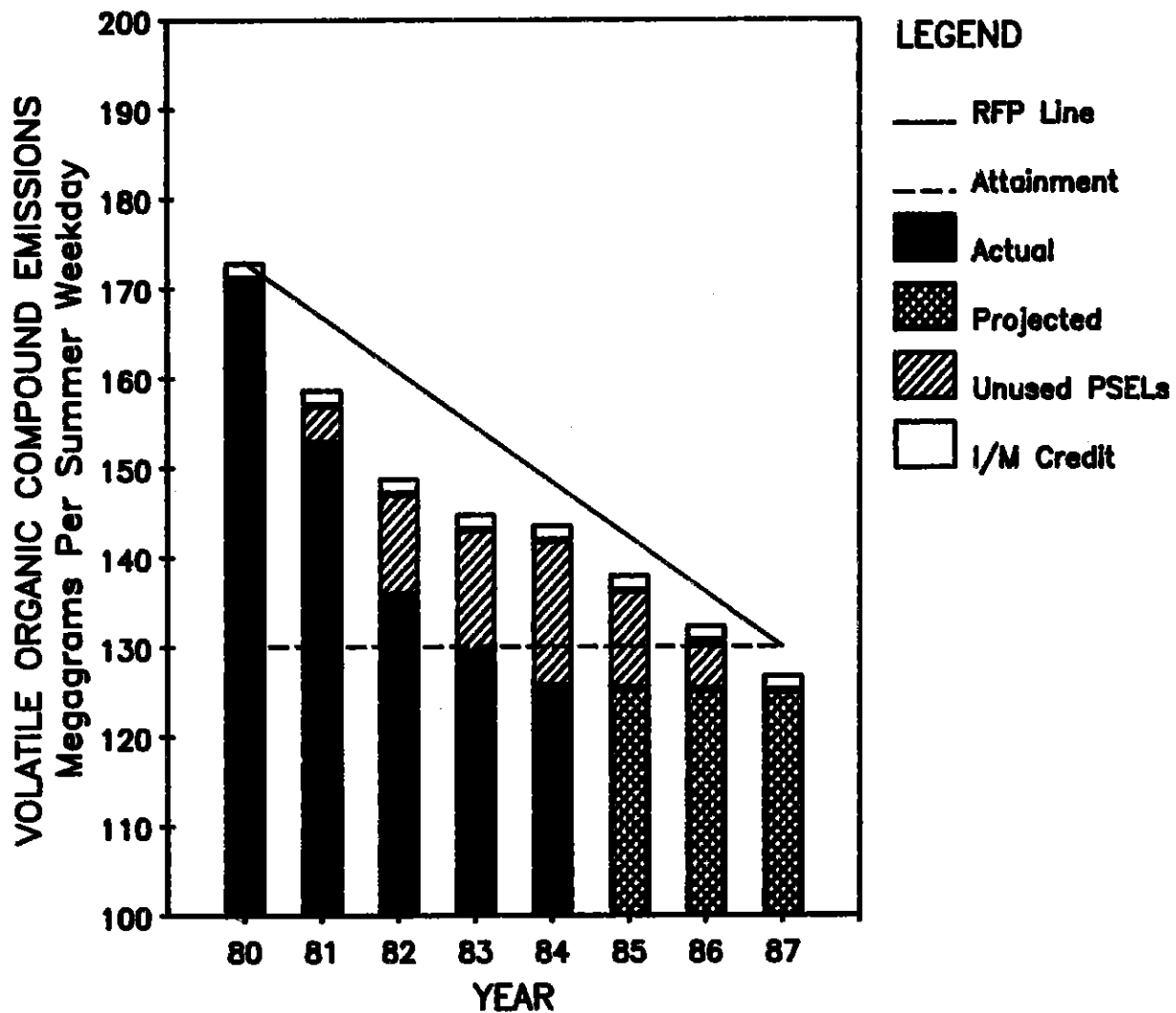
1. Redesignation of the Portland-Vancouver airshed as attainment for ozone; or
2. Implementation of additional beyond-RACT control measures.

The 1.8 Mg/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 late 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 Mg/d to attain the ozone standard by 1987.

Figure 4.3.12-1
REASONABLE FURTHER PROGRESS
 Oregon Portion of Portland-Vancouver AQMA



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

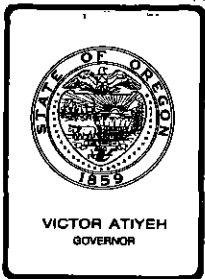
City of Portland
Multnomah County
Clackamas County
Washington County
Oregon Department of Transportation
Port of Portland
Western Oil and Gas Association
Associated Oregon Industries
Portland Chamber of Commerce
Oregon Environmental Council
League of Women Voters
Oregon Lung Association
Public-at-Large*
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 was held on November 19, 1985. The public hearing notice was issued October 15, 1985. The public hearing notice was distributed for local and state agency review by the A-95 State Clearinghouse on October 16, 1985, over 90 days prior to adoption of this addendum by the Environmental Quality Commission.

AS1672



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 N, January 31, 1986, EQC Meeting

Proposed Adoption of Amendments to the State Implementation Plan Involving Changes to the Volatile Organic Compound Rules OAR 340-22-100 to 220, and Permit Rules 340-20-155(1) Table 1

Background and Problem Statement

Three areas of Oregon were violating the ambient ozone standard in the late 1970's and were designated as ozone nonattainment areas by the Environmental Protection Agency (EPA). High ozone levels are caused by a photochemical reaction of Volatile Organic Compounds (VOCs), 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.

The rules, when adopted, were supposed to represent Reasonable Available Control Technology (RACT). However a number of industrial painting sources have found rules to be technology forcing and have been unable to attain compliance. The Commission has adopted a blanket variance (and granted an extension) from this rule, to exempt industrial painting sources, who have been unsuccessful in identifying acceptable, lower-VOC coatings. The blanket variance expires on January 31, 1986.

Also, experience in implementing the original rules has shown that a number of minor changes are needed. EPA has also suggested some minor changes.

Authority for the Commission to Act

ORS 468.295 authorizes the Commission to establish air quality rules and standards. A "Rulemaking Statement" is included as Attachment 4.

Rule Development Process

The Commission authorized a public hearing on these proposed VOC rule changes at their September 27, 1985 meeting. Notice of the public hearing was published in newspapers and in the Secretary of State's bulletin of October 15, 1985. Letters announcing the hearing were sent to over a hundred firms whose interests were affected and to over 500 interested parties. At the November 19, 1985 hearing, three people gave verbal testimony, eight letters with testimony have been received, and seven others attended the hearing but did not testify verbally. See the Hearing Officer's Report, Attachment 2, and the Memorandum for Authorizing the Hearing, Attachment 3.

Alternatives and Evaluation

The rule changes discussed below will allow a net increase of VOC to the airshed of less than one percent. This increase will not jeopardize attainment of the ozone standard by 1987, when total VOC airshed emissions are projected to be less than 150,000 kg/day.

The hearing officer's report (Attachment 2) summarizes the individual oral testimony and contains the written testimony received. The following are the major points raised at the hearing:

A. EPA Letter, November 20, 1985

1. EPA was concerned about the proposed increase in the exemption point from 15 lb/day to 40 ton/year for miscellaneous coating firms, rule OAR 340-22-170(4)(j). EPA asked for additional information on:
 - a. impact on airshed ozone levels,
 - b. daily averaging vs annual or monthly averaging of emissions,
 - c. applicability of Reasonably Available Control Technology (RACT), and
 - d. feasibility of add-on control equipment.

The Department provided additional information and has resolved these issues with EPA staff personnel in a telephone conference on December 13, 1985. Of most significance, the proposed increase in the exemption point would increase total allowable emissions by only 380 kg/day, or less than 0.3 percent of airshed capacity. Additional documentation of the airshed capacity is outlined in a separate agenda item (Item No. M). Total VOC emissions in 1987 are projected to be less than 150,000 kg/day; well below the airshed capacity.

Daily monitoring and reporting of VOC emissions is not feasible for small sources. For small sources, daily average emissions are calculated from annual use of paint. Thus annual emissions are used to determine compliance with the applicable limit, regardless of whether the limit is defined as daily (lb/day) or annual (ton/year).

The Department reviewed the miscellaneous metal coating rules in the Los Angeles, San Francisco, Seattle, and Vancouver areas. The miscellaneous metal coating limits identified in the EPA Control Technology Guideline do not appear to be reasonably available control technology (RACT) based on numerous variances, exceptions and compliance schedule extensions in the Los Angeles, and San Francisco areas. Seattle does not have a miscellaneous metal coating rule. The exemption point in Vancouver, Washington, for miscellaneous metal coaters is 235 lb/day (30 to 43 ton/year, depending on days/year of operation).

The responsible air pollution control officials in Los Angeles and San Francisco were unable to identify a single example of add-on control equipment (i.e., afterburners, etc.) that had been used to control miscellaneous metal coating emissions. The miscellaneous metal coaters that have met the limits (in Los Angeles, San Francisco, and Portland) have done it by means of conforming paints (waterbase or high solids paints). Conforming paints are not yet available for all applications, especially for smaller operations.

Both EPA and the Department recognize 40 tons/year as the significant emission rate for VOC emissions for new source review purposes. EPA has approved exemption points at 10 to 50 tons/year for miscellaneous metal coating sources in other states.

In conclusion, the proposed change for raising the exemption point from 15 lb/day to 40 ton/year will exempt all the small painting operations (who have not found complying coatings). The expiration of the blanket variances from rule 340-22-170(4)(j) on January 31, 1986, together with the adoption of this proposed rule change, will allow all miscellaneous coating processes to be in conformance with the Department's rules.

2. EPA asked where exterior drum coating is covered in the rules. Under the existing rules, the Department has considered drum coating to be covered within the miscellaneous coating rule, 340-22-170(4)(j). The proposed rule would place drum coating under the existing can coating rule. This change would result in Portland's one drum manufacturing plant being able to meet the less stringent can coating rule; at present their interior clear

coating (a minor part of their coating) does not meet 340-22-170(4)(j)(A). EPA has already approved a similar rule change for Los Angeles.

3. EPA requested, for the record, the following details concerning the new precision paper coating rule: The precision coating rule applies only to the precision coating process at 3M's plant in the Medford AQMA. It does not apply to the other two large VOC sources in Oregon, the plants run by Crown-Zellerbach and by Simpson Timber in North Portland. The proposed rule, which establishes a new emission standard based upon monthly averaging of emissions, was developed after a joint EPA/DEQ evaluation of the 3M operation. Since the Medford airshed has achieved compliance with the ozone standard, no further VOC reductions are necessary. Should further reductions of VOC in the Medford airshed become necessary, a lower rule limit may have to be established that more reflects the better destruction efficiency of VOC, recommended in EPA's control technology guideline document for paper coating. No adverse airshed impacts are projected because of this action.

The Department rephrased this rule from "precision paper coating" to "existing paper and film coating in the Medford-Ashland AQMA," because of the lack of enough precise technical detail for separating regular paper coating from precision paper coating.

4. EPA requested that the higher limit of 6.2 lb/gal allowed for High Performance Architectural Coatings on Aluminum be restricted to panels on high-rise buildings.

The Department examined how such a rule would apply to the one such coating line in Oregon, at Pacific Coatings in Multnomah County. Pacific Coatings only paint these panels and strips. They neither fabricate nor market these pieces. Therefore, it would be difficult, if not impossible, for either Pacific Coatings or for the Department, to determine which pieces are going to be used on high rise, and which pieces are going to be used on low rise structures. EPA was notified of these facts, and has verbally assented to foregoing their request.

5. EPA disapproved the exempting of 10 tons/year and smaller painting sources from the permit process. The emission reduction from regulating these small sources is negligible, and they are labor intensive for the regulating agencies. Therefore, the Department proposes merely to record information (where available) on painting sources of 10 tons/year or smaller. Although sources between 10 and 40 tons/year are not subject to

the emission limit, the Department requires permits for these sources. Annual reporting of solvent usage would be required in order for the Department to track these VOC emissions. The VOC rules will remain in force for significant VOC painting sources at 40 tons/year and larger. This rule modification is justified not only by the lack of RACT for these sources, but also from the minimal VOC reduction caused by this rule (compared to the 90 percent reductions seen in gasoline marketing rules).

6. An ozone season is that warmer part of the year when there is enough heat from sunshine to cause ozone to be formed from VOC and Oxides of Nitrogen. EPA has established the ozone season for Oregon as April 1 through October 31, but has yet to legalize this by rulemaking action. The information EPA has requested to justify shortening it to May 1 through September 30 has been sent. This report shows no ozone standard violations from 1975 to 1985 anywhere in Oregon in April and October, and shows current ozone values more than 20 percent below the standard in April and October.
7. EPA's reluctance to approve small relaxations in the gasoline marketing rules and in the dry cleaning rule stems from a fear that these small emissions may be a necessary part of the attainment strategy.

The Department has carefully considered each of these changes proposed and finds them to have negligible impact on the strategy. It is the Department's belief that the revised strategy and rules will result in compliance with the ozone standard by 1987. EPA now concurs with our position.

These small rule relaxations resemble EPA-approved rules in Seattle, Vancouver (Washington), San Francisco, and Los Angeles.

- B. The 3M Company testified how and why the proposed 55 lb VOC per 1,000 sq yds per pass rule was developed. This rule applies only to the 3M plant in the Medford AQMA. Because of the VOC reductions by newer, cleaner automobiles, and by sources like the 3M Co., the ozone standard is now being met by a wide margin in the Medford AQMA. Therefore, the 3M Co. testifies (and prior agreement was given by the DEQ and by EPA's Region X office) that no further VOC reductions are needed from the 3M Co. plant.

Part of 3M Company's testimony urges a change in the ozone season from April-October to May-September because of the margin of attainment with the ozone standard in both April and October. Item A.6. above covers this proposed change, also.

- C. Mr. Felker, Mt. Hood Oil Company, Gresham, requested further exemptions for his gasoline delivery operation, and especially for three of his customers, three Union 76 gas stations. Two of these stations are very close to the Portland AQMA border and one is 139 blocks from the centroid of VOC emissions. Mr. Felker's bulk plant is in Gresham, near the edge of the AQMA.

Mr. Felker asked that his wholesale gasoline delivery business be allowed to serve larger customers without capturing the vapors released during wholesale delivery. The exemption point now stands at 10,000 gallons/month for each service station, or 600,000 gallons/year for a wholesale bulk plant (like Mr. Felker's). Mr. Felker requested that service stations receiving less than 20,000 gallons/month and less than 600,000 gallons/year be exempted from capturing gasoline vapor during wholesale delivery from exempted bulk plants.

The basic problem is that unless a service station has large gasoline tanks (bigger than 7,000 gallons), it cannot get truck and trailer delivery from the terminal, causing a significant price increase. Mr. Felker argues that it is too costly to provide air pollution controls for these facilities.

The Department recommends that the Commission not change the present rule's exemption point of 10,000 gallons/month from an equity standpoint. Mr. Felker and his three medium-sized customers have several alternatives open to them. First, the Department prefers that they conform to the existing rules, as have the other bulk plants and service stations. Second, they could apply for limited duration variances from the rules, if accompanied by a schedule for the vapor capture fittings installation.

- D. Carnation Company testified that the low VOC end-sealing compound tried by their Hillsboro pet food plant resulted in spoilage. The end-sealing compound complied with rule 340-22-170(4)(a)(D) but had to be discontinued. Carnation requested relief from this rule in the form of a new rule that would recognize their present technology. See a proposed new rule, 340-22-170(4)(a)(E) End sealing compound for fatty foods...4.4 lb VOC/gal. The present rule allows only 3.7 lb VOC/gal.

The Department concurs with this testimony and offers the Commission a new rule, as requested by Carnation, to cover their problem. The effect on the airshed is only an additional several tons of VOC per year, emitted near the western edge of the AQMA.

- E. 1. Simpson Timber favored shortening the ozone season from April through October to May through September.

This issue is fully discussed in A.6. above. The shortened ozone season also proposed by the Department, could save Simpson

some operating costs. They are installing an afterburner to destroy the visible VOCs from their ovens. Should they solve their visible emission problem by altering their paper coating process, they would like to turn off this afterburner in April and October, as it would not be needed to lower the ozone in those months.

2. Simpson asked for a rule change from daily to monthly averaging for their plant. They have one product, made about one day per month, which emits more VOC than rule 340-22-170(4)(d) allows. Since their other products use much more water, and much less solvent, monthly averaging brings them into compliance.

Simpson will attain compliance with daily averaging when their afterburner (now under construction) comes on line about May 1986. The Department is reluctant to write a rule change for a six month problem. Therefore, the Department proposes to bridge this gap by issuing administratively a six month compliance schedule in Simpson's permit. This action will cover Simpson's noncompliance until the afterburner comes on line.

- F. Mrs. Engleheart, a resident of Northeast Portland, wrote that she got conflicting statements from the Oregonian's article and from a Department spokesperson and wanted clarification.

Mrs. Engleheart has been written a letter clarifying the Department's proposed actions. We have written her that any rule modification which reflects an increase in allowable emission are so small they will not adversely affect air quality. The major improvements in ozone air pollution have been brought about by people using modern, low polluting, new cars, the Department's vehicle inspection/maintenance program, and by major reductions from the Department's rules in paper coating and gasoline marketing.

- G. Three other people sent in testimony supporting the Department's proposed changes. See the Hearing Officer's Report, Attachment 2, for testimony by Mr. Wagner, Mr. Kuenzli, and Mr. Siegel.

Many of the changes proposed by the Department on September 27, 1985 received no comment. These changes are explained in Attachment 3, and consist of: clarifying changes to the Petroleum Refinery Leak rule, to the Secondary Seal rule, to the Permit rule, to the Degreasing rules; additions to the Printing rule, Surface Coating rule, Gasoline Marketing rules, Degreasing rules, and Dry Cleaning rule; deleting an unnecessary coil coating rule, past compliance dates, and part of a VOC storage tank rule; exempting painting by stencils; updating a reference in the Gasoline Delivery Truck rule; exempting extremely small dry cleaners; deleting references to vapor pressure in the VOC definition, and replacing with a photochemically reactive requirement.

Rule Description

The proposed changes, and the existing VOC rules, are included as Attachment 1. These rules are also part of the State Implementation Plan to attain the ambient air standards. In general the rules limit the amount of VOC (in the form of solvents, gasoline vapors, etc.) that certain industrial and commercial establishments can emit.


Summation

1. Volatile Organic Compounds (VOC) Rules are an important part of the Department's ozone control strategies. During the period of VOC rule implementation, the Department has identified a number of problems which require correction.
2. On September 27, 1985, the Commission authorized a hearing on VOC rule changes. The hearing was publicized by many mailed notices, and by being advertised in the Secretary of State's bulletin on October 15, 1985.
3. The November 19, 1985 hearing on these rule changes brought out several more requested changes. The Commission is needs to adopt the following proposed changes in the VOC rules:
 - a. 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 a small increase in VOC of about 380 kg/day in the Portland airshed, which has a present capacity of 154,000 kg/day;
 - b. A decrease in the ozone season from April through October to May through September;
 - c. A small increase for end-sealing compound VOCs where fatty foods are being canned;
 - d. A small increase in VOC allowed for the smallest gasoline bulk plants, but no increase (as requested) for larger bulk plants and their larger customers;
 - e. Other changes addressing 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, are explained in Attachment 3.

4. VOC rule changes are also proposed as changes in the State Implementation Plan. Agenda Item No. M further describes the effect of these and other changes on the overall control strategy for ozone.
5. These rule changes have been carefully evaluated and coordinated with Oregon's Ozone attainment strategy. It is the Department's opinion these changes will not adversely affect attaining the standard. The increase in emissions represent less than one percent of the airshed capacity.
6. The EPA has concurred with the Department's proposed action.

Director's Recommendation

Based on the Summation, it is recommended that the Commission adopt the attached proposed changes for permit rule 340-20-155(1) and for the 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. Hearing Officer's Report
 3. Agenda Item G, September 27, 1985 EQC Meeting
Authorizing a Hearing on VOC Rules.
 4. Rulemaking Statements

Peter B. Bosserman:s
229-6278
January 17, 1986

AS2204

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:

Air Contaminant Source, SIC	Application Processing Fee	Compliance Determination Fee
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 by 340-22-160</u> (not elsewhere included) 4200	50 per tank	100 per tank
67. Can Coating a) <u>50,000 or more units per month</u> b) <u>less than 50,000 units per month</u> 3411	1500 100	900 200
68. Paper Coating 2641 or 3861	1500	900
69. Coating Flat Wood, <u>regulated 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) "High Performance Architectural Coating" means coatings applied to aluminum panels and moldings being coated away from the place of installation.
- (24) [(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).
- (25) [(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.
- (26) [(24)] "Liquid service" means equipment which processes, transfers or contains a volatile organic compound or mixture of volatile organic compounds in the liquid phase.

(27) [(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.

(28) [(26)] "Natural finish hardwood plywood panels" means panels whose original grain pattern is enhanced by essentially transparent finishes frequently supplemented by fillers and toners.

- (29) [(27)] "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.
- (20) [(28)] "Owner" means any person who has legal or equitable title to the gasoline storage tanks at a facility.
- (31) [(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.
- (32) [(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.
- (33) [(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.
- (34) [(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.
- (35) [(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.
- (36) [(34)] "Printing" means the formation of words, designs and pictures, usually by a series of application rolls each with only partial coverage.
- (37) [(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.

(38) [(36)] "Roll printing" means the application of words, designs and pictures to a substrate by means of hard rubber or steel rolls.

(39) "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.

(40) [(37)] "Stationary Source" means any structure, building, facility, or installation, which emits or may emit any VOC.

(41) [(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.

(42) [(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).

(43) [(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.

(44) [(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.

(45) [(42)] "Tileboard" means panelling that has a colored waterproof surface coating.

(46) [(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.

(47) [(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.

(48) [(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
Liquid storage, Secondary seals -170	11/01/80	N/A	N/A	N/A	10/01/80
Surface coating: Can & paper coating, misc products & metal parts -180	10/01/79	12/01/80	02/01/81	04/01/81	04/01/81
Degreasers: Operating procedures, Add-on controls -190	11/01/80	01/02/81	07/01/81	12/31/81	12/31/81
Roofing tar -200	05/01/79	11/01/81	05/01/82	12/01/82	12/31/82
Flatwood coating -210	04/01/82	07/01/82	10/01/82	11/01/82	12/31/82
Printing roto & flex -220	05/01/79	10/01/79	02/01/80	04/01/80	04/01/80
Perc dry cleaning	11/01/80	04/01/81	07/01/81	01/02/82	04/01/82
	N/A	N/A	N/A	N/A	04/01/80
	11/01/80	01/02/81	01/02/82	11/01/82	12/31/82
	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 cm² 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.] 340-22-170(4).

(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
<u>(E) End Sealing Compound for fatty foods</u>	<u>4.4 lb/gal</u>
[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) Existing Coating of Paper and Film in the Medford-Ashland AQMA</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>	<u>6.2 lb/gal</u>

(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:

$C_2Cl_3F_3$ trichlorotrifluoroethane, also known as Freon 113 or Freon 113F

CH_2Cl_2 methylene chloride

1, 1, 1- $C_2H_3Cl_3$ methyl chloroform, also known as 1-1-1 trichloroethane or Chloroethene 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 Light-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:

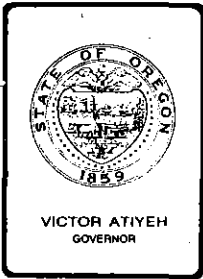
- (a) coin-operated facilities,
- (b) facilities where an adsorber or other necessary control equipment cannot be accommodated because of inadequate space, or
- (c) facilities with insufficient steam capacity to desorb adsorbers, or
- (d) small facilities which consume less than 320 gallons of perchloroethylene 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.



Environmental Quality Commission

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MEMORANDUM

To: Environmental Quality Commission

From: Peter B. Bosserman, Hearing Officer

Subject: November 19, 1985 Hearing on Proposed Changes to VOC Rules, and to Permit Rules, Affecting Portland, Salem, and Medford Air Quality Maintenance Areas

Background

On September 27, 1985, the Environmental Quality Commission authorized a public hearing for about 25 rule changes proposed by the Department. The group of rules being amended regulate the sources of Volatile Organic Compounds (VOC). VOC is a major element in the formation of the air pollutant ozone in the urban areas of Oregon.

The hearing was held at 10:00 a.m., November 19, 1985, at the DEQ headquarters in Portland, Oregon. At the hearing, three people gave verbal testimony, seven others attended but did not testify verbally, and eight letters with testimony have been received.

Testimony

- A. Environmental Protection Agency (EPA), U.S. Government, Region X, Seattle office, November 20, 1985 letter.

The regional EPA office sent a letter November 20, 1985 objecting to ten changes to the VOC rules:

1. EPA objected to changing the exemption point for rule 340-22-120 (Coating) from 15 lbs/day to 40 tons/year. They objected to increasing allowable emissions by a factor of 20 and expanding the emission averaging period. EPA felt that compliance can best be obtained with add-on equipment as opposed to conforming paint.
2. EPA remarked that the inclusion of interior coatings of barrels in can coating appears to have also included exterior coatings. If not, where is exterior coatings of drums covered?

3. EPA asked, for the record, for an explanation of how and why the proposed precision paper coating rule, 340-22-170(4)(e), was developed, effect on air quality, and to how many sources it applies. They also desire to know why the change from the approved daily averaging to the monthly averaging (which EPA discourages).
4. EPA requested that the higher limit of 6.2 lb/gallon allowed for High Performance Architectural Coatings in Aluminum, proposed rule 340-22-120(4)(j)(E), be restricted to panels for use on high-rise buildings.
5. EPA objected to exempting 10 tons/year and smaller sources from permit review, even on an every 5-year basis, in Table 1 of 340-20-155.
6. EPA requested needed documentation before they can approve a change in the ozone season from April 1 through October 31 to May 1 through September 30.
- 7-10. EPA objected to exempting more small sources in three phases of gasoline marketing, and in dry cleaning, because of two ozone violations in July 1985.

EPA's letter is attached; see their comments on the VOC rules in Enclosure 2.

B. 3M Company, St. Paul headquarters staff, Kirk M. Mills and Jeffrey C. Muffat, letter November 20, 1985.

3M Company mailed 10 pages of testimony supporting the proposed new precision paper coating rule, and supporting the shortening of the ozone season.

The testimony describes how and why the proposed rule for precision paper coating was developed. This rule applies only to the 3M plant in the Medford Air Quality Maintenance Area (AQMA). 3M Company explains the effect of this special, less stringent rule on the Medford airshed. They explain how certain products require a less stringent rule, because 3M has not found the technology to make these unique products with lower solvent coatings. They explain how neither their daily, monthly, nor annual VOC plant site emissions limits are being changed. When 3M runs the high solvent, non-conforming coatings, the machine speed is lower (or other factors), so the overall plant emissions will not exceed their present DEQ imposed limits. The shift from daily to monthly averaging will thus occur only for the EPA Control Technology Guideline limit of 2.9 lbs/gal, but will not occur for the present overall daily VOC limit from the plant.

C. Mt. Hood Oil Company, Gresham, W. C. Felker, owner, letter November 16, 1985, plus verbal testimony.

Mr. Felker requested further exemptions for his gasoline delivery operation, and especially for three of his customers, three Union 76 gas stations. Two of these stations are very close to the Portland AQMA border and one is 139 blocks from the centroid of VOC emissions. Mr. Felker's bulk plant is in Gresham, near the edge of the AQMA.

Mr. Felker asks that his wholesale gasoline delivery business be allowed to serve larger customers, without capturing the vapors released during wholesale delivery. The exemption point now stands at 10,000 gallons/month for each service station, or 600,000 gallons/year for a wholesale bulk plant (like Mr. Felker's). Mr. Felker requests that service stations receiving less than 20,000 gallons/month and less than 600,000 gallons/year be exempt from capturing gasoline vapor, during wholesale delivery from exempted bulk plants. He states that high costs have prevented him and his three customers from complying with the rules.

D. Carnation, Can Division, Corporate Office, Los Angeles, O. M. Ilacad letter, September 3, 1985, and verbal testimony by retained Portland attorney, Gary L. Tyler, on November 19, 1985.

The low VOC, end-sealing compound tried by Carnation's Hillsboro pet food plant, resulted in spoilage. The end-sealing compound complied with rule 340-22-170(4)(a)(D) but had to be discontinued. Carnation's testimony requests relief from this rule in the form of a new rule that will recognize their present technology: a new rule, 340-22-170(4)(a)(E) end sealing compound for fatty foods...4.4 lb/VOC gal. The present rule allows only 3.7 lb VOC/gal.

E. Wagner Mining Equipment Co., Edwin R. Wagner letter November 19, 1985.

Mr. Wagner's testimony documents one of the eighteen cases in A.1. above. This firm has not found a coating that complies with the 3.5 lb/gal limit of painting rule 340-22-170(4)(j)(B). He supports the Department's proposal to exempt small painting operations, as Reasonably Available Control technology has not been found for his operation either.

F. Oregon State Highway Division, R. W. Kuenzli letter September 3, 1985.

Mr. Kuenzli supports the Department's proposal to bring traffic markings painting under the VOC rule by removing the exemption in 340-22-170(2)(a). In the last five years, the Highway Division has switched paint, now using one at 2.8 lb/gal, under the 3.5 lb/gal rule limit.

G. Metropolitan Service District, Steven Siegel, letter December 4, 1985.

The Metropolitan Service District writes that the proposed rule changes appear to be consistent with existing local plans and policies. Thus, Metro recommends favorable action.

H. Simpson Timber Company, Portland Plant, verbal testimony by Doug Larson, November 19, 1985

1. Simpson favored shortening the ozone season from April through October to May through September.

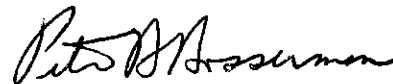
This issue is fully discussed in A.6. above. The shortened ozone season, also proposed by the Department, could save Simpson some operating costs. They are installing an afterburner to destroy the smoke from their ovens. Should they solve their smoke problem by altering their paper coating process, they would like to turn off this afterburner in April and October, as it would not be needed to lower the ozone in those months.

2. Simpson asked for a rule change from daily to monthly averaging for their plant. They have one product, made about one day per month, which emits more VOC than rule 340-22-170(4)(d) allows. Since their other products use much more water, and much less solvent, monthly averaging brings them into compliance.

I. Mrs. Katherine Englehart, letter November 21, 1985.

Mrs. Englehart wrote from Northeast Portland that she got conflicting statements from the Oregonian's article, and from a Department spokesperson. She wants clarification whether more pollution will be allowed or not. She is concerned especially about her allergy problem, her husband's emphysema, and other people's health problems.

Respectfully Submitted,



Peter B. Bosserman
Hearing Officer

Attachment: EPA Testimony November 20, 1985 Letter.



U.S. ENVIRONMENTAL PROTECTION AGENCY
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NOV 20 1985

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~~MELH~~ 11/20
~~PAV~~ 11/20
~~SMC~~ 11/22

REPLY TO: M/S 532
 ATTN OF:

Mr. John Kowalczyk, Supervisor
 Technical Services Section
 Air Pollution Control
 Oregon Department of Environmental Quality
 P.O. Box 1760
 Portland, OR 97207

Dear Mr. Kowalczyk:

We have reviewed the proposed amendments to the Portland-Vancouver ozone (O₃) control strategy, to the growth allocation rules (OAR 340-20-241), and to the volatile organic compound (VOC) rules (OAR 340-22-100 through 220). Our detailed comments are included in Enclosures 1 and 2. Please make them a part of the November 19, 1985 public hearing record.

In general, we feel that most of the proposed changes would not be approvable as revisions to the currently-approved SIP. We are concerned about the proposed relaxation of the volatile organic compound (VOC) regulations in the face of the recent violation of the O₃ standard. In addition, the 1984/1985 violation must be accounted for in determining the VOC compliance level for any revised O₃ strategy. Furthermore, attainment must be achieved as expeditiously as practicable and the attainment date may only be extended to December 31, 1987, if absolutely necessary. There is, therefore, no available airshed growth until after the standard is attained and the area redesignated to attainment, except for that specifically authorized for new major sources and major modifications through an approved growth allowance under Section 173(1)(B) of the Clean Air Act.

We would like to discuss our comments with you as soon as it is mutually agreeable. Please contact Rick White (telephone 206-442-4232) if you have any questions on our comments and to arrange a time to discuss our concerns.

Enclosures

Sincerely,

George A. Abel
 George A. Abel, Chief
 Air Programs Branch

ENCLOSURE 1

Comments on Proposed Amendments to the State Implementation Plan
Regarding the Ozone Control Strategy for the Oregon Portion of
the Portland-Vancouver Interstate AQMA and Growth Increment Allocation

1. Page 4 - Airshed Capacity for Growth: Because of the measured violation of the ozone standard in 1984/1985, the modeled VOC compliance level of 154 megagrams per day or less (based on 1982-1984 ozone levels) is not approvable. Figure 1 clearly shows that the Portland-Vancouver VOC emissions were below 154 megagrams per day in both 1984 and 1985, when this violation occurred. A compliance level must be established which is less than the 1984/1985 emissions in order to be approvable.
2. Page 7 - Airshed Capacity for Growth: Section 172(b) of the Clean Air Act requires attainment of the ozone standard "as expeditiously as practicable but not later than December 31, 1987." December 31, 1987 is only an outside date. Figure 1, as currently presented, would indicate that the standard had been attained in 1983. Any discussion of airshed capacity which is based on the difference between the modeled VOC compliance level and expected VOC emissions in 1987 is therefore erroneous and cannot be approved as part of ozone control strategy. As required by the Act, the legal attainment date is determined by when the area's VOC emissions are projected to reach the SIP's modeled compliance level. As such, there is no airshed capacity for growth until the ozone standard is attained.
3. Page 7 - Available Growth Cushion: EPA's policy for establishing a growth allowance for new or modified major stationary sources under Section 173(1)(B) has never allowed for the "additional airshed capacity that is available to accommodate new VOC emissions without violating the ambient ozone standard." Only reductions beyond that achieved by the application of Reasonably Available Control Technology (RACT) or the emission controls needed to attain the ozone standard, whichever is lesser, can be used to create a growth allowance. In this way, the existence of a growth allowance does not delay attaining the standard as expeditiously as practicable. The attainment date should be no different than if each source had to obtain 100% offsetting emission reductions under a Section 173(1)(A) case-by-case offset program.
4. Page 7 - Available Growth Cushion: The discussion of the Portland I/M program effectiveness should be revised to clarify that (1) the 1.8 megagrams per day difference is for the year 1987, and (2) since this difference is not needed to attain the ozone standard before December 31, 1987, it can be allocated as a growth allowance for new or modified major sources under Section 173(1)(B) of the Act. Delete the sentence discussing 1.8 Mg/d of the airshed capacity.
5. Pages 7 and 8 - Available Growth Cushion: A growth allowance established and approved by EPA under the provisions of Section 173(1)(B) can only be used for new or modified major stationary sources under the auspices of the EPA-approved New Source Review Rules. It cannot be used for transportation adjustments or VOC rule relaxations. Such transportation adjustments or rule relaxations can only be accomplished through SIP revisions and must include demonstrations that the relaxed requirements represent RACM or RACT as appropriate. (Section 172(b) of the Act requires

the implementation of all reasonably available control measures and the application of reasonably available control technology for all sources, even if more than needed to attain before December 31, 1987.) Such relaxations, if approvable, would not need to count against the available growth allowance created by more-than-RACT controls on other sources, so long as attainment is still achieved before December 31, 1987.

6. Page 8 - Available Growth Cushion: Based on the above comments, the table must be revised to delete the columns labeled "Additional Airshed Capacity" and the rows labeled "Transportation Adjustments" and "Proposed Metal Coater Rules Relaxation." The EPA-approved growth cushion can only be used for accommodating the increased emissions from new or modified major sources obtaining permits under the New Source Review rules.

7. Page 9 - Available Growth Cushion: The first paragraph must be revised to delete the discussion of the difference between additional airshed capacity and available growth cushion, since no airshed capacity exists until the ambient ozone standard is attained. A discussion can be included which describes the potential growth cushion under an ozone maintenance strategy which would be adopted after the area is redesignated as attainment for ozone.

8. OAR 340-20-241: EPA has established the ozone season for Oregon to be April 1 through October 31 (and has even proposed such in federal regulations). The DEQ must submit documentation to EPA which demonstrates that the ozone standard cannot possibly be exceeded during the months of April and October. This documentation cannot be based solely on existing ambient monitoring data, since the monitoring sites may not be located at the point of maximum concentration.

9. Section 4.3.8 AMBIENT AIR QUALITY UPDATE - This section must be updated to include the 1985 data in order to portray correctly the current ozone air quality status of the Portland area.

10. Section 4.3.10 OZONE MODELING - This section must be updated to determine a VOC compliance level which accounts for the 1984/1985 violation of the ozone standard. A compliance level of 154.0 Mg/d, which was met in both 1984 and 1985 when the violation occurred, is not approvable.

11. Section 4.3.11 GROWTH CUSHION ALLOCATION - As discussed in comments #3 through 7, this section must be entirely revised to delete the discussion of additional airshed capacity, since it is not a consideration in establishing a growth allowance under the provisions of Section 173(1)(B) of the Act.

12. Figure 4.3.12-1 REASONABLE FURTHER PROGRESS - The RFP line shown on this figure is not acceptable. Ideally, the RFP line should represent the emissions which are actually projected to occur under the adopted control strategy. However, EPA does allow the RFP line to be a straight line from the base year to the year that the projected emissions reach the compliance level. The RFP line can only be drawn to the year 1987 if the compliance level will not be reached until 1987. In this figure, the appropriate RFP line would be a straight line between 1980 and the mid-point between 1982 and 1983. However, the compliance level must be revised downward to account for the 1984/1985 violation so the final attainment date will probably be sometime after 1986.

ENCLOSURE 2

Comments on Proposed Revisions to Oregon Volatile Organic Compound (VOC) Rules OAR 340-22-100 through 220 as proposed by the Oregon Department of Environmental Quality

1. Surface Coating in Manufacturing - Changing the applicability limit from 15 lbs/day to 40 tons/year accomplishes two things, both of which serve to relax the rule. It increases the allowable emissions by a factor of 20, but, more importantly, greatly expands the averaging period. This would have the effect of allowing more emissions during the ozone season, which is in conflict with the O₃ strategy.

In general, EPA feels that compliance with the CTG levels can be best obtained with add-on equipment as opposed to conforming paint. To what extent has this option been investigated?

2. Painting with Stencils - no comment.
3. Roadway Traffic Markings Paint - no comment.
4. Barrel Painting - The inclusion of interior coatings of barrels in can coating appears to have also included exterior coatings. If not, where is exterior coating of drums covered?
5. Paper Coating Rule for Precision Coating - For the record you should explain how and why this emission limit was developed, how many sources it applies to, and how it might affect the air quality. Also, as part of the SIP revision package, please provide the necessary information explaining the change to 30-day averaging (see enclosed guidance memorandum).
6. Coil Coating - no comment.
7. Special Rule for High Performance Aluminum. This special use rule should be limited to the specific use intended, i.e., aluminum panels on high rise buildings.
8. Clarify Compliance Method - no comment.
9. Permit Fee Rules - no comment.
10. Forty Ton Limit - Changing Table 1 in 340-20-155 to exempt 10 tons-per-year sources from permit review, even on an every 5 year basis, seems contrary to the O₃ strategy, especially in light of last summer's violations.

11. Ozone Season Duration - EPA has established the ozone season for Oregon as April 1 through October 31. This is based on both meteorological and air quality data. EPA has also proposed rulemaking which lists the O₃ season for each state, but has not yet finalized the rulemaking. We should discuss the documentation needed to propose a change to the current season before final action by the EQC or EPA.
12. Obsolete Rules - no comment.
13. Small Gasoline Stations - Appears reasonable, but, together with other rule changes, is in conflict with the attainment strategy.
14. Small Gasoline Tanks - Appears reasonable, but, together with other rule changes, is in conflict with the attainment strategy.
15. Gasoline Transfer Responsibility - no comment.
16. Gasoline Bulk Plant Exemption - the exemption of 600,000 gal/year bulk plants would not serve to protect the O₃ standard. What is the impact of the exemption?
17. Tight Vapor Connections at Gasoline Terminals - no comment.
18. New Legal Description of Marking on Delivery Trucks for Gasoline - no comment.
19. New Test Method 21 - no comment.
20. Large Tank Seals - no comment.
21. Degreaser Rules - no comment.
22. Exemption for Extremely Small Dry Cleaners - Appears reasonable, but, together with other rule changes, is in conflict with the attainment strategy.
23. Dry to Dry Cleaning Machines - no comment.
24. Vapor Pressure of VOC - no comment.



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** non-Marine Coatings	26-1865	22.5
	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 year 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

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.

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.

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