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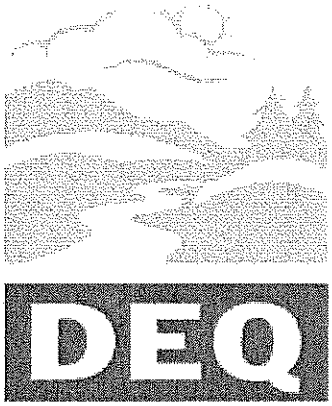
OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
Department of Environmental Quality

OREGON ENVIRONMENTAL QUALITY COMMISSION MEETING

June 10, 1988
Conference Room 4
811 S. W. Sixth Avenue
Portland, Oregon 97204

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 the April 29, 1988, EQC Meeting.

B. Monthly Activity Reports for March and April 1988.

C. Tax Credits - Lloyd Kostow (? Bill Fuller?) Lydia Taft

9:05 a.m. - PUBLIC FORUM

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

Guest Speaker: Bob Buchanan, Director
Department of Agriculture

HEARING AUTHORIZATIONS

D. Request for Authorization to Conduct a Public Hearing on Proposed Amendments and New Rules Related to the Opportunity to Recycle Yard Debris, OAR 340-60-015 through 130.

E. Request for Authorization to Conduct Public Hearings on Proposed Amendments to OAR Chapter 340, Division 12, Civil Penalties, and Revisions to the Air Quality State Implementation Plan.

F. Request for Authorization to Conduct Public Hearings on the Fee Charged by the Vehicle Inspection Program, OAR 340-24-307.

G. Request for Authorization to Conduct Public Hearings on Vehicle Inspection Program Operating Rules, Test Procedure and Licensed Exhaust Gas Analyzers, OAR 340-24-300 through 24-350. Jasper

H. Request for Authorization to Conduct a Public Hearing on Proposed Remedial Action Rules Regarding Degree of Cleanup and Selection of Remedial Actions, OAR Chapter 340, Division 122.

ACTION 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. Proposed Adoption of Amendments to the Solid Waste Fee Rules, OAR Chapter 340, Division 61.

*J. Proposed Adoption of Amendments to Procedures for Issuance, Denial, Modification and Revocation of Permits (OAR 340-14-005 through 050), New Source Review Air Contaminant Discharge Permit Procedure Requirements (OAR 340-20-230) and Issuance of NPDES Permits (OAR 340-45-035). Sarah A.

K. Request for Issuance of an Environmental Quality Commission Compliance Order for the City of Estacada, Oregon.

*L. Request for Increased Load Allocation Under OAR, 340-41-026(2) from Portland General Electric for an Expansion of the Sewage Treatment Plant Serving the Trojan Nuclear Power Plant.

M. Informational Report: Implementation Status of the Total Suspended Particulate (TSP) Air Pollution Control Strategy in the Medford-Ashland Air Quality Maintenance Area. Merlin

N. Informational Report: Air Quality Offset Rule (OAR 340-20-240). Lloyd & John K

O. Review of Applications for Assessment Deferral Loan Program Revolving Funds.

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 a.m. to avoid missing any item of interest.

The Commission will have breakfast (7:30) at the DEQ Offices, 811 S. W. Sixth Avenue, Conference Room 4, Portland. Agenda items may be discussed at breakfast. The Commission will also have lunch at the DEQ offices.

The next Commission meeting will be July 8, 1988, in Portland, Oregon.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5301, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

june10

Approved_____
Approved with Corrections_____
Corrections Made_____

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the One Hundred Eighty-Seventh Meeting
April 29, 1988

Jackson County Courthouse
10 S. Oakdale
Medford, Oregon

Commission Members Present:

James Petersen, Chairman
Wallace Brill
Bill Hutchison
Mary Bishop

Commission Members Absent:

Arno Denecke, Vice Chairman

Department of Environmental Quality Staff Present:

Fred Hansen, Director
Kurt Burkholder, Assistant Attorney General, for Michael Huston
Program Staff Members

NOTE: Staff reports presented at this meeting, which contain the Director's recommendations, are on file in the Office of the Director, Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of this record and is on file at the above address.

BREAKFAST MEETING

Regional Report: Gary Grimes, Manager of the Southwest Region Office, provided the Commission with a report of the Region's activities.

Legislative Concepts: The Commission had received proposed 1989 legislative concepts for review and approval. Director Hansen indicated the Department was working under a tight schedule to refine the concepts. However, the concepts will be reviewed as the Department proceeds through the approval process with the Governor's Office. Although long-term funding for spill response and the state Superfund were not included in the legislative concept package given to the Commission, the Department will provide the proposed concept at the June EQC meeting. Commissioner Hutchison indicated he would be further discussing the concepts with the Department.

Mandatory Recycling: DEQ staff recommended that this issue be included as part of the Department's required recycling report to the legislature due next session. Evaluation of the effectiveness of the Opportunity to Recycle Act cannot be undertaken until sufficient data is available from the individual wastesheds to compare individual program progress. A decision on when to enforce the mandatory recycling requirement would be arbitrary until the Department knows how the voluntary program is progressing.

The first year's recycling data (1987) is being reported, and a first year's recycling program report is scheduled for completion in June 1988. Second-year recycling data is being collected now on a quarterly basis and will provide a better comparison after the second quarter data is received in July (Portland did not begin its recycling program until June 1987).

Specific recommendations would be developed by the Waste Reduction staff and presented to the Solid Waste Advisory Committee in September 1988. After that, the recycling report would be drafted and reviewed by the EQC in time for the Legislature next session. Rule making, if necessary, could begin about that same time.

FORMAL MEETING

CONSENT ITEMS:

Agenda Item A: Minutes of the March 11, 1988, EQC Meeting.

Commissioner Hutchison indicated that page 7, line 6 of Agenda Item F, should be corrected to read as follows:

> ...from EPA to manage [management] a state-operated hazardous waste program.

Action: It was MOVED by Commissioner Brill, seconded by Commissioner Hutchison and passed unanimously that the corrected minutes of the March 11, 1988, meeting be approved.

Agenda Item B: Monthly Activity Report for February 1988.

Action: It was MOVED by Commissioner Hutchison, seconded by Commissioner Bishop and passed unanimously that the February 1988 Monthly Activity Report be approved.

Agenda Item C: Tax Credits.

Commissioner Bishop asked why the Department had not received new tax credit requests at this time. Director Hansen indicated the requests are initiated by the applicant.

Action: It was MOVED by Commissioner Bishop, seconded by Commissioner Hutchison and passed unanimously to revoke Pollution Control Facility Certificate No. 1883, held by Smurfit Newsprint Corporation, and reissue the certificate to Stimson Lumber Company.

PUBLIC FORUM

Henry Rust, Timber Product Company, spoke to the Commission about his company's efforts to rebuild the raw material storage building that was destroyed by fire. Completion of the building is expected in late May or early June. Mr. Rust expressed support for the recommendations of the local Wood Burning Task Force and for the concept of clean air utility rates. A copy of Mr. Rust's testimony is made a part of this meeting's record.

Richard Stach, Linn County Commission, submitted a letter to the Commission about air quality problems caused by inefficient wood burning stoves. Mr. Stach asked the Commission to consider voluntary measures (which may be brought before the Legislature) to curb wood smoke emissions. A copy of Commissioner Stach's testimony is made a part of this meeting's record.

Nick King, Chamber of Commerce, Medford/Jackson Counties, submitted a letter about recommended strategies for achieving particulate attainment. Mr. King recommended that the State of Oregon, through the DEQ, establish, administer and fund a program to comply with state and federal laws for the curtailment of wood

stove burning. A copy of Mr. King's testimony is made a part of this meeting's record.

HEARING AUTHORIZATIONS:

D. No staff report was assigned.

E. **Request for Authorization to Conduct Public Hearings on Proposed Rules for Certifying Sewage Works Operators.**

This agenda item requested authorization from the Commission to conduct public hearings on the proposed rules for certifying sewage treatment and collection system operators. The rules will classify the sewage treatment works systems, set the criteria for qualifications for certifying personnel, and require the sewage treatment works system owners to ensure that a supervisor is certified at the level of system classification.

Director's Recommendation: Based on the report summation, the Director recommended the Commission authorize a public hearing to take testimony on the proposed rule changes, Attachment B of the staff report.

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

F. **Request for Authorization to Hold a Public Hearing on the FY89 Construction Grants Priority List and Management System.**

This agenda item requested authorization to hold a public hearing on the draft FY89 construction grants priority list. The FY89 priority list is proposed to be the final list for funding grant projects. Project applicants will be required to meet all federal requirements and to apply for grants by July 1, 1988. A proposed rule modification for use of discretionary authority is included. This rule modification will broaden project eligibility for grant funding of sewer replacement and rehabilitation; funding for elimination of combined sewer overflows is excluded.

Director's Recommendation: Based on the report summation, the Director recommended the Commission proceed to public hearing to solicit public comment on the FY89 priority list and proposed rule amendments to broaden eligibility for major sewer replacement and rehabilitation, and continue to exclude from funding the elimination of combined sewer overflows.

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

G. Request for Authorization to Conduct Public Hearings on a Proposed New Solid Waste Rule Regarding Financial Assurance at Regional Landfills, OAR 340-61-029.

This agenda item requested authorization from the Commission to conduct public hearings on the proposed additions to solid waste rules on financial assurance. House Bill 2619, passed in the 1987 Legislature, requires a financial assurance plan from regional disposal sites before a solid waste permit is issued.

Commissioner Bishop asked what would happen to unused financial assurance funds. Steve Greenwood, Hazardous and Solid Waste Division, answered that several types of financial assurance would be acceptable under the proposed rules and only one type involved the accumulation of a fund. If unused funds remain at the end of the post-closure period, the funds would be returned to the ratepayers who use the landfill. The returned funds would most likely be in the form of reduced fees at the disposal site.

Director's Recommendation: Based upon the report summation, the Director recommended the Commission authorize the Department to conduct a public hearing, to take testimony on proposed new financial assurance rules for regional disposal facilities, OAR 340-61-029.

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

H. Request for Authorization to Conduct a Public Hearing on Proposed New Rules Relating to the Opportunity to Recycle Yard Debris.

This agenda item requested authorization from the Commission to hold a public hearing on proposed amendments and new rules about yard debris recycling.

At the December 11, 1988, EQC meeting, the Commission directed the Department to develop additional rules that clarify acceptable alternative methods for recycling yard debris. The rules also assign the responsibility for yard debris recycling to local government. The rules outline a planning and implementation process linking the development of yard debris collection programs to the demand for yard debris from the processors. The rules contain performance standards and an enforcement procedure for

jurisdictions failing to provide the opportunity to recycle yard debris.

Commissioner Hutchison suggested several corrections to the staff report. Chairman Petersen indicated he had concerns about which activity occurred first, the market or opportunity to recycle. Commissioner Bishop felt it would be acceptable to give authorization for a public hearing and said the purpose of the public hearing is to allow problems and solutions to be discussed and explored.

Commissioner Bishop MOVED that the Director's recommendation be approved; that motion failed for lack of a second motion.

Action: Commissioner Hutchison MOVED that action on this item be deferred and asked the staff to revise the rules to: seconded by and passed unanimously that the Departme

1. More clearly define a minimum acceptable yard debris program;

2. Rely less on performance standards; and

3. Emphasize ways to stimulate the supply and demand for yard debris products.

The Department was asked to revise the rules for consideration at the July EQC meeting. Additionally, staff was requested to provide the EQC with a progress report of the rule development for the June EQC meeting.

I. **Request for Authorization to Conduct Public Hearings on Proposed New Administrative Rules for the Waste Tire Program, OAR 340-62; Permit Procedures and Standards for Waste Tire Storage Sites and Waste Tire Carriers.**

This agenda item requested authorization from the Commission to conduct public hearings on proposed new administrative rules for the waste tire program. The 1987 Legislature passed a Waste Tire Bill (HB 2022) requiring regulation of tire storage and tire carriers, clean up of tire piles and a reimbursement program to stimulate the market for waste tire recycling. The Department worked with a task force to develop administrative rules for the Waste Tire Program.

Director's Recommendation: Based on the report summation, the Director recommended the Commission authorize public hearings to take testimony on the proposed rule to implement the Waste Tire Program, OAR 346-62, as presented in Attachment V of the staff report.

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

J. **Proposed Adoption of Amendments to Rules of Practice and Procedure, OAR Chapter 340, Division 11.**

This agenda item requested Commission adoption of amendments to the Rules of Practice and Procedure. A hearing on the proposed amendments was authorized on December 11, 1987, and the hearing was held on February 24, 1988.

The proposed amendments substitute Attorney General (AG) Uniform and Model Rules for existing EQC rules for rule making, petitions for rule making, petitions for declaratory rulings and contested cases. The rules also add language to specifically allow non-attorney representation in contested cases as required by 1987 legislation. Existing rules, which have no counterpart in the AG model rules, are maintained including public informational hearings, notice of rule making, service of written notice, answer required, consequences of failure to answer, subpoenas, and powers of the Director.

The proposed rules continue the existing EQC rule which delegates authority to the Hearings Officer to enter a final order in a contested case. However, authority to contested cases resulting from appeal of civil penalty assessments is limited. (In all other cases, the Hearings Officer would prepare a proposed order for consideration by the Commission.) The proposed rule codifies past EQC policy direction relative to the authority of the Hearings Officer to mitigate a civil penalty when a final order in a contested case is entered.

Director's Recommendation: Based on the report summation, the Director recommended the Commission adopt amendments to the Rules of Practice and Procedure, OAR Chapter 340, Division 11, as presented in Attachment A of the staff report.

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

K. **Proposed Adoption of Revisions to New Source Review Rules (OAR 340-20-220 through 260) and Prevention of Significant Deterioration Rules (OAR 340-31-100 through 130).**

This agenda item requested Commission adoption of the changes to the New Source Review Rules and Prevention of Significant Deterioration (PSD) rules which were authorized for public

hearings at the January 22, 1988, EQC meeting. The proposed changes are the result of the U.S. Environmental Protection Agency's (EPA) adoption of the PM_{10} standard that was published in the July 1, 1987, Federal Register.

John Harmon, representing the Medford Chamber of Commerce, expressed support of the clean up of Medford's air. Mr. Harmon indicated the Chamber had adopted a position on PM_{10} which included recommendations that DEQ, with local government, establish an education program on woodburning; that DEQ establish a law on mandatory curtailment; that cleaner burning units be subsidized; that non-certified stoves be banned; and that a clean air utility rate be secured. He further expressed the view that DEQ should obtain legislative authority to regulate wood burning since local governments cannot effectively perform this function.

Gary Shaff, representing himself, expressed opposition to the offset rules. He felt internal offsets for a plant were acceptable, but opposed external offsets since no improvement to the airshed is obtained. Mr. Shaff requested DEQ to consider a more stringent offset approach. He also requested review of the status of local regulations that are included in the State Implementation Plan (SIP). A copy of Mr. Shaff's testimony is made a part of this meeting record.

Patricia Kuhn, Medford, also submitted testimony to the Commission. A copy of Ms. Kuhn's testimony is made a part of this meeting's record. Ms. Kuhn indicated she believes many sources were to blame for the Rogue Valley's air pollution problem. She cited backyard burning, inefficient wood burning stoves, slash burning, better DEQ enforcement and inspection of industry and an out-of-date offset policy as her major concerns.

Merlyn Hough, Air Quality Division, responded that some parts of the SIP were not aggressively pursued because of the new EPA PM_{10} standards which could change control strategies.

Chairman Petersen requested DEQ staff prepare two reports. One report will include alternatives to external air emission offsets. The other report will list emission control strategies adopted in the 1982 Medford Total Suspended Particulate (TSP) SIP and discuss the implementation status, especially addressing local government responsibilities.

Jeff Golden, Jackson County Commissioner, noted the difficulty of coordinating six or seven local governments to address the problems of a single airshed. Commissioner Golden stated there may be a need for more state involvement if local governments are unable to develop a consensus.

Director's Recommendation: Based on the report summation, it was recommended that the EQC revise the New Source Review Rules (OAR 340-20-220 through 260) and Prevention of Significant Deterioration Rules (OR 340-31-100 through 130) as proposed and that those revisions be incorporated in the State Implementation Plan.

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

L. **Proposed Adoption of Rules to Amend Ambient Air Standards (OAR 340-31-005 through 055) and Air Pollution Emergencies (OAR 340-27-005 through 012) Principally to add New Federal PM_{10} Requirements as a Revision to the State Implementation Plan.**

This agenda item requested Commission adoption of rules to amend ambient air standards and air pollution emergencies. The rules will amend the state ambient air quality standards and emergency action rules. Also, the proposed amendments will incorporate new standards into the rules.

EPA adopted a new national Ambient Air Quality Standard for particulate matter reflecting particles less than 10 microns in diameter. The action establishes the need for the state to modify ambient air standards and emergency action plan levels, including the new PM_{10} levels.

EPA has eliminated the TSP standard; however, the Department wishes to temporarily retain the standard. DEQ recommends reviewing the TSP standard in about two years after more information becomes available on the relationship of TSP and PM10 and when EPA expects to replace the TSP PSD system with the PM10 increment system.

At the January 1988 EQC meeting, the Commission authorized the Department to hold public hearings on the proposed changes. Public hearings were held in Portland, Medford, Bend and LaGrande in March. The Department received most comments about the proposed rules from EPA. Minor rules changes were made to conform with those concerns.

Director's Recommendation: Based on the report summation, it is recommended the EQC revise the Ambient Air Standards (OAR 340-31-005 through 055) and Emergency Action Plan (OAR 340-27-005 through 012) as proposed.

Action: It was MOVED by Commissioner Bishop, seconded by

Commissioner Hutchison and passed unanimously that the Director's recommendation be approved.

M. Proposed Adoption of Revisions to the State Implementation Plan to include Commitments for PM_{10} Group II Areas.

This agenda requested Commission adoption of revisions to the SIP to include commitments for monitoring PM_{10} Group II areas.

The revisions will modify the SIP by including a section that addresses EPA requirements pertaining to areas of the state that have a moderate probability of not meeting the new PM_{10} standard. These commitments must be adopted by May 1988. The new section requires the Department to develop a program of monitoring, reporting and evaluating all areas. The program would eventually lead to satisfactory attainment status of each area. Bend, LaGrande and Portland are addressed in this amendment. The Lane Regional Air Pollution Authority is preparing a committal SIP for a fourth area, Oakridge.

At the January 1988 EQC meeting, the Commission authorized the Department to hold public hearings on the proposed changes. Public hearings were held in Portland, Medford, Bend and LaGrande in March. Few comments were received concerning this rule revision and minor changes were made to conform with those concerns.

Director's Recommendation: Based on the report summation, it is recommended the Commission adopt the proposed revision of the State Implementation Plan to provide for the required monitoring and evaluation of Oregon's Group II areas against the new standard for particulate matter.

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

N. Proposed Adoption of Rules Relating to Asbestos Control (OAR 340-33) and Amendments to the Hazardous Air Contaminant Rules for Asbestos (OAR 340-340-25-450 through 465).

This agenda item requested Commission adoption of rules relating to asbestos control. The new regulations include the licensing of contractors, certification of workers and accreditation of training providers for asbestos abatement. Changes to the existing regulations on asbestos as a hazardous air contaminant are also proposed for adoption. These rules were developed by the Department with the assistance of the Oregon Asbestos Advisory Board. Under 1987 authorizing legislation, the Commission is

required to adopt rules on certification, licensing and accreditation by July 1, 1988.

The proposed new rules require that the Department accredit training providers for asbestos abatement, and that any person conducting asbestos abatement after December 31, 1988, complete an accredited training class and be certified by the DEQ. Additionally, any contractor abating asbestos after December 31, 1988, must be licensed by the DEQ.

Douglas S. Morrison, Northwest Pulp & Paper, submitted a letter to the Commission about this agenda item. The company disagreed with the Department on the issue of refresher courses and suggested an alternative (050.2). A copy of Mr. Morrison's testimony is made part of this meeting's record.

The Commission discussed the basis for requiring refresher training for certified asbestos abatement workers. By statute, the Commission is authorized to require refresher training when a need exists based on new or changed conditions.

Tom Donaca, Associated Oregon Industries, testified that requiring refresher training for small-scale workers is premature. Mr. Donaca also testified that full-scale workers and supervisors should not be required to complete refresher training the year following initial certification, and the Department should have the flexibility to accept refresher training conducted outside of the specified time window, for sufficient cause. A copy of Mr. Donaca's testimony is made part of this meeting's record.

Wendy Sims, Air Quality Division, explained the Department's position about changes in regulations, work practices and worker protection. Ms. Sims noted these changes demonstrate a need for annual refresher training for full-scale workers. Changes also are occurring in small-scale work, although at a lesser pace. Bi-annual refresher training could be adequate for the small-scale workers.

The Commission discussed the basis for requiring refresher training for certified asbestos abatement workers. By statute, the Commission is authorized to require refresher training when a need exists based on new or changed conditions; however, there was concern that the required finding of need cannot be made at this time.

The Commission deferred action on this item until later in the agenda and directed staff to confer with EPA about whether a state program not requiring annual recertification training would meet federal requirements for certification of workers removing asbestos in schools. The EQC also asked staff to develop

alternative rule language to address the concerns raised by Mr. Donaca and to eliminate the requirement for refresher training of small-scale workers until a need is demonstrated.

The Commission moved to Agenda Item Q to accommodate the City of Brookings.

Q. Request for Issuance of an Environmental Quality Commission Order for the City of Brookings, Oregon.

This agenda item requested issuance of an Environmental Quality Commission Order for the City of Brookings, Oregon. The order is for the City's National Pollutant Discharge Elimination System (NPDES) permit violations and issues raised by EPA's National Municipal Policy. The order contained interim effluent limitations and a schedule of milestones for bringing the City into compliance.

Leo Lightle, represented the City of Brookings. Commissioner Bishop asked if the City could achieve the interim limits, and Mr. Lightle stated that the City could.

> **Director's Recommendation:** Based on the report summation, it is recommended that the Commission issue the Compliance Order discussed in Alternative 3 of the staff report by signing the document prepared as Attachment C of the staff report.
>
> **Action:** It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's recommendation be approved.

The Commission then returned to the regular order of the agenda.

O. Proposed Adoption of Amendments to the Hazardous Waste Fee Rules, OAR Chapter 340, Divisions 102 and 105.

This agenda item requested Commission adoption of amendments to the hazardous waste fee rules. The proposed amendments include a 25 percent increase in the annual compliance determination fees paid by hazardous waste generators and by hazardous waste storage and treatment facilities and a one-time only surcharge. The proposed fee increases are needed to help offset a projected shortfall in fee revenue for the current biennium. The proposed amendments also restore the permit application filing and processing fees for hazardous waste storage facilities and temporarily repeal the fees for modification of a hazardous waste facility permit.

Though not a proposed rule amendment, the Department is committed to identifying and registering all generators in Oregon who are required to pay a compliance determination fee.

Director's Recommendation: Based on the report summation, it is recommended that the Commission adopt the proposed amendments to the hazardous waste fee rules in OAR Chapter 340, Division 102 and 105.

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

P. Informational Report: Review of FY89 State/EPA Agreement (SEA) and Opportunity for Public Comment.

Each year the Department and EPA negotiate an agreement. The agreement states that EPA will provide basic program grant support to the Department in return for commitments to perform planned work on state and federal environmental priorities. The purpose of this agenda item is to:

1. Receive Commission comment on the strategic and policy implications of the descriptions contained in the draft State/EPA Agreement; and

2. Provide opportunity for public comment on the draft agreement.

John Charles, Oregon Environmental Council (OEC), stated that the Council supported the SEA but would like cigarette smoke included under the air toxics section of the agreement. Mr. Charles also said OEC supported the opacity standards legislation discussed on page 10 of the Air Quality draft work plan. He was pleased to note that LaGrande and Madras were included in the field burning discussion. Mr. Charles asked about what the Department planned to do in regard to the management study on field burning which recommended the Department sever ties with the Oregon Seed Council. Additionally, Mr. Charles commented that the groundwater rules may require statutory change, and he thought it may be too early to adopt the rules now.

Staff noted that written comments had been submitted by the **Northwest Environmental Defense Center.** The letters requested postponement of action until more discussion could be held on Total Maximum Daily Load (TMDL) and non-point source staffing levels. A letter was received from attorneys representing the **Sierra Club** and the **Oregon Environmental Council** asking for postponement so that the SEA draft could be further reviewed. Copies of those comments are made part of this meeting's record.

Lydia Taylor, Management Services Division, stated that the SEA is not all inclusive of agency programs but rather those programs with federal fund support matching department funds. She asked that the comment period be extended to May 15 to allow for further review and comment.

Director's Recommendation: It is recommended that the Commission:

1. Provide opportunity for public comment at today's meeting on the draft State/EPA agreement; and

2. Provide staff its comments on the policy implications of the draft agreement.

Action: It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's recommendation be approved with the comment period for the SEA extended to May 15.

The Commission recessed for lunch and reconvened to complete action on Agenda Item N.

Continuation of Agenda Item N:

At the Commission's direction, EPA was contacted and asked if a state program which did not require annual refresher training for full-scale workers could be approved as meeting the requirements of AHERA, regarding asbestos in schools. The AHERA regulations were implemented after the statute authorizing the state licensing and certification programs was adopted. **Anita Frankel**, EPA, stated that such a program would not be acceptable. Thus, workers who performed full-scale work in schools, either for a contractor or as a school employee, would be required to obtain training and certification under some other program approved by the EPA, as well as DEQ certification, to met both state and federal rules.

Staff reported there was not enough time to thoroughly review the rules and include all the necessary wording revisions. It was suggested that the rules be adopted with the Director's authorization to finalize the rule wording in consultation with legal counsel.

Action: It was MOVED by Commissioner Hutchison, seconded by Commissioner Bishop and passed unanimously that the Director's recommendation be approved with the following amendments (wording to be finalized by the Director in consultation with legal counsel):

1. Eliminate the refresher training requirement for small-scale workers until a need is demonstrated;

2. Add a requirement that all certified workers maintain a current address on file with the Department; and

3. Allow the Department to accept refresher training received outside of the specified time period or cause.

There was no further business and the meeting was adjourned.

The next Environmental Quality Commission meeting will be held in Portland on Friday, June 10, 1988.

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the One Hundred Eighty-Eighth Meeting
June 10, 1988

Fourth Floor Conference Room
811 S. W. Sixth Avenue
Portland, Oregon 97204

Commission Members Present:

James Petersen, Chairman
Wallace Brill
Bill Hutchison
Mary Bishop
Emery Castle

Department of Environmental Quality Staff Present:

Fred Hansen, Director
Michael Huston and Kurt Burkholder, Department of Justice
Program Staff Members

NOTE: Staff reports presented at this meeting, which contain the Director's recommendations, are on file at the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97024. Written material submitted at this meeting is made a part of this record and is on file at the above address.

BREAKFAST MEETING

LEGISLATIVE CONCEPTS: Bob Danko, Hazardous and Solid Waste Division, described the latest legislative concept sent to the Commission for their review. The concept is about establishing a hazardous substance and groundwater protection fund. The Department has several programs that address or are proposed to address hazardous substances and groundwater protection. These programs include the Department's hazardous site clean up and hazardous waste reduction program and multi-agency programs that

address hazardous materials spill response and groundwater protection. Through this concept, the Department is proposing assessments on hazardous substances, including petroleum, to provide the needed funds.

A subcommittee of the Joint Legislative Interim Committee on Environment and Hazardous Materials has also been looking at options for funding . They are considering assessments similar to the Department's proposed legislative concept.

SIP CALLS: Director Hansen told the Commission about the U. S. Environmental Protection Agency's (EPA) intent to declare State Implementation Plans (SIP) to be "substantially inadequate." Though SIPs for Medford, Grants Pass and Portland had been approved by EPA in 1984 and 1985 , the average of exceedances during 1985, 1986 and 1987, in EPA's view, negates the possibility of attainment as of December 31, 1987. The Department strongly disagrees with the validity and appropriateness of EPA's action.

Commissioner Bishop asked about Portland's air quality violations and if Washington State had contributed to those violations. Director Hansen said there appears to be hot spots on the Vancouver side. He further stated that the issue of vehicle inspection needed to be addressed by Washington.

Commissioner Hutchison asked what will happen when the SIPs are called. **Nick Nikkila**, Air Quality Administrator, responded that resources which would otherwise be used for high priority health-related issues such as PM_{10} would have to be redirected in order to satisfy EPA's requirements for additional data and plan revisions. He said a SIP call would give the wrong message to those moving here.

Director Hansen indicated that he would keep the Commission informed of new developments in this matter.

TUALATIN RIVER TMDLs: Dick Nichols, Water Quality Administrator, asked the Commission about holding a special EQC meeting to take testimony on Total Maximum Daily Load (TMDL) rules. The consent agreement entered into by EPA and Northwest Environmental Defense Center (NEDC) calls for rule adoption by June 30, 1988. The Commission decided to hold the hearing either the Thursday before the next EQC meeting scheduled

for July 8, or depending on the length of the agenda for that meeting, to hold the hearing on the same day as the July 8 EQC meeting.

FORMAL MEETING

Chairman Petersen introduced Dr. Emery Castle. Dr. Castle is the new commissioner replacing Vice-Chairman Arno Denecke. Dr. Castle is chairman of the graduate faculty of economics at Oregon State University in Corvallis.

A. Minutes of the June 10, 1988, EQC Meeting.

Commissioner Hutchison indicated that page 5, fourth line of the Director's Recommendation, Agenda Item G, read as follows:

...for regional disposal <disp9osal> ...

and that Agenda Item H, Request for Authorization to Conduct a Public Hearing on Proposed New Rules Relating to the Opportunity to Recycle Yard Debris, include the following wording under **ACTION**:

Action: Commissioner Hutchison MOVED that action on this item be deferred and asked the staff to revised the rules to:

1. More clearly define a minimum acceptable yard debris program;

2. Rely less on performance standards; and

3. Emphasize ways to stimulate the supply and demand for yard debris products.

The motion was seconded by Commissioner Bishop and passed unanimously that this agenda item be deferred until the June 10, 1988, EQC meeting.

Action: It was MOVED by Commissioner Bishop, seconded by Commissioner Hutchison and passed unanimously that the corrected minutes of the June 10, 1988, meeting be approved .

B. Monthly Activity Reports for March and April 1988.

ACTION: It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the March and April 1988 Monthly Activity Reports be approved.

C. Tax Credits

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

1. Issue tax credit certificates for pollution control facilities:

Appl No.	Applicant	Facility
2141	Portland General Electric	Oil spill containment system , Liberty Substation
2170	Portland General Electric	Oil spill containment system, Oswego Substation
2172	Portland General Electric	Oil spill containment system, Sheridan Substation
2179	Portland General Electric	Oil spill containment system, Orient Substation
2349	Portland General Electric	Replacement and disposal of PCB-filled pole mounted capacitors with non-PCB capacitors

Appl No.	Applicant	Facility
2393	Gregory Affiliates, Inc.	Installation of Burley Scrubbers on two veneer dryers

2. Revoke Pollution Control Facility Certificate Number 650, held by National Metallurgical Corporation and reissue to Dow Corning Corporation.

   Revoke Pollution Control Facility Certificate Number 876, held by Kawecki Berylco Industries, Incorporated and reissue to Dow Corning Corporation.

Bob Buchanan, Director, State Department of Agriculture, was the guest speaker for this EQC meeting. Director Hansen told the Commission that he had appeared before the Economic Development Commission. From this opportunity, the idea was created to have other natural resource directors speak to the Commission about their coordinating activities with DEQ.

Mr. Buchanan provided an overview of the Department of Agriculture's structure and functions. Next, Mr. Buchanan described the areas of coordination and programs between the Agriculture Department and DEQ. In the smoke management program, Agriculture provides public policy and management over the sky watch, communication and monitoring activities relating to the field burning program. Agriculture is involved with confined animal feedlot operations. Further, Mr. Buchanan spoke to the Commission about the new issue of groundwater contamination. He said to address this complex problem a financing mechanism must be found for investigations as well as for solutions to groundwater problems.

Chairman Petersen asked Mr. Buchanan about his statement that the grass seed industry was clean. Mr. Buchanan responded that grass seed was clean since it did not cause soil erosion. Chairman Petersen further asked Mr. Buchanan about the voluntary field burning program in Central Oregon. Mr. Buchanan said that Agriculture is reviewing the program. He said they will

try to expand the Willamette Valley type of program in that area and will try to streamline the program so that it will be cost effective.

Chairman Petersen also asked Mr. Buchanan if the Department of Agriculture worked with manufacturers of chemical companies to reduce their effect on groundwater. Mr. Buchanan replied that Oregon State University is doing some work; however, the main control of chemicals is through applicator licensing and use restrictions. Mr. Buchanan said that new methodologies need to be explored . Chairman Petersen indicated this might be a topic to be discussed among the natural resource agency heads. Mr. Buchanan added that groundwater issues need to be placed on the national agenda and to receive federal funding for program plan development. He said EPA and Congress need to work with private industry so that further studies can occur. **Commissioner Castle** asked if other state agencies were involved in a coordinated groundwater study. **Director Hansen** and Mr. Buchanan responded that the Department of Agriculture, OSU, Water Resources Department, DEQ and the Health Division are involved in a coordinated approach to groundwater monitoring.

Commissioner Hutchison complimented the work of the Watershed Enhancement Board.

PUBLIC FORUM

Dale Sherbourne, Citizens Concerned with Wastewater Management, spoke to the Commission about his concern over the use of chlorine as a disinfectant of treated sewage. As an employee of the City of Portland, Mr. Sherbourne said he was concerned about accidents at the Portland sewage treatment plant. He believes these accidents have and will continue to threaten the health and safety of plant workers and people living near the plant. Mr. Sherbourne spoke about the water quality and toxic effects of chlorinated effluents and stated he believed there were safer, alternative disinfection methods available . Mr. Sherbourne asked the Commission to direct the Department to adopt regulations requiring the use of alternative disinfection methods.

Richard Nichols, Water Quality Administrator, stated the Department recognized the disadvantages and hazards of chlorine as a disinfectant. However, Mr. Nichols said, other methods of disinfection have inherent

disadvantages. The Department has proposed to review the disinfection policy in the state during the next biennium. The Department believes that since chlorine disinfection is of national interest, EPA should take the lead in developing needed information to help states address this issue. At this time, EPA has not indicated an interest in this issue.

Terry Jenkins and **John Pointer**, Citizens Concerned with Wastewater Management, spoke to the Commission about their concerns with the back-up system of the City of Portland's sewage treatment plants. Messrs. Jenkins and Pointer questioned the Department's failure to cite the City of Portland for sewage bypasses that have occurred. **Director Hansen** indicated the Department's role was to achieve compliance through schedules; however, if bypasses occurred through negligence or oversight, a notice of violation would be given to the City. Mr. Pointer listed several areas of a response to his previous questions that he believed the Department did not answer. **Chairman Petersen** asked Mr. Pointer to develop those issues into a list for the Department and that the Department would respond further. Chairman Petersen also indicated that after Department review of the issues, Mr. Pointer's concerns may be brought before the Commission as an agenda item. **Commissioner Hutchison** asked **Michael Huston**, Assistant Attorney General, to provide a legal opinion of ORS 165.540, which Mr. Pointer quoted as his defense for taping telephone conversations with DEQ staff.

Jean Orcutt spoke to the Commission about her concerns relating to the threat to drinking water. She questioned the appropriateness of waiver language being used by Portland in mid-county sewer Bancroft bond proceedings.

Colleen Obrist, Don Obrist Trucking and Excavating, told the Commission about the frustration she and her husband had experienced with the Department. Mrs. Obrist said they had received conflicting opinions from the Department about the level of contamination of the material they were removing. She believed their questions had been responded to with vagueness and rudeness. **Director Hansen** said the material contained cold tar and that when left alone, would not affect groundwater. Mrs. Obrist also asked when new monitoring wells could be installed. DEQ staff responded that the plans for and locations of the wells had been approved. **Chairman Petersen** asked that Mrs. Obrist again state her concerns in writing to the

Department, and the Department provide to the Commission a copy of its response to Mrs. Obrist.

HEARING AUTHORIZATIONS

D. Request for Authorization to Conduct a Public Hearing on Proposed Amendments and New Rules Relating to the Opportunity to Recycle Yard Debris, OAR 340-60-015 through 125.

At the December 11, 1987, meeting, the Commission directed the Department to develop additional rules which clarified the range of acceptable alternative methods for providing the opportunity to recycle yard debris. These rules also include the responsibility for yard debris recycling to local government. Outlined in the rules is a planning and implementation process for linking the development of yard debris collection programs to the demand for yard debris from the processors. The rules contain performance standards for providing the opportunity to recycle yard debris.

Commission Bishop asked that a typo on page 1 of the rules be noted and corrected. Additionally, Commissioner Bishop asked staff to simplify wording on page 1 of the rule, 340-60-015 (7) and to remove the word **and** from 340-60-075, sixth line.

Chairman Petersen asked Director Hansen to summarize the process of local governments developing and implementing a yard debris program. Director Hansen said that local governments first determine their goals, then meet at the local level to develop alternatives to accomplish their goals.

> **Director's Recommendation:** Based upon the report summation, it is recommended the Commission authorize a public hearing on the proposed rule changes related to yard debris recycling programs as proposed by the Department.
>
> **Action:** It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's recommendation, with the above changes, be approved.

E. Request for Authorization to Conduct a Public Hearing on Revisions of Oregon Administrative Rule, Chapter 340, Division 12, Civil Penalties, and Revisions to the Clean Air Act State Implementation Plan (SIP).

Revisions to this rule would establish civil penalty schedules for the disposal of PCBs (polychlorinated biphenols) and hazardous waste remedial action, would list recently created categories of violations such as waste tire storage and disposal and would revise Oregon's air quality State Implementation Plan.

Commissioner Hutchison asked the Department why this rule had not been enforced before. Director Hansen indicated this rule was a result of 1987 legislation. **Yone McNally**, Enforcement Section, said the 1985 Legislature gave authority for civil penalty rules on PCB disposal only.

Director's Recommendation: Based upon the report summation, it is recommended the Commission authorize a public hearing to take testimony on the proposed revisions to the civil penalty rules, OAR Chapter 340, Division 12 and proposed revisions to the SIP.

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

F. This item was removed from the agenda.

G. Request for Authorization to Conduct Public Hearings on Vehicle Inspection Program Operating Rules, Test Procedure and Licensed Exhaust Gas Analyzers, OAR 340-24-300 through 24-350.

Vehicle Inspection Program operating rules are reviewed periodically; review is completed, and a number of changes are proposed. As a first step in implementing these changes, the Department is requesting authorization to conduct a series of public hearings. The purpose of the hearings is to gather public input on the suggested changes to the operating rules for the Vehicle Inspection Program.

Proposed changes include easing the tampering portion of the inspection for 1975-1979 vehicles and the start of decertification of the older series of exhaust gas analyzers used by the licensed fleets. The Department is also asking the Commission to affirm the current criteria in the rule for fleets to be licensed for self-inspection.

Commissioner Brill asked if the Department had difficulty with citizens registering their vehicles at addresses outside of the vehicle inspection boundary. **Bill Jasper**, Vehicle Inspection Program, said there is about a 10-plus percent rate of improperly registered vehicles. **Commissioner Castle** asked Mr. Jasper how the Department developed this percentage. Mr. Jasper explained several procedures (parking lot surveys together with normal cross-checking of vehicle violations and drivers' license records). **Chairman Petersen** said he would like the Department to actively pursue the process of identifying improperly registered vehicles.

> **Director's Recommendation:** Based upon the report summation, the Director recommends the Commission authorize the Department to schedule public hearings to receive testimony on the Vehicle Inspection Rules.
>
> **Action:** It was MOVED by Commissioner Bishop, seconded by Commissioner Hutchison and passed unanimously that the Director's Recommendation be approved.

H. Request for Authorization to Conduct a Public Hearing on Proposed Remedial Action Rules Regarding Degree of Clean Up and Selection of the Remedial Action, OAR Chapter 340, Division 122.

The Oregon superfund law establishes a comprehensive program for the identification, investigation and clean up of sites contaminated by hazardous substances. Site clean ups under this law range from simple soil removals to complex and massive groundwater clean ups of hazardous substances. Consequently, the proposed rules must provide flexibility to work with a wide range of sites; the proposed rules identify the basic investigatory activities and clean up options as well as the criteria and decisions needed to determine the clean up level and to select remedial action.

Chairman Petersen thanked **Allan Solares**, Hazardous and Solid Waste Division, and the Remedial Action Advisory Committee for their hard work and dedication.

> **Director's Recommendation:** Based upon the report summation, it is recommended the Commission authorize the Department to conduct a public hearing and to take testimony on the proposed remedial action rules regarding degree of clean up and selection of the remedial action.
>
> **Action:** It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed unanimously that the Director's Recommendation be approved.

ACTION ITEMS

I. Proposed Adoption of Amendments to the Solid Waste Fee Rules, OAR Chapter 340, Division 61.

The 1987 Legislature granted the Department a 20 percent increase in Solid Waste Permit Fees. A draft fee schedule was approved by the Executive Department and the Legislature. Public hearings were held in Baker, Bend, Medford and Portland. The fee schedule is based on the amount of time spent on sites in the various fee categories. Without the fee increase, 10 percent of the program would be lost, affecting compliance assurance activities.

Commissioner Bishop asked if there was any way to avoid the complaint about non-notification of public hearing voiced by one operator. **Robert Brown**, Hazardous and Solid Waste Division, responded that all permittees were notified; however, two contract operators in charge of paying fees and other administrative functions at landfills had not been notified by the permittee. DEQ has since added the two operators to the mailing list. However, he said, this could occur again unless a permittee notified the Department that their contract operator was in charge of all business transactions.

> **Director's Recommendation:** Based upon the report summation, it is recommended the Commission adopt the proposed amendments to

the solid wastes and recycling implementation fee rules in OAR Chapter 340, Division 61.

Action: It was MOVED by Commissioner Hutchison, seconded by Commissioner Castle and passed unanimously that the Director's Recommendation be approved.

J. Proposed Adoption of Amendments to Procedures for Issuance, Denial, Modification and Revocation of Permits (OAR 340-14-005 through 050), Air Contaminant Discharge Permit Notice Policy (OAR 340-20-150), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035).

The Department issues, modifies and denies various permits according to general regulations set forth in Division 14 of the Oregon Administrative Rules. Although the Department follows both written and unwritten procedures for holding public hearings on proposed permit actions, the general rules in Division 14 contain no public hearing requirements or guidance. The Department identified the need to promulgate uniform public hearing rules while involved in the settlement of a law suit. The Department offered in the settlement agreement to amend its general permitting regulations to require a public hearing upon receipt of written requests from ten or more persons, or an organization representing ten or more persons.

Director Hansen proposed a change to the last sentence of the last paragraph of the rule, page 5, as follows:

> Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.

This change would require publication of names and quantities of emissions for permitted sources exceeding significant emission rates or operating under permit limits.

David Blount, representing International Raw Materials, asked the Commission to include in this rule notices on permit transfers. Mr. Blount stated the public should be allowed to review corporate structure and history when a change of ownership occurs to a permitted source.

Chairman Petersen responded he was opposed to that suggestion. However, **Commissioner Hutchison** requested the Department include permit transfers in their monthly activity report.

Jean Meddaugh, Oregon Environmental Council, told the Commission OEC supported the amendment Director Hansen had suggested.

Director's Recommendation: Based on the report summation, it is recommended the EQC adopt the proposed amendments to the Department's general permitting procedures.

Action: It was MOVED by Commissioner Castle, seconded by Commissioner Hutchison and passed unanimously that the Director's Recommendation as amended above be approved.

K. Request for Issuance of an Environmental Quality Commission Compliance Order for the City of Estacada, Oregon.

Estacada's sewage treatment plant is unable to meet secondary treatment effluent limits prior to discharge to the Clackamas River. The Order is needed to establish interim limits and a schedule for construction of improved and expanded sewage treatment facilities that are to be operational by December 1, 1989. Once completed, the treatment system will meet stringent effluent criteria established for the Clackamas River sub-basin.

Commissioner Hutchison asked if the City would act to perform its treatment obligations in consideration of this concession by the EQC. **David Mann**, Water Quality Division, answered that the City and its engineers have been very responsive through the plant design review process and that staff anticipates continued cooperation.

Director's Recommendation: Based on the report summation, the Director recommends the Commission issue the Compliance Order as discussed in Alternative 3 by signing the document prepared as Attachment B of the staff report.

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

L. Request for Increased Load Allocation Under OAR, 340-41-026(2) from Portland General Electric for an Expansion of the Sewage Treatment Plant Serving the Trojan Nuclear Power Plant.

Portland General Electric operates a small sewage treatment facility to serve its Trojan Nuclear Power Plant. The sewage treatment plant is too small to adequately treat the increased wastewater loads from the plant. Wastewater loads have increased due to a larger work force at the plant.

The company has evaluated the options available to them for increasing their ability to treat sewage at the plant and had requested approval be granted for increasing its allowable discharge limit by a monthly average of 8.3 pounds to a total of 12.5 pounds of biochemical oxygen demand and total suspended solids. The company's evaluation of other alternatives which would not increase loads discharged were more expensive or impractical. Under the Commission's rules, additional load allocations must be specifically approved by the Commission.

John Charles, Oregon Environmental Council, submitted a letter to the Commission stating that he hoped the Commission would assess this request concurrently with review of the pollution control tax credits in Agenda Item C. Mr. Charles wrote that he believes Portland General Electric should put money back into the their system to protect the water quality of the Columbia River. The letter is made a part of this meeting record.

Richard Nichols, Water Quality Administrator, said he would be responding to Mr. Charles letter and addressing his concerns.

Chairman Petersen said he would like to see the Department and the Commission be consistent about this type of modification. Several Commissioners expressed the need to develop further criteria for equitable evaluation of such proposals.

> **Director's Recommendation:** The Director recommends the Commission grant the requested increase for 8.3 pounds of additional loading to Portland General Electric for the Trojan Nuclear Power Plant, and that the Department modify the NPDES (National Pollutant Discharge Elimination System) permit as appropriate.
>
> **Action:** It was MOVED by Commissioner Bishop, seconded by Commissioner Brill and passed four to one, with Commission Hutchison voting NO, that the Director's Recommendation be approved.

M. Informational Report: Implementation Status of the Total Suspended Particulate (TSP) Air Pollution Control Strategy in the Medford-Ashland Air Quality Maintenance Area.

At the EQC meeting in Medford on April 29, 1988, the Commission directed the Department to prepare a report on what occurred in the implementation of the Medford-Ashland 1983 particulate control strategy. Additionally, the Commission asked the Department what could be done to correct any implementation problems and to prevent similar problems in the future.

As discussed in the staff report, there are a number of options available to individual citizens or units of government to motivate or force implementation of the control measures in the Medford-Ashland particulate strategy. The Department believes that locally shaped and enforced strategies to deal with residential woodsmoke pollution problems are still highly preferable over state or federal sanctions. However, in order to prevent similar implementation problems in the future, either EPA may need to pursue its legal remedies or state authority may be needed from the Oregon Legislature to impose automatic restrictions that would effectively reduce future residential woodsmoke emissions in areas that failed to develop or implement the necessary control strategy.

Director Hansen said that Alaska and Idaho had allowed local governments to regulate residential woodstove burning , and this regulation had occurred

without great outrage from the citizens. **Commissioner Petersen** also stated that a strong education program was needed and asked the Department how it was proceeding with their educational program. **Director Hansen** indicated that **Carolyn Young**, Public Affairs, was coordinating a special information project made possible by a grant from EPA.

Director's Recommendation: This report is provided for information only; no Commission action is required at this time.

N. Informational Report: Air Quality Offset Rule (OAR 340-20-240).

At the April 29, 1988, EQC meeting in Medford, the Commission requested the Department to prepare an informational report on the air quality offset rule. Concern had been expressed by several people commenting before the Commission that the offset rule allowed industry to move into areas that exceed air quality standards. The report includes the following:

1. Background of the offset rule and discussion of available options which include continuing the present offset policy, adopting a growth margin approach and adopting a no-growth approach.

2. Minor changes which could be considered, such as increasing the offset ratio or considering various economic development strategies.

Chairman Petersen stated he would like to see the Department pursue the 1.3-to-1 offset ratio.

Action: It is recommended the Commission take no action now. The Department is planning to propose new control strategies for PM_{10} non-attainment areas in the near future. One possible strategy being considered is an increase in the offset ratio. It is recommended the Commission consider this proposed revision at the time the control strategies are brought before the Commission.

O. Review of applications for Assessment Deferral Loan Program Revolving Funds.

In 1987, the Legislature created the Assessment Deferral Loan Program to provide assistance to property owners who will experience extreme financial hardship resulting from sewer assessments for sewer connections required by a federal grant agreement or an order issued by a state commission or agency. Under this new program, public agencies apply to the Department for a loan and in turn provide loans to individual property owners.

The Department has received applications for loan funds from Portland, Gresham and Eugene. Each of the City's proposed programs have been reviewed by the Department. An errata sheet was added to the staff report.

Jean Orcutt spoke to the Commission about her concerns with Bancroft agreements that were being proposed. Ms. Orcutt also asked if the Department had reviewed and approved Portland and Gresham's safety net program. **Richard Nichols**, Water Quality Administrator, responded that the Department had reviewed the programs as they related to requirements of the statutes allowing the sewer assessment deferral loan program. Issues related to the program that were outside the statutory requirements of the loan program were not addressed. **Chairman Petersen** expressed concern about what would happen to the loan at the death of the owner. **Bonnie Morris**, City of Portland, said the City program requires repayment upon title transfer.

Chairman Petersen requested Commission review of amendments to the safety net programs.

> **Director's Recommendation:** Based on the report summation, it is recommended the Commission approve the proposed assessment deferral loan programs for Portland, Gresham and Eugene.
>
> **Action:** It was MOVED by Commissioner Hutchison, seconded by Commissioner Bishop and passed unanimously that the Director's Recommendation with errata be approved.

There was no further business and the meeting adjourned at 1:05 p.m.

Commissioner Hutchison expressed thanks and appreciation to Chairman Petersen and Commissioner Bishop for their diligent and hard work during their tenure on the Commission.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item B, June 10, 1988, EQC Meeting. March and April, 1988 Activity Reports

The report provides information to the Commission on the status of DEQ activities. In addition, the report contains a listing of plans and specifications for construction of air contaminant sources which by statute require Commission approval. Other plans and specifications reviewed by the Department do not require Commission approval.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. B, June 10, 1988, EQC Meeting

March and April, 1988 Activity Reports

Discussion

Attached are the March and April, 1988 Program Activity Reports.

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

Water Quality and Hazardous 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 plans 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

MP1495

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

MARCH AND APRIL 1988

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MF3113(MAR.TC 5/16/88)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

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

March and April
(Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans
	Month	FY	Month	FY	Month	FY	Pending
Air							
Direct Sources	12	69	15	81	0	0	11
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	12	69	15	81	0	0	11
Water							
Municipal	21	89	22	126	0	0	27
Industrial	10	57	12	50	0	0	7
Total	31	146	34	176	0	0	34
Solid Waste							
Gen. Refuse	-	22	2	9	-	2	29
Demolition	-	2	-	-	-	2	1
Industrial	2	7	1	8	1	2	10
Sludge	-	2	1	1	-	-	2
Total	2	33	3	18	1	6	42
Hazardous Wastes	-	-	-	-	-	-	-
GRAND TOTAL	45	248	52	275	1	6	87

MF3114

MAR.2 (1/83)

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES
PLAN ACTIONS COMPLETED

Permit Number	Source Name	County	Date Scheduled	Action Description	Date Achieved
22 0547	TELEDYNE WAH CHANG ALBANY	LINN	02/25/88	COMPLETED-APRVD	03/09/88
26 2006	CENTENNIAL MILLS	MULTNOMAH	03/23/88	COMPLETED-APRVD	04/04/88
26 2909	PORT OF PORTLAND	MULTNOMAH	02/16/88	COMPLETED-APRVD	03/01/88
26 3240	FUJITSU MICROELECTRONICS	MULTNOMAH	01/04/88	COMPLETED-APRVD	03/08/88
34 2678	TEKTRONIX, INC	WASHINGTON	02/29/88	COMPLETED-APRVD	03/15/88

TOTAL NUMBER QUICK LOOK REPORT LINES 5

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division — (Reporting Unit)

March 1988 — (Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received Month	Permit Actions Received FY	Permit Actions Completed Month	Permit Actions Completed FY	Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
Direct Sources							
New	5	22	1	25	15		
Existing	0	14	2	16	7		
Renewals	9	57	6	53	52		
Modifications	13	62	17	69	25		
Total	27	155	26	163	99	1398	1422
Indirect Sources							
New	0	8	1	11	2		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	1	6	1	4	1		
Total	1	14	2	15	3	282	284
GRAND TOTALS	28	169	28	178	102	1680	1706

Number of Pending Permits	Comments
13	To be reviewed by Northwest Region
13	To be reviewed by Willamette Valley Region
11	To be reviewed by Southwest Region
4	To be reviewed by Central Region
0	To be reviewed by Eastern Region
10	To be reviewed by Program Operations Section
31	Awaiting Public Notice
17	Awaiting end of 30-day Public Notice Period
99	

MAR.5
AA5323

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES
PERMITS ISSUED

Permit Number	Source Name	County Name	Appl. Rcvd.	Status	Date Achvd.	Type Appl.
03 1937	LONE STAR NORTHWEST	CLACKAMAS	01/05/88	PERMIT ISSUED	03/25/88	MOD
03 2469	LONE STAR NORTHWEST	CLACKAMAS	01/05/88	PERMIT ISSUED	03/25/88	MOD
03 2639	LONE STAR NORTHWEST	CLACKAMAS	01/05/88	PERMIT ISSUED	03/25/88	MOD
04 0014	ASTORIA PLYWOOD CORP	CLATSOP	00/00/00	PERMIT ISSUED	03/22/88	MOD
08 0031	CURRY HEALTH DISTRICT	CURRY	06/09/87	PERMIT ISSUED	03/25/88	RNW
19 0019	GOOSE LAKE LUMBER CO.	LAKE	03/14/88	PERMIT ISSUED	03/25/88	MOD
22 5195	GEORGIA-PACIFIC CORP.	LINN	02/26/88	PERMIT ISSUED	03/25/88	MOD
22 7008	PLEASANT VALLEY PLYWOOD	LINN	08/03/87	PERMIT ISSUED	03/14/88	RNW
26 1765	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 1902	THE MCCLOSKEY CORPORATION	MULTNOMAH	12/17/85	PERMIT ISSUED	03/28/88	RNW
26 1908	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 1909	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 1910	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 1995	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 2003	BUNGE CORPORATION (KERR)	MULTNOMAH	06/11/87	PERMIT ISSUED	03/14/88	RNW
26 2204	THE BOEING COMPANY	MULTNOMAH	01/20/88	PERMIT ISSUED	03/14/88	MOD
26 2965	LONE STAR NORTHWEST	MULTNOMAH	01/05/88	PERMIT ISSUED	03/25/88	MOD
26 3039	WAGNER MINING EQUIP CO	MULTNOMAH	09/17/87	PERMIT ISSUED	03/14/88	MOD
27 8030	AGATE ROCK & REDI MIX CO	POLK	01/12/87	PERMIT ISSUED	03/14/88	NEW
34 2143	FORESTEX CO.	WASHINGTON	02/12/88	PERMIT ISSUED	03/25/88	MOD
34 2582	PACIFIC CHLORIDE INC.	WASHINGTON	04/30/84	PERMIT ISSUED	03/28/88	RNW
34 2739	HYDRO CONDUIT CORPORATION	WASHINGTON	08/25/87	PERMIT ISSUED	03/14/88	EXT
36 1025	ENVIRONMENTAL PACIFIC	YAMHILL	09/22/87	PERMIT ISSUED	03/18/88	EXT
37 0193	CEDAR CREEK QUARRIES INC	PORT.SOURCE	02/17/88	PERMIT ISSUED	03/28/88	RNW
37 0212	LONE STAR NORTHWEST	PORT.SOURCE	03/08/88	PERMIT ISSUED	03/25/88	MOD
37 0232	MT. HOOD ROCK PRODUCTS	PORT.SOURCE	03/08/88	PERMIT ISSUED	03/29/88	MOD

TOTAL NUMBER QUICK LOOK REPORT LINES 26

04

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — March 1988 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Indirect Sources			
Washington	Washington County Public Services Building 749 Spaces File No. 34-8717		Final Permit Issued
Washington	Koll Center Creekside, Phase VIII, 310 Spaces, (Modification) File No. 34-8310		Final Permit Addendum No. 1 Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — March 1988 (Month and Year)

PLAN ACTIONS COMPLETED - 22

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES - 14			
Wasco	Shaniko Hotel Recirculating Gravel Filter	3-31-88	Provisional Approval
Jackson	Ashland - Royal Oaks Subdivision - Ashley Senior Center	3-30-88	Provisional Approval
Deschutes	Starwood Sanitary District Area No. 1 Laterals 1, 2, 3	3-30-88	Provisional Approval
Marion	Mt. Angel Habitat for Humanity (4 cot partition)	3-30-88	Provisional Approval
Union	Hot Lake Resort RV Park Addition Lagoon Upgrade	3-9-88	Provisional Approval
Clackamas	Wilsonville Memorial Park Restroom Connection	3-30-88	Provisional Approval
Lane	Veneta Brandon Park Subd.	4-4-888	Provisional Approval
Klamath	Bonanza Edgar Downing Project (Carroll Ave & High Street)	4-4-88	Provisional Approval
Douglas	Glide-Idlyld District Rivershore Drive Extension	4-4-88	Provisional Approval
Marion	Mt. Angel 1988 Sewer Repairs	4-5-88	Approved

WC3164

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — March 1988 (Month and Year)

PLAN ACTIONS COMPLETED - 22

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES			
Wallowa	Wallowa Lake Service Dist. Sewer Improvements	4-5-88	Provisionsal Approval
Benton	Alpine Service District of Benton County Collection and Treatment	4-8-88	Provisional Approval
Clackamas	Estacada Plant Expansion	4-1-88	Provisional Approval

WC3164

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — March 1988 (Month and Year)

PLAN ACTIONS COMPLETED - 22

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES - 8			
Deschutes	Bend Millwork Systems Oil Spill Containment Facility	3-29-88	Approved
Tillamook	Craven Farms, Inc. Manure Control Facility	3-14-88	Approved
Washington	Tektronix Back-up Control Computer	3-15-88	Approved
Linn	Teledyne Wah Chang MIBK Supply Storage Tank with Berm	3-9-88	Approved
Multnomah	Pennwalt Corporation Caustic Tank Farm Containment Facility	3-28-88	Approved
Linn	Teledyne Wah Chang Fluoride & Molybdenum Treatment System	3-17-88	Approved
Tillamook	Wayne Trent Manure Control Facility	3-14-88	Approved
Lincoln	Ketola Dairy Manure Control Facility	3-18-88	Approved

WC3164

SUMMRY-F

Summary of Actions Taken
On Water Permit Applications in MAR 88

7 APR 88

Source Category &Permit Subtype	Number of Applications Filed						Number of Permits Issued						Applications Pending Permits Issuance (1)			Current Number 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		2		3	19		1	2		1	21	2	5	17				
RW				1						1			1					
RWO	3			46	20		4	4		25	25		69	28				
MW	1			2									3					
MWO				1				1		20	4		3	1				
Total	4	2		53	39		5	7		47	50	2	81	46		223	190	31
Industrial																		
NEW		3	7	1	11	25		1	6	1	9	23	3	17	7			
RW																		
RWO	1	2		20	19		2	2	2	12	11	6	22	22				
MW	1			2	1			1			1		3					
MWO		1		7	5	5		1	1	9	6	2	1	2	1			
Total	2	6	7	30	36	30	2	5	9	22	27	31	29	41	8	162	134	398
Agricultural																		
NEW			1			2			17			535						
RW																		
RWO				1	1							1	1	1				
MW																		
MWO																		
Total			1	1	1	2			17			536	1	1		2	12	590
Grand Total	6	8	8	84	76	32	7	12	26	69	77	569	111	88	8	387	336	1019

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-MAR-88.

NEW - New application
RW - Renewal with effluent limit changes
RWO - Renewal without effluent limit changes
MW - Modification with increase in effluent limits
MWO - Modification without increase in effluent limits

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
General: Cooling Water										
IND	100	GEN01	RWO	OR003248-4	103760/A	MITSCH, JOHN W.	CANBY	CLACKAMAS/NWR	16-MAR-88	31-DEC-90
IND	100	GEN01	RWO	OR003247-6	100691/A	DANA CORPORATION	PORTLAND	WASHINGTON/NWR	23-MAR-88	31-DEC-90
General: Log Ponds										
IND	400	GEN04	MWO	OR002168-7	59105/A	MOUNTAIN FIR LUMBER CO., INC.	INDEPENDENCE	POLK/WVR	02-MAR-88	31-DEC-90
General: Suction Dredges										
IND	700	GEN07	NEW		103734/A	SEAMAN, RAYMOND ART		MOBILE SRC/ALL	01-MAR-88	31-JUL-91
IND	700	GEN07	NEW		103744/A	COTE, CHRIS & JOE		JOSEPHINE/SWR	11-MAR-88	31-JUL-91
IND	700	GEN07	NEW		103762/A	HICKMAN, J. H.		MOBILE SRC/ALL	18-MAR-88	31-JUL-91
General: Confined Animal Feeding										
AGR	800	GEN08	NEW		103735/A	AVERILL, DON P.	TILLAMOOK	TILLAMOOK/NWR	02-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103739/A	PETERSON, HARLEN	CANBY	CLACKAMAS/NWR	08-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103741/A	STADELMAN, PAUL	CORNELIUS	WASHINGTON/NWR	08-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103742/A	RIEBEN, ERNEST	BANKS	WASHINGTON/NWR	08-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103740/A	HAYES, THOMAS & GAYE	GRANTS PASS	JOSEPHINE/SWR	08-MAR-88	31-JUL-92

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
AGR	800	GEN08	NEW		103743/A	BENNETT'S ACRES	BORING	CLACKAMAS/NWR	10-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103748/A	PETERS, LEANDER	CORNELIUS	WASHINGTON/NWR	15-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103747/A	CAL-GON FARMS	SALEM	MARION/WVR	15-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103764/A	MCKILLIP FEEDLOT	ST. PAUL	MARION/WVR	22-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103765/A	KUENZI, ARTHUR D.	SALEM	MARION/WVR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103769/A	SCHWARZ, LEON	NEHALEM	TILLAMOOK/NWR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103770/A	RIEGER, STEVE & JERRILEE	TILLAMOOK	TILLAMOOK/NWR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103772/A	SAYLES, GERALD W.	KLAMATH FALLS	KLAMATH/CR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103771/A	HURLIMAN, BOB	TILLAMOOK	TILLAMOOK/NWR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103767/A	PAYNE, JOE S.	VALE	MALHEUR/ER	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103768/A	DUYCK, MYRON A.	BANKS	WASHINGTON/NWR	23-MAR-88	31-JUL-92
AGR	800	GEN08	NEW		103766/A	BIELENBERG, TIM	AUMSVILLE	MARION/WVR	23-MAR-88	31-JUL-92

General: Seafood Processor

IND	900	GEN09	NEW	OR002140-7	42000/B	STINNETT, GRAYDON T. & PHYLLIS N.	BANDON	COOS/SWR	01-MAR-88	31-DEC-91

General: Gravel Mining

IND	1000	GEN10	NEW		57550/B	BRABBIN, MICHAEL A.	WHITE CITY	JACKSON/SWR	09-MAR-88	31-DEC-91
IND	1000	GEN10	NEW		2005/A	ALTHAUSER, GLENN L. AND JOHN T.	BORING	CLACKAMAS/NWR	24-MAR-88	31-DEC-91

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
NPDES										
DOM	100433	NPDES	RWO	OR002905-0	25491/A	DUFUR, CITY OF	DUFUR	WASCO/CR	04-MAR-88	31-JAN-93
IND	100434	NPDES	RWO	OR002173-3	97095/A	WILLAMETTE INDUSTRIES, INC.	SWEET HOME	LINN/WVR	04-MAR-88	28-FEB-93
DOM	100435	NPDES	RWO	OR002047-8	50677/A	LINCOLN CITY, CITY OF	LINCOLN CITY	LINCOLN/WVR	14-MAR-88	30-NOV-92
IND	100438	NPDES	RWO	OR000085-0	9539/A	BOISE CASCADE CORPORATION	MEDFORD	JACKSON/SWR	18-MAR-88	31-JAN-93
DOM	100445	NPDES	NEW	OR003244-1	103468/A	PHILOMATH, CITY OF	PHILOMATH	BENTON/WVR	29-MAR-88	31-JAN-93
DOM	100446	NPDES	RWO	OR002020-6	5664/A	BANDON, CITY OF	BANDON	COOS/SWR	30-MAR-88	31-JAN-93
DOM	100448	NPDES	RWO	OR003026-1	33743/A	DOUGLAS COUNTY DEPARTMENT OF PUBLIC WORKS	IDLEYD PARK	DOUGLAS/SWR	31-MAR-88	31-JAN-93
WPCF										
DOM	100436	WPCF	NEW	OR002278-1	57016/A	MILTON-FREEWATER, CITY OF	MILTON FREEWTR	UMATILLA/ER	14-MAR-88	31-MAR-93
IND	100437	WPCF	RWO		96746/A	WIENSZ, NORMAN	MONMOUTH	POLK/WVR	15-MAR-88	30-NOV-92
IND	3720	WPCF	MW		74486/A	ARCO OIL AND GAS CORPORATION	MIST	COLUMBIA/NWR	18-MAR-88	31-JUL-88
IND	100439	WPCF	RWO		74474/B	RVP CORP.	WHITE CITY	JACKSON/SWR	18-MAR-88	30-NOV-92
DOM	100440	WPCF	RWO		61850/A	JOSEPHINE COUNTY SCHOOL DISTRICT	MERLIN	JOSEPHINE/SWR	18-MAR-88	31-JAN-93
DOM	3588	WPCF	MWO		75545/B	WINDSOR PARK PROPERTIES 4, A CALIFORNIA LIMITED PARTNERSHIP	CLACKAMAS	CLACKAMAS/NWR	22-MAR-88	31-MAR-87
IND	3765	WPCF	MWO		42200/B	BOHEMIA INC.	GARDINER	DOUGLAS/SWR	22-MAR-88	31-DEC-88
IND	100441	WPCF	NEW		28185/A	DEMERGASSO, JOHN, CONSTANTINO & CLEMENTINA	HARRISBURG	LINN/WVR	23-MAR-88	31-JAN-93
DOM	100442	WPCF	RWO		76940/A	ROUND LAKE UTILITIES, INC.		KLAMATH/CR	25-MAR-88	31-JAN-93

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
DOM	100443	WPCF	RWO		73432/A	RAJNEESH INVESTMENT CORPORATION	RAJNEESHPURAM	JEFFERSON/CR	25-MAR-88	31-JAN-93
DOM	100444	WPCF	RWO		88677/B	PHM HEALTH CARE GROUP, INC.	TILLAMOOK	TILLAMOOK/NWR	29-MAR-88	31-JAN-93
DOM	100447	WPCF	NEW		42490/A	IRRIGON, CITY OF	IRRIGON	MORROW/ER	29-MAR-88	31-MAR-93

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

SOLID WASTE PLAN ACTIONS COMPLETED

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

FY7036
MAR.3 (5/79)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

SUMMARY OF HAZARDOUS WASTE PROGRAM ACTIVITIES

PERMITS

	ISSUED		PLANNED
	No. This Month	No. Fiscal Year to Date (FYTD)	No. in FY 88
Treatment	0	0	0
Storage	0	0	7
Disposal	1	1	1

INSPECTIONS

	COMPLETED		PLANNED
	No. This Month	No. FYTD	No. in FY 88
Generator	3	33	45
TSD	1	16	29

CLOSURES

	PUBLIC NOTICES			CERTIFICATIONS ACCEPTED		
	No. This Month	FYTD No.	Planned in FY88	No. This Month	No. FYTD	No. Planned in FY 88
Treatment	0	0	0	0	0	0
Storage	0	1	3	0	4	4
Disposal	0	1	2	0	2	3

SB5285.A
MAR.2 (3/88)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

PLAN ACTIONS PENDING - 43

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Municipal Waste Sources - 30					
Malheur	Brogan-Jamieson	6/29/84	--	(R) Holding	HQ
Malheur	Adrian	11/7/85	7/10/86	(C) Add'l. info. rec'd.	HQ
Jackson	Ashland	12/6/85	12/6/85	(R) Plan received	HQ
Baker	Haines	12/13/85	12/13/85	(R) Plan received	HQ
Deschutes	Knott Pit Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Fryrear Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Negus Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Umatilla	Umatilla Tribal SW Service	8/25/86	8/25/86	(R) Plan received	HQ
Yamhill	River Bend	11/14/86	11/14/86	(R) Plan received	HQ
Douglas	Lemolo T.S.	12/10/86	12/10/86	(R) Plan received	HQ
Multnomah	St. Johns Lndfl.	12/17/86	10/28/87	(C) Add'l. info. requested.	HQ
Marion	Ogden Martin Brooks ERF	3/24/87	3/24/87	(N) As-built plans rec'd.	HQ
Douglas	Reedsport Lndfl.	5/7/87	5/7/87	(R) Plan received	HQ
Benton	Coffin Butte	6/1/87	6/1/87	(R) Plan received	HQ
Malheur	Harper TS	6/22/87	6/22/87	(N) Plan received	HQ
Malheur	Willowcreek Lndfl.	6/22/87	6/22/87	(C) Plan received	HQ

SC2104.A (C) = Closure plan; (N) = New source plans

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Klamath	Klamath Falls Landfill	7/6/87	7/6/87	(R) Plan received	HQ
Wasco	Northern Wasco Transfer	7/24/87	7/24/87	(N) Plan received	HQ
Jackson	South Stage	7/29/87	7/29/87	(R) Plan received	HQ
Malheur	Harper Landfill	8/17/87	8/17/87	(C) Plan received	HQ
Lane	Short Mountain Landfill	9/16/87	9/16/87	(R) Revised operational plan	HQ
Morrow	Tidewater Barge Lines (Finley Butte Lndfl.)	10/15/87	3/3/88	(N) Supplemental plan received.	HQ
Umatilla	City of Milton-Freewater	11/19/87	11/19/87	(N) Plan received (groundwater study)	HQ
Marion	Ogden-Martin (metal rec.)	11/20/87	11/20/87	(N) Plan received	HQ
Marion	Browns Island Landfill	11/20/87	11/20/87	(C) Plan received (groundwater study)	HQ
Harney	Burns-Hines	12/16/87	12/16/87	(R) Plan received	HQ
Marion	Woodburn TS	1/5/88	1/5/88	(N) Revised plan rec'd.	HQ
Lincoln	Agate Beach Balefill	1/6/88	1/6/88	(R) Revised operational plan received	HQ
Jackson	Dry Creek Landfill	1/15/88	1/15/88	(R) Groundwater report received	HQ
Washington	Hillsboro TS	1/15/88	1/15/88	(N) Plans received	HQ
<u>Demolition Waste Sources</u> - 1					
Washington	Hillsboro Landfill	1/29/88	1/29/88	(N) Expansion plans received	

(C) = Closure plan; (N) = New source plans

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Industrial Waste Sources - 9					
Klamath	Weyerhaeuser, Klamath Falls	3/24/86	11/25/86	(N) Add'l. info. requested	HQ
Multnomah	Penwalt Corp.	4/2/86	7/14/86	(N) Add'l. info. requested	HQ
Linn	Willamette Industries, Inc. Lime Rejects Site Closure	7/3/86	7/3/86	(C) Plan received	HQ
Douglas	Roseburg Forest Products Co. (Riddle)	7/22/86	12/22/86	(R) Add'l. info. rec'd.	HQ
Coos	Rogge Lumber	7/28/86	6/18/87	(C) Additional info. submitted to revise previous application.	HQ
Douglas	Roseburg Forest Products Co. (Dixonville)	3/23/87	3/23/87	(R) Operational plan	HQ
Douglas	Louisiana-Pacific Round Prarie	9/30/87	9/30/87	(R) Operational plan	HQ
Clatsop	Nygard Logging	11/17/87	11/17/87	(N) Plan received	HQ
Linn	James River, Lebanon	1/22/88	1/22/88	(C) Groundwater report received.	
Sewage Sludge Sources - 3					
Coos	Beaver Hill Lagoons	11/21/86	12/26/86	(N) Add'l. info. rec'd.	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Plan received	HQ
Clackamas	Cascade-Phillips Corp. (septage)	11/12/87	11/12/87	(N) Plan received	HQ

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

SUMMARY OF SOLID WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
General Refuse							
New	-	4	-	1	5		
Closures	-	1	-	-	5		
Renewals	-	5	1	4	16		
Modifications	11	23	10	21	1		
Total	11	33	11	26	27	178	178
Demolition							
New	-	1	-	1	-		
Closures	-	-	-	-	-		
Renewals	-	1	-	2	1		
Modifications	-	2	-	1	1		
Total	0	4	0	4	2	11	11
Industrial							
New	-	8	-	8	6		
Closures	-	-	-	-	1		
Renewals	1	3	-	2	5		
Modifications	2	13	2	13	-		
Total	3	24	2	23	12	105	105
Sludge Disposal							
New	-	1	-	-	2		
Closures	-	1	-	-	1		
Renewals	-	-	-	-	-		
Modifications	-	6	-	6	-		
Total	0	8	0	6	3	17	17
Total Solid Waste	14	69	13	59	44	311	311

MAR.5S (11/84) (SB5285.B)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Douglas	Glide Lumber	3/3/88	Addendum issued.
Harney	Andrews	3/3/88	Addendum issued.
Harney	Crane	3/3/88	Addendum issued.
Harney	Diamond	3/3/88	Addendum issued.
Harney	Drewsey	3/3/88	Addendum issued.
Harney	Fields	3/3/88	Addendum issued.
Harney	Frenchglen	3/3/88	Addendum issued.
Harney	Riley	3/3/88	Addendum issued.
Harney	Sodhouse	3/3/88	Addendum issued.
Lake	L.P. Lakeview	3/3/88	Addendum issued.
Marion	Ogden-Martin Sys., Inc.	3/7/88	Addendum issued.
Josephine	Kerby	3/15/88	Addendum issued.
Wasco	North Wasco County Lndfl.	3/30/88	Addendum issued.

MAR.6 (5/79) SB7335.6

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — March 1988 (Month and Year)

PERMIT ACTIONS PENDING - 44

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Municipal Waste Sources - 27					
Clackamas	Rossmans	3/14/84	2/11/87	(C) Applicant review (second draft)	HQ/RO
Malheur	Brogan-Jamieson	6/29/84	4/21/86	(R) Application filed	HQ
Baker	Haines	1/30/85	6/20/85	(R) Applicant review	HQ
Malheur	Adrian	11/7/85	11/7/85	(C) Application filed	RO
Jackson	Ashland	12/9/85	1/13/86	(R) Draft received	HQ
Jackson	So. Stage	12/30/85	8/24/87	(R) Draft received	HQ
Curry	Wridge Creek	2/19/86	9/2/86	(R) Draft received	HQ
Umatilla	Rahn's (Athena)	5/16/86	5/16/86	(R) Application filed	RO
Marion	Woodburn Lndfl.	9/22/86	7/9/87	(R) Draft received	HQ
Douglas	Lemolo Trans. Sta.	12/10/86	7/28/87	(R) Draft received	HQ
Multnomah	St. Johns Landfill	12/17/86	12/17/86	(C) Application filed	RO/HQ
Coos	Bandon Landfill	1/20/87	1/7/88	(R) Draft received	HQ
Deschutes	Negus Landfill	2/4/87	11/16/87	(R) Applicant review	HQ
Douglas	Reedsport Lndfl.	5/7/87	1/11/88	(R) Draft received	HQ
Malheur	Harper Transfer	6/22/87	6/22/87	(N) Application filed	RO
Malheur	Willowcreek Lndfl.	6/22/87	6/22/87	(C) Application filed	RO
Klamath	Klamath Falls Landfill	7/6/87	7/6/87	(R) Application filed	RO

SB4968 (A) = Amendment; (C) = Closure permit;

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Wasco	Northern Wasco Co. Transfer	7/24/87	11/16/87	(N) Applicant review	HQ
Malheur	Harper Landfill	8/17/87	8/17/87	(C) Application filed	RO
Gilliam	Oregon Waste Sys., Inc. Gilliam Cnty Lndfl.	8/31/87	1/22/88	(N) Applicant review	HQ
Grant	Hendrix Landfill	9/17/87	9/17/87	(R) Application filed	RO
Lane	Florence Landfill	9/21/87	1/12/88	(R) Draft received	HQ
Morrow	Tidewater Barge Lines (Finley Butte Landfill)	10/15/87	10/15/87	(N) Application filed	HQ
Douglas	Roseburg Landfill	10/21/87	10/21/87	(R) Application filed	RO
Curry	Port Orford Lndfl.	12/14/87	12/14/87	(R) Application filed	RO
Washington	Hillsboro TS	1/15/88	1/15/88	(N) Application received	
Umatilla	Pendleton Lndfl.	3/10/88	3/10/88	(A) Application received	HQ
Demolition Waste Sources - 2					
Coos	Bracelin/Yeager (Joe Ney)	3/28/86	9/2/86	(R) Draft received	HQ
Washington	Hillsboro Lndfl.	1/29/88	1/29/88	(M) Application received	
Industrial Waste Sources - 12					
Lane	Bohemia, Dorena	1/19/81	9/1/87	(R) Applicant review of second draft	HQ
Wallowa	Boise Cascade Joseph Mill	10/3/83	5/26/87	(R) Applicant comments received	HQ
Douglas	Int'l Paper (Gardiner)	2/20/86	3/15/88	(N) Applicant review	HQ
Klamath	Weyerhaeuser, Klamath Falls (Expansion)	3/24/86	11/25/86	(N) Add'l. info. requested	HQ

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Multnomah	Penwalt	4/2/86	7/14/86	(N) Add'l. info. requested	HQ
Curry	South Coast Lbr.	7/18/86	7/18/86	(R) Application filed	RO
Linn	Western Kraft Lime storage	8/11/86	8/11/86	(C) Application filed	RO
Baker	Ash Grove Cement West, Inc.	4/1/87	4/1/87	(N) Application received	RO
Klamath	Modoc Lumber Landfill	5/4/87	5/4/87	(R) Application filed	RO
Clatsop	Nygard Logging	11/17/87	3/3/88	(N) Draft received	HQ
Wallowa	Sequoia Forest Ind.	11/25/87	11/25/87	(N) Application filed	RO
Douglas	Glide Lumber Prod.	3/8/88	3/8/88	(R) Application filed	RO
Sewage Sludge Sources - 3					
Coos	Beaver Hill Lagoons	5/30/86	3/10/87	(N) Add'l. info. received (addition of waste oil facility)	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Application received	HQ/RO
Clackamas	Cascade-Phillips Corp. Septage land application	11/12/87	3/3/88	(N) Draft received	HQ

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — March, 1988 (Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	Mo	FY	Mo	FY	Mo	Last Mo
Industrial/ Commercial	7	80	15	114	212	220
Airports			0	10	2	2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — March, 1988 (Month and Year)

FINAL NOISE CONTROL ACTIONS

County	Name of Source and Location	Date	Action
Clackamas	Caffall Bros. Forest Products, Inc., S. Hwy #99E, Oregon City	3/88	In compliance
Columbia	Food Express, Inc., Scappoose	3/88	In compliance
Multnomah	ABC Roofing Co., Portland	3/88	In compliance
Multnomah	AFCO Auto Wrecking Yard, Portland	3/88	In compliance
Multnomah	Mt. Hood Metals, Portland	3/88	In compliance
Multnomah	Northwest Bark Supply, Portland	3/88	No violation
Multnomah	Pacific Rock Products, Inc., Portland	3/88	No violation
Multnomah	Pierce Sales, Parts & Service, Portland	3/88	In compliance
Multnomah	Roger's Construction Quarry, NE 195th & Yamhill, Portland	3/88	In compliance
Multnomah	Union Pacific Railroad, Barnes Switchyard, N. Columbia Blvd., Portland	3/88	Referred to Federal Rail. Admin.
Washington	Cobb Crushed Rock, 21305 S.W. Kohler Road, Beaverton	3/88	No violation
Washington	Mike's Custom Cabinets, Cornelius	3/88	In compliance
Washington	Oregon Rock & Development Co., Plant #1, Sherwood	3/88	In compliance
Washington	Willamette Industries, Inc., Beaverton	3/88	In compliance
Douglas	Roseburg Kawasaki, Roseburg	3/88	In compliance

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1988

CIVIL PENALTIES ASSESSED DURING MONTH OF MARCH, 1988:

Name and Location of Violation	Case No. & Type of Violation	Date Issued	Amount	Status
Loren Markee Willamina, Oregon	WQ-WVR-88-22 Dumped 15 gallons of of a waste chemical (fungicide) into a roadside ditch and caused pollution of Ash Creek.	3/17/88	$3,000	Contested on 4/1/88.
Precision Castparts Corp. Portland, Oregon	WQ-NWR-88-06 Discharged ethylene glycol into public waters and placed a drum of waste oil in a location where it was likely to over-flow and enter public waters.	3/30/88	$1,000	Paid 4/21/88.
Precision Castparts Corp. Portland, Oregon	HW-NWR-88-05 Hazardous waste management violations including failure to characterize the waste in many drums, storage for more than 90 days, failure to properly mark containers and failure to keep containers closed.	3/30/88	$7,500	Paid 4/21/88.

GB7450 (VAN.CP 1/88)

March, 1988
DEQ/EQC Contested Case Log

ACTIONS	LAST MONTH	PRESENT
Preliminary Issues	0	2
Discovery	0	0
Settlement Action	5	4
Hearing to be scheduled	1	0
Department reviewing penalty	0	0
Hearing scheduled	3	3
HO's Decision Due	1	0
Briefing	0	0
Inactive	4	3
SUBTOTAL of cases before hearings officer.	14	12
HO's Decision Out/Option for EQC Appeal	0	1
Appealed to EQC	1	2
EQC Appeal Complete/Option for Court Review	2	0
Court Review Option Taken	0	0
Case Closed	2	5
TOTAL Cases	19	20

15-AQ-NWR-87-178	15th Hearing Section case in 1987 involving Air Quality Division violation in Northwest Region jurisdiction in 1987; 178th enforcement action in the Department in 1987.
$	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
HW	Hazardous Waste
HSW	Hazardous and Solid Waste Division
Hrng Rfrl	Date when Enforcement Section requests Hearing Section schedule a hearing
Hrngs	Hearings Section
NP	Noise Pollution
NPDES	National Pollutant Discharge Elimination System wastewater discharge permit
NWR	Northwest Region
OSS	On-Site Sewage Section
P	Litigation over permit or its conditions
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

CONTES.B

March 1988
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78		Prtys	03-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
McINNIS ENTERPRISES, LTD., et al.	09/20/83	09/22/83		Prtys	56-WQ-NWR-83-79 WQ-Civil-Penalty of $14,500	EQC approved negotiated settlement. Case closed.
McINNIS ENTERPRISES, LTD., et al.	10/25/83	10/26/83		Prtys	59-SS-NWR-83-33290P-5 SS-license-revocation	EQC approved negotiated settlement. Case closed.
DANT & RUSSELL, INC.	05/31/85	05/31/85	03/21/86	Dept	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of $2,500	Bankruptcy.
BRAZIER FOREST PRODUCTS	11/22/85	12/12/85	02/10/86	Prtys	23-HSW-85 Declaratory Ruling	EQC issued declaratory ruling July 25, 1986. Settlement action.
NULF, DOUG	01/10/86	01/13/86	05/05/86	Dept	01-AQFB-85-02 $500 Civil Penalty	EQC reduced penalty to $100. 12-11-87. DOJ to draft final order.
MERIT USA, INC.	05/30/87	06/10/87	09/14/87	Dept	4-WQ-NWR-87-27 $3500 civil penalty (oil)	DOJ to draft final EQC order.
THE WESTERN COMPLIANCE SERVICES, INC.	09/11/87	09/15/87	05/31/88	Prtys	7-HW-NWR-87-48 RCRA & PCB violations	Hearing scheduled May 31, 1988.

March 1988
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
ROGER DEJAGER	10/13/87		03/18/88	Prtys	8-WQ-WVR-87-68	Settlement action.
CITY OF KLAMATH FALLS			05/03/88		1-P-WQ-88 Salt Caves	Motion for order suspending hearing.
Container-Care Portland	01/25/88	01/27/88	05/13/88	Prtys	6-HW-NWR-87-83	Settlement action.
Richard Doerfler	01/08/88	01/11/88	05/19/88	Prtys	4-AQ-FB-87-05	Hearing scheduled.
Joe L. Heitzman	12/28/87	12/31/87	02/19/88	Resp	2-AQ-FB-87-09	Decision upholding penalty issued March 21, 1988.
~~Joe & Louise Wheeler~~	~~12/30/87~~	~~01/04/88~~			~~3-AQ-FB-87-07 $400 Civil Penalty~~	EQC mitigated penalty to $300. Case closed.
~~James, Andy~~	~~01/08/88~~	~~01/08/88~~			~~5-HW-WVR-87-74~~	EQC approved Stipulation and Final Order. Case closed.
~~McGloskey Corp.~~	~~02/01/88~~	~~02/02/88~~			~~7-HW-NWR-87-98 $3,000 Civil Penalty~~	EQC mitigated penalty to $2,150. Case closed.
Zelmer, dba Rivergate Auto	3/2/88	3/3/88	5/16/88	Prtys	AQOB-NWR-88-03 $1,000 Civil Penalty	Hearing Scheduled.
Markey	4/1/88	4/11/88		Prtys	WQ-WVR-88-22 Civil Penalty	Settlement Action.
CSSI	3/31/88	4/19/88		Prtys	Permit 089-452-353	Preliminary Issues.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES
PLAN ACTIONS COMPLETED

Permit Number		Source Name	County		Date Scheduled	Action Description	Date Achieved
02	2173	EVANITE GLASS FIBER INC.	BENTON	01	04/01/88	COMPLETED-APRVD	04/19/88
02	2515	EVANITE BATTERY SEPARATOR	BENTON	01	04/01/88	COMPLETED-APRVD	04/21/88
07	0023	PIONEER MILLING	CROOK	01	04/04/88	COMPLETED-APRVD	04/13/88
10	0122	ROSEBURG PAVING CO	DOUGLAS	01	03/07/88	COMPLETED-APRVD	04/25/88
15	0004	BOISE CASCADE CORP	JACKSON	01	03/23/88	COMPLETED-APRVD	04/13/88
15	0015	KOGAP MANUFACTURING	JACKSON	01	05/05/88	COMPLETED-APRVD	05/06/88
18	0074	KLAMATH PACIFIC CORP	KLAMATH	01	03/16/88	COMPLETED-APRVD	04/06/88
22	0328	OREGON METALLURGICAL CORP	LINN	01	03/11/88	COMPLETED-APRVD	04/08/88
26	1876	OWENS-ILLINOIS GLASS CONT	MULTNOMAH	01	02/29/88	COMPLETED-APRVD	04/28/88
34	2743	LONGBOTTOM COFFEE & TEA	WASHINGTON	01	03/31/88	COMPLETED-APRVD	04/29/88

TOTAL NUMBER QUICK LOOK REPORT LINES 10

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division — (Reporting Unit)

April 1988 — (Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received Month	Permit Actions Received FY	Permit Actions Completed Month	Permit Actions Completed FY	Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
Direct Sources							
New	5	27	2	27	17		
Existing	1	15	0	16	8		
Renewals	12	69	6	59	58		
Modifications	3	65	11	80	17		
Total	21	176	19	182	100	1398	1422
Indirect Sources							
New	2	10	1	12	3		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	0	6	0	4	1		
Total	2	16	1	16	4	283	286
GRAND TOTALS	23	192	20	198	104	1681	1708

Number of Pending Permits	Comments
13	To be reviewed by Northwest Region
14	To be reviewed by Willamette Valley Region
8	To be reviewed by Southwest Region
5	To be reviewed by Central Region
1	To be reviewed by Eastern Region
14	To be reviewed by Program Operations Section
22	Awaiting Public Notice
23	Awaiting end of 30-day Public Notice Period
100	

MAR.5
AA5323 (5/88)

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES
PERMITS ISSUED

Permit Number	Source Name	County Name	Appl. Rcvd.	Status	Date Achvd.	Type Appl.
03 1922	LONE STAR NORTHWEST	CLACKAMAS	03/15/88	PERMIT ISSUED	04/07/88	MOD
05 1849	BOISE CASCADE CORP.	COLUMBIA	05/01/85	PERMIT ISSUED	04/07/88	RNW
15 0006	STONE FOREST INDUSTRIES	JACKSON	03/28/88	PERMIT ISSUED	04/07/88	MOD
15 0007	RENCO FOREST PRODUCTS INC	JACKSON	04/01/88	PERMIT ISSUED	04/11/88	MOD
15 0012	STONE FOREST INDUSTRIES	JACKSON	03/28/88	PERMIT ISSUED	04/07/88	MOD
15 0039	STONE FOREST INDUSTRIES	JACKSON	03/28/88	PERMIT ISSUED	04/07/88	MOD
15 0043	ROGUE AGGREGATES INC	JACKSON	02/17/88	PERMIT ISSUED	04/08/88	RNW
15 0100	BRISTOL SILICA-LIMESTONE	JACKSON	01/29/88	PERMIT ISSUED	04/08/88	RNW
15 0162	BRABCO	JACKSON	03/24/88	PERMIT ISSUED	04/07/88	MOD
15 0190	BRABCO	JACKSON	03/24/88	PERMIT ISSUED	04/07/88	MOD
17 0030	STONE FOREST INDUSTRIES	JOSEPHINE	03/28/88	PERMIT ISSUED	04/07/88	MOD
22 0513	STONE FOREST INDUSTRIES	LINN	03/28/88	PERMIT ISSUED	04/07/88	MOD
22 1025	WILLAMETTE INDUSTRIES	LINN	05/07/87	PERMIT ISSUED	04/11/88	RNW
22 7005	WILLAMETTE IND MIDWAY VEN	LINN	01/04/88	PERMIT ISSUED	04/11/88	RNW
34 2677	SILGAN CONTAINERS CORP.	WASHINGTON	03/28/88	PERMIT ISSUED	04/07/88	MOD
37 0210	WEATHERS CRUSHING INC	PORT.SOURCE	03/21/88	PERMIT ISSUED	04/08/88	RNW
37 0344	S2-F CORPORATION	PORT.SOURCE	03/18/88	PERMIT ISSUED	04/07/88	MOD
37 0383	MEARS FERTILIZER	PORT.SOURCE	12/22/87	PERMIT ISSUED	04/25/88	NEW
37 0384	SEUBERT EXCAVATORS	PORT.SOURCE	01/07/88	PERMIT ISSUED	04/08/88	NEW

TOTAL NUMBER QUICK LOOK REPORT LINES 19

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division (Reporting Unit) — April 1988 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Indirect Sources			
Multnomah	Oregon Convention Center 920 Spaces File No. 26-8716		Final Permit Issued

MAR.6
AK541 (5/88)

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
MUNICIPAL WASTE SOURCES - 8			
Multnomah	Portland Hayden Island Pump Station and Force Mains	4-27-88	Provisional Approval
Tillamook	Neskowin Regional Proposal Rock Pump Station Conversion	4-25-88	Provisional Approval
Coos	Charleston S. D. Crown Point Sewers Gravity (Dry) Sewers	4-18-88	Provisional Approval
Morrow	Irrigon Collection, Treatment, Disposal (Revised)	4-26-88	Final Comments (Follow-up to Approval Letter)
Lane	Dexter S. D. R.G.F. Reconstruction (Preliminary)	4-11-88	Comments to Engineer
Columbia	Clatskanie Swedetown Road Extension (Forris & Rahcel Humphrey)	4-15-88	Provisional Approval
Clackamas	West Linn School District 3JT Stafford Elementary School Septic Tank and Drainfields 11,700 gpd	4-11-88	Provisional Approval
Baker	Sumpter Collection, Treatment and Disposal	5-6-88	Comments to City and Engineer

WC3296

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
INDUSTRIAL WASTE SOURCES - 4			
Linn	Teledyne Wah Chang Waste Oil Collection Tank System	1-21-88	Approved
Linn	Eugene Chemical & Rendering Works Catch Basin & Grease Dumping Pits	4-13-88	Approved
Multnomah	Pennwalt Corporation Cell Liquor & Shore Tanks Secondary Containment System	3-22-88	Approved
Tillamook	Coast Wide Ready Mix Wastewater Collection System	3-29-88	Approved

WC3296

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS PENDING

County	Name of Source/Project /Site and Type of Same	Date Received	Status	Reviewer
MUNICIPAL WASTE SOURCES - 27				
Deschutes	Sunriver Utilities WWTP Filter and Clarifier Expansions	5-15-87	Review Completion Projected 5-31-88	DSM
Curry	Whaleshead Beach Campground Gravel Recirculation Filter	5-20-87 (revised)	Review Completion Projected 6-30-88	JLV
Deschutes	Sunriver Utilities WWTP Aeration tank/digester expansion	10-13-87	Review Completion Projected 5-31-88	DSM
Clackamas	Milwaukie Stanley Ave. & Johnson Creek S.S. (L.I.D.)	3-31-88	Review Completion Projected 5-30-88	JLV
Clackamas	Orchard Crest Care Center Recirculation Gravel Filter And Seepage Trenches	11-20-87	Review Completion Projected 5-30-88	JLV
Douglas	North Canyonville Sewer Dist. Pressure Sewer System	3-10-88	Review Completion Projected 5-30-88	JLV
Clatsop	Seaside Southeast Sewer '88 Additions	3-21-88	Review Completion Projected 5-30-88	JLV
Lincoln	Whalers Rest Sewers and Septic Tanks	3-23-88	Review Completion Projected 5-30-88	JLV

WC3296

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS PENDING

County	Name of Source/Project /Site and Type of Same	Date Received	Status	Reviewer
Municipal Waste Sources (cont'd)				
Jackson	Ashland Mill Pond P.U.D. (III)	3-2-88	Review Completion Projected 5-30-88	JLV
Tillamook	North Tillamook Copunty S.A. Dike Repair & Riprap for Pond B	4-11-88	Review Completion Project 6-30-88	JLV
Douglas	Myrtle Creek - Woodcrest Extension - Lisa Way Extension	4-11-88	Review Completion Project 6-30-88	JLV
Jackson	Phoenix (BCVSA) Brookside Court Elderly Housing	4-13-88	Review Completion Project 6-30-88	DSM
Curry	Harbor Sanitary District Miles Meadows Subdivision	4-14-88	Review Completion Project 6-30-88	DSM
Clackamas	North Clackamas School District No. 12 Happy Valley School Drainfield Additions	4-19-88	Review Completion Project 5-30-88	JLV
Umatilla	Larry Greenwalt Shady Rest Mobile Home Court Bottomless Sand Filter	4-21-88	Review Completion Project 5-30-88	JLV
Jackson	BCVSA - Whetstone Laterals Phase II - Schedules A & B	4-22-88	Review Completion Project 6-30-88	DSM
Multnomah	Troutdale Frontage Road Sewage Pump Station Replacement	4-25-88	Review Completion Project 6-30-88	DSM
Curry	Brookings Brookings Meadows Subdivision	4-25-88	Review Completion Project 6-30-88	DSM

WC3296

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division
(Reporting Unit)

April 1988
(Month and Year)

PLAN ACTIONS PENDING

County	Name of Source/Project /Site and Type of Same	Date Received	Status	Reviewer
Municipal Waste Sources (cont'd)				
- - - - - - - - - - - - - -PROJECTS BELOW ARE "ON-HOLD"- - - - - - - - - - - -				
Columbia	Scappoose Sewage Treatment Plant Expansion	3-11-87	On Hold, Financing Incomplete	DSM
Deschutes	Romaine Village Recirculating Gravel Filter (Revised)	4-27-87	On Hold For Surety Bond	Not Assigned
Marion	Breitenbush Hot Springs On-Site System	5-27-86	On Hold, Uncertain Financing	JLV
Benton	North Albany County Service District Spring Hill-Crocker Creek Int.	1-21-87	On Hold, Project Inactive	Not Assigned
Douglas	RUSA Loma Vista Subdivision Phase II		On Hold For Pump Station Plans	JLV
Coos	Coos Bay Plant No. 1 Contract 2	8-1-87	On Hold Awaiting Revisions	DSM
Tillamook	South Fork Forest Camp Revised Plans	1-19-88	Review Completion Projected 4-30-88	JLV
Tillamook	Netarts-Oceanside S.D. Fall Creek Sewer Fence Main Replacement	3-3-88	Review Completion Projected 4-30-88	JLV

WC3296

DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTHLY ACTIVITY REPORT

Water Quality Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS PENDING

County	Name of Source/Project /Site and Type of Same	Date Received	Status
INDUSTRIAL WASTE SOURCES - 7			
Linn	Santiam Meat Packers Wastewater Treatment Facility	1-15-87	Review Completion Projected 5-31-88
Yamhill	Allen Fruit Pretreatment Facility	11-24-87	Review Completion Projected 5-31-88
Washington	Tektronix Wastewater Treatment Facility Modification	1-29-88	Review Completion Projected 5-31-88
Multnomah	Reynolds Metals Company Fluoride Compounds Treatment Facility	3-31-88	Review Completion Projected 5-31-88
Marion	Siltec Epitaxial Corporation Wastewater Treatment Facility	4-5-88	Review Completion Projected 5-31-88
Clackamas	Portland General Electric Company Oil Stop Valve & Catch Basin	4-20-88	Review Completion Projected 5-31-88
Marion	Columbia Helicopters, Inc. Groundwater Monitoring and Treatment Facility	4-27-88	Review Completion Projected 5-31-88

WC3296

Summary of Actions Taken
On Water Permit Applications in APR 88

Source Category &Permit Subtype	Number of Applications Filed						Number of Permits Issued						Applications Pending Permits Issuance (1)			Current Number 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		1		3	20			2		1	23	2	5	16				
RW				1						1			1					
RWO		4		46	23		2	4		27	27		67	29				
MW				2									3					
MWO		1		1	1			1		20	5		3	2				
Total		6		53	44		2	7		49	55	2	79	47		223	192	31
Industrial																		
NEW			6	1	11	32		1	7	1	10	29	2	15	9			
RW																		
RWO		1		20	20		3	4	1	15	15	6	19	19				
MW	1			3	1						1		4					
MWO				7	5	5	3	1		10	6	2		2	1			
Total	1	1	6	31	37	37	6	6	8	26	32	37	25	36	10	161	134	404
Agricultural																		
NEW						2			16			542						
RW																		
RWO				1	1			1			1	1	1					
MW																		
MWO																		
Total				1	1	2		1	16		1	543	1			2	10	597
Grand Total	1	7	6	85	82	39	8	14	24	75	88	582	105	83	10	386	336	1032

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-APR-88.

NEW - New application
RW - Renewal with effluent limit changes
RWO - Renewal without effluent limit changes
MW - Modification with increase in effluent limits
MWO - Modification without increase in effluent limits

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
General: Cooling Water										
IND	100	GEN01	RWO	OR000161-9	44571/C	LONE STAR INDUSTRIES, INC.	PORTLAND	MULTNOMAH/NWR	06-APR-88	31-DEC-90
General: Fish Hatcheries										
AGR	300	GEN03	NEW	OR003249-2	103775/A	SYCAN SPRINGS TROUT, INC.	BEATTY	KLAMATH/CR	06-APR-88	31-DEC-90
General: Boiler Blowdown										
IND	500	GEN05	NEW	OR003250-6	103777/A	PACIFIC FOODS OF OREGON, INC.	TUALATIN	WASHINGTON/NWR	13-APR-88	31-JUL-91
General: Suction Dredges										
IND	700	GEN07	NEW		103778/A	PETERSON, JERRY J.		JACKSON/SWR	05-APR-88	31-JUL-91
IND	700	GEN07	NEW		103779/A	RIDGWAY, JOHN T.		JACKSON/SWR	05-APR-88	31-JUL-91
IND	700	GEN07	NEW		103791/A	HAIGHT, JAMES C.		MOBILE SRC/ALL	12-APR-88	31-JUL-91
IND	700	GEN07	NEW		103792/A	ADAMS, JACK H., JR.		MOBILE SRC/ALL	14-APR-88	31-JUL-91
IND	700	GEN07	NEW		103794/A	BANDY, JIM & KATHY		DOUGLAS/SWR	22-APR-88	31-JUL-91
IND	700	GEN07	NEW		103802/A	MARS, ROBERT C.		JACKSON/SWR	28-APR-88	31-JUL-91

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
General: Confined Animal Feeding										
AGR	800	GEN08	NEW		103783/A	MOHRING, GEORGE	MT. ANGEL	MARION/WVR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103785/A	VERMILYEA, FRED & SHARON	TILLAMOOK	TILLAMOOK/NWR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103787/A	LAMPA CREEK FARMS	COQUILLE	COOS/SWR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103788/A	SLEGERS INC.	DAYTON	YAMHILL/WVR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103790/A	GRADEK, LARRY	AMITY	YAMHILL/WVR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103789/A	SCHLAPPI, LEVOIE	LINCOLN CITY	LINCOLN/WVR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103786/A	HALE-VALLEY DAIRY	CLOVERDALE	TILLAMOOK/NWR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103784/A	MARSH HOMESTEAD, INC.	CORNELIUS	WASHINGTON/NWR	07-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103795/A	GROSS, RON	WILSONVILLE	CLACKAMAS/NWR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103799/A	HUTCHINS, STEVEN P.	BANKS	WASHINGTON/NWR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103800/A	LANDOIT, MIKE & KATHY	TILLAMOOK	TILLAMOOK/NWR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103801/A	SCHULTZ, TONY	SILVERTON	MARION/WVR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103798/A	WURDINGER, HOWARD & MARY	WOODBURN	MARION/WVR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103797/A	VANJOS	COQUILLE	COOS/SWR	27-APR-88	31-JUL-92
AGR	800	GEN08	NEW		103796/A	OBERG, SAM	DALLAS	POLK/WVR	27-APR-88	31-JUL-92
NPDES										
IND	3756	NPDES	MWO	OR003117-8	96118/C	LONE STAR INDUSTRIES, INC.	PORTLAND	MULTNOMAH/NWR	06-APR-88	31-OCT-88
IND	100177	NPDES	MWO	OR000104-0	96116/C	LONE STAR INDUSTRIES, INC.	PORTLAND	MULTNOMAH/NWR	06-APR-88	30-APR-91

CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
IND	100451	NPDES	RWO	OR000187-2	15828/A	DAVIDSON INDUSTRIES, INC.	MAPLETON	LANE/WVR	13-APR-88	31-JAN-93
IND	100455	NPDES	RWO	OR000119-8	48953/A	LANE PLYWOOD, INC.	EUGENE	LANE/WVR	13-APR-88	31-JAN-93
DOM	100460	NPDES	RWO	OR002229-2	25997/A	EAGLE POINT, CITY OF	EAGLE POINT	JACKSON/SWR	15-APR-88	28-FEB-93
IND	100462	NPDES	RWO	OR000174-1	74995/A	RHONE-POULENC INC	PORTLAND	MULINOMAH/NWR	15-APR-88	31-JAN-93
DOM	100464	NPDES	RWO	OR002261-6	98090/A	WINCHESTER BAY SANITARY DISTRICT	WINCHESTER BAY	DOUGLAS/SWR	22-APR-88	31-JAN-93
IND	3809	NPDES	MWO	OR002699-9	76385/A	COLE, PAUL B.	SPRINGFIELD	LANE/WVR	27-APR-88	28-FEB-89
WPCF										
DOM	100450	WPCF	RWO		7888/B	INGEBRIGTSEN, JEFFREY	SCAPPOOSE	COLUMBIA/NWR	04-APR-88	28-FEB-93
DOM	100449	WPCF	RWO		75545/B	WINDSOR PARK PROPERTIES 4, A CALIFORNIA LIMITED PARTNERSHIP	CLACKAMAS	CLACKAMAS/NWR	05-APR-88	31-MAR-93
IND	100214	WPCF	MWO		96115/C	LONE STAR INDUSTRIES, INC.	OREGON CITY	CLACKAMAS/NWR	06-APR-88	30-JUN-91
DOM	3846	WPCF	MWO		29588/B	ALLEN, ALFRED A. AND BARTZAT, A. M.	EUGENE	LANE/WVR	12-APR-88	31-MAY-89
IND	100452	WPCF	RWO		9272/A	BOHEMIA INC	COBURG	LANE/WVR	13-APR-88	28-FEB-93
IND	100453	WPCF	RWO		9331/A	BOHEMIA INC	SAGINAW	LANE/WVR	13-APR-88	31-JAN-93
IND	100454	WPCF	RWO		9312/A	BOHEMIA INC	LAKESIDE	COOS/SWR	13-APR-88	31-MAR-93
AGR	100457	WPCF	RWO		52717/A	MALLORIE'S DAIRY, INC.	SILVERTON	MARION/WVR	13-APR-88	31-JAN-93
IND	100459	WPCF	RWO		54755/A	MCKILLIP BROS. MEAT CO., INC.	ST PAUL	MARION/WVR	13-APR-88	28-FEB-93
IND	100461	WPCF	NEW		101940/A	BEND MILLWORK SYSTEMS, INC.	BEND	DESCHUTES/CR	13-APR-88	28-FEB-93
DOM	100456	WPCF	NEW		103422/A	MEGA NORTHWEST CORPORATION	LINCOLN CITY	LINCOLN/WVR	15-APR-88	28-FEB-93
DOM	100458	WPCF	RWO		91005/A	U. S. DEPARTMENT OF THE INTERIOR	HYATT LAKE	JACKSON/SWR	15-APR-88	28-FEB-93
DOM	100463	WPCF	RWO		12522/A	BURTON, ROBERT D. & DAWN M.	SISTERS	DESCHUTES/CR	25-APR-88	31-JAN-93
DOM	100465	WPCF	NEW		103452/A	WEST LINN SCHOOL DISTRICT 3J	WEST LINN	CLACKAMAS/NWR	26-APR-88	28-FEB-93

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Wasco	Northern Wasco County TS	4/1/88	Plan approved
Clackamas	Cascade Phillips Sludge	4/12/88	Plan approved
Columbia	Boise Cascade, St. Helens	4/18/88	Leachate line plan approved

MAR.3 (5/79) SB7523.1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

SUMMARY OF HAZARDOUS WASTE PROGRAM ACTIVITIES

PERMITS

	ISSUED		PLANNED
	No. This Month	No. Fiscal Year to Date (FYTD)	No. in FY 88
Treatment	0	0	0
Storage	0	0	7
Disposal	0	1	1

INSPECTIONS

	COMPLETED		PLANNED
	No. This Month	No. FYTD	No. in FY 88
Generator	1	34	45
TSD	3	19	29

CLOSURES

	PUBLIC NOTICES			CERTIFICATIONS ACCEPTED		
	No. This Month	FYTD No.	Planned in FY88	No. This Month	No. FYTD	No. Planned in FY 88
Treatment	0	0	0	0	0	0
Storage	0	1	3	0	4	4
Disposal	0	1	2	0	2	3

SB5285.A
MAR.2 (3/88)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

PLAN ACTIONS PENDING - 42

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Municipal Waste Sources - 29					
Malheur	Brogan-Jamieson	6/29/84	--	(R) Holding	HQ
Malheur	Adrian	11/7/85	7/10/86	(C) Add'l. info. rec'd.	HQ
Jackson	Ashland	12/6/85	12/6/85	(R) Plan received	HQ
Baker	Haines	12/13/85	12/13/85	(R) Plan received	HQ
Deschutes	Knott Pit Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Fryrear Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Negus Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Umatilla	Umatilla Tribal SW Service	8/25/86	8/25/86	(R) Plan received	HQ
Yamhill	River Bend	11/14/86	11/14/86	(R) Plan received	HQ
Douglas	Lemolo T.S.	12/10/86	12/10/86	(R) Plan received	HQ
Multnomah	St. Johns Lndfl.	12/17/86	10/28/87	(C) Add'l. info. requested.	HQ
Marion	Ogden Martin Brooks ERF	3/24/87	3/24/87	(N) As-built plans rec'd.	HQ
Douglas	Reedsport Lndfl.	5/7/87	5/7/87	(R) Plan received	HQ
Benton	Coffin Butte	6/1/87	6/1/87	(R) Plan received	HQ
Malheur	Harper TS	6/22/87	6/22/87	(N) Plan received	HQ
Malheur	Willowcreek Lndfl.	6/22/87	6/22/87	(C) Plan received	HQ

SC2104.A (C) = Closure plan; (N) = New source plans

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Klamath	Klamath Falls Landfill	7/6/87	7/6/87	(R) Plan received	HQ
Jackson	South Stage	7/29/87	7/29/87	(R) Plan received	HQ
Malheur	Harper Landfill	8/17/87	8/17/87	(C) Plan received	HQ
Lane	Short Mountain Landfill	9/16/87	9/16/87	(R) Revised operational plan	HQ
Morrow	Tidewater Barge Lines (Finley Butte Lndfl.)	10/15/87	3/3/88	(N) Supplemental plan received.	HQ
Umatilla	City of Milton-Freewater	11/19/87	11/19/87	(N) Plan received (groundwater study)	HQ
Marion	Ogden-Martin (metal rec.)	11/20/87	11/20/87	(N) Plan received	HQ
Marion	Browns Island Landfill	11/20/87	11/20/87	(C) Plan received (groundwater study)	HQ
Harney	Burns-Hines	12/16/87	12/16/87	(R) Plan received	HQ
Marion	Woodburn TS	1/5/88	1/5/88	(N) Revised plan rec'd.	HQ
Lincoln	Agate Beach Balefill	1/6/88	1/6/88	(R) Revised operational plan received	HQ
Jackson	Dry Creek Landfill	1/15/88	1/15/88	(R) Groundwater report received	HQ
Washington	Hillsboro TS	1/15/88	1/15/88	(N) Plans received	HQ
<u>Demolition Waste Sources</u> - 1					
Washington	Hillsboro Landfill	1/29/88	1/29/88	(N) Expansion plans received	

County	Name of Facility	Date Plans Rec'd.	Date of Last Action	Type of Action and Status	Location
Industrial Waste Sources - 10					
Klamath	Weyerhaeuser, Klamath Falls	3/24/86	11/25/86	(N) Add'l. info. requested	HQ
Multnomah	Penwalt Corp.	4/2/86	7/14/86	(N) Add'l. info. requested	HQ
Linn	Willamette Industries, Inc. Lime Rejects Site Closure	7/3/86	7/3/86	(C) Plan received	HQ
Douglas	Roseburg Forest Products Co. (Riddle)	7/22/86	12/22/86	(R) Add'l. info. rec'd.	HQ
Coos	Rogge Lumber	7/28/86	6/18/87	(C) Additional info. submitted to revise previous application.	HQ
Douglas	Roseburg Forest Products Co. (Dixonville)	3/23/87	3/23/87	(R) Operational plan	HQ
Douglas	Louisiana-Pacific Round Prarie	9/30/87	9/30/87	(R) Operational plan	HQ
Clatsop	Nygard Logging	11/17/87	11/17/87	(N) Plan received	HQ
Linn	James River, Lebanon	1/22/88	4/21/88	(C) Additional information requested.	HQ
Columbia	Boise Cascade St. Helens	4/6/88	4/6/88	(N) As built plans received.	HQ
Sewage Sludge Sources - 2					
Coos	Beaver Hill Lagoons	11/21/86	12/26/86	(N) Add'l. info. rec'd.	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Plan received	HQ

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

SUMMARY OF SOLID WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
General Refuse							
New	-	4	1	2	4		
Closures	-	1	-	-	5		
Renewals	-	5	-	4	16		
Modifications	-	23	-	21	1		
Total	0	33	1	27	26	178	178
Demolition							
New	1	2	1	2	-		
Closures	-	-	-	-	-		
Renewals	-	1	-	2	1		
Modifications	-	2	-	1	1		
Total	1	5	1	5	2	11	11
Industrial							
New	-	8	-	8	6		
Closures	-	-	-	-	1		
Renewals	-	3	-	2	5		
Modifications	-	13	-	13	-		
Total	0	24	0	23	12	105	105
Sludge Disposal							
New	-	1	-	-	2		
Closures	-	1	-	-	1		
Renewals	-	-	-	-	-		
Modifications	-	6	-	6	-		
Total	0	8	0	6	3	17	17
Total Solid Waste	1	70	2	59	43	311	311

MAR.5S (11/84) (SB5285.B)

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

PERMIT ACTIONS COMPLETED

County	Name of Source/Project /Site and Type of Same	Date of Action	Action
Wasco	Northern Wasco County TS	4/1/88	Permit issued.
Polk	Columbia Crest Landscaping	4/8/88	Letter authorization issued.

MAR.6 (5/79) SB7523.2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division (Reporting Unit) — April 1988 (Month and Year)

PERMIT ACTIONS PENDING - 43

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Municipal Waste Sources - 26					
Clackamas	Rossmans	3/14/84	2/11/87	(C) Applicant review (second draft)	HQ/RO
Malheur	Brogan-Jamieson	6/29/84	4/21/86	(R) Application filed	HQ
Baker	Haines	1/30/85	6/20/85	(R) Applicant review	HQ
Malheur	Adrian	11/7/85	11/7/85	(C) Application filed	RO
Jackson	Ashland	12/9/85	1/13/86	(R) Draft received	HQ
Jackson	So. Stage	12/30/85	8/24/87	(R) Draft received	HQ
Curry	Wridge Creek	2/19/86	9/2/86	(R) Draft received	HQ
Umatilla	Rahn's (Athena)	5/16/86	5/16/86	(R) Application filed	RO
Marion	Woodburn Lndfl.	9/22/86	7/9/87	(R) Draft received	HQ
Douglas	Lemolo Trans. Sta.	12/10/86	7/28/87	(R) Draft received	HQ
Multnomah	St. Johns Landfill	12/17/86	12/17/86	(C) Application filed	RO/HQ
Coos	Bandon Landfill	1/20/87	1/7/88	(R) Draft received	HQ
Deschutes	Negus Landfill	2/4/87	11/16/87	(R) Applicant review	HQ
Douglas	Reedsport Lndfl.	5/7/87	1/11/88	(R) Draft received	HQ
Malheur	Harper Transfer	6/22/87	4/11/88	(N) Draft received	HQ
Malheur	Willowcreek Lndfl.	6/22/87	6/22/87	(C) Application filed	RO
Klamath	Klamath Falls Landfill	7/6/87	7/6/87	(R) Application filed	RO

SB4968 (A) = Amendment; (C) = Closure permit;

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Malheur	Harper Landfill	8/17/87	8/17/87	(C) Application filed	RO
Gilliam	Oregon Waste Sys., Inc. Gilliam Cnty Lndfl.	8/31/87	4/14/88	(N) Applicant review (2nd draft)	HQ
Grant	Hendrix Landfill	9/17/87	3/30/88	(R) Draft received	HQ
Lane	Florence Landfill	9/21/87	1/12/88	(R) Draft received	HQ
Morrow	Tidewater Barge Lines (Finley Butte Landfill)	10/15/87	10/15/87	(N) Application filed	HQ
Douglas	Roseburg Landfill	10/21/87	10/21/87	(R) Application filed	RO
Curry	Port Orford Lndfl.	12/14/87	4/8/88	(R) Draft received	HQ
Washington	Hillsboro TS	1/15/88	4/12/88	(N) Draft received	HQ
Umatilla	Pendleton Lndfl.	3/10/88	3/10/88	(A) Application received	HQ
Demolition Waste Sources - 2					
Coos	Bracelin/Yeager (Joe Ney)	3/28/86	9/2/86	(R) Draft received	HQ
Washington	Hillsboro Lndfl.	1/29/88	1/29/88	(M) Application received	
Industrial Waste Sources - 12					
Lane	Bohemia, Dorena	1/19/81	9/1/87	(R) Applicant review of second draft	HQ
Wallowa	Boise Cascade Joseph Mill	10/3/83	5/26/87	(R) Applicant comments received	HQ
Douglas	Int'l Paper (Gardiner)	2/20/86	3/15/88	(N) Applicant review	HQ
Klamath	Weyerhaeuser, Klamath Falls (Expansion)	3/24/86	11/25/86	(N) Add'l. info. requested	HQ

County	Name of Facility	Date Appl. Rec'd.	Date of Last Action	Type of Action and Status	Location
Multnomah	Penwalt	4/2/86	7/14/86	(N) Add'l. info. requested	HQ
Curry	South Coast Lbr.	7/18/86	7/18/86	(R) Application filed	RO
Linn	Western Kraft Lime storage	8/11/86	8/11/86	(C) Application filed	RO
Baker	Ash Grove Cement West, Inc.	4/1/87	4/1/87	(N) Application received	RO
Klamath	Modoc Lumber Landfill	5/4/87	5/4/87	(R) Application filed	RO
Clatsop	Nygard Logging	11/17/87	3/3/88	(N) Draft received	HQ
Wallowa	Sequoia Forest Ind.	11/25/87	11/25/87	(N) Application filed	RO
Douglas	Glide Lumber Prod.	3/8/88	3/8/88	(R) Application filed	RO
Sewage Sludge Sources - 3					
Coos	Beaver Hill Lagoons	5/30/86	3/10/87	(N) Add'l. info. received (addition of waste oil facility)	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Application received	HQ/RO
Clackamas	Cascade-Phillips Corp. Septage land application	11/12/87	4/12/88	(N) Applicant review	HQ

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — April, 1988 (Month and Year)

SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	Mo	FY	Mo	FY	Mo	Last Mo
Industrial/ Commercial	8	88	20	134	200	212
Airports			3	13	2	2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — April, 1988 (Month and Year)

FINAL NOISE CONTROL ACTIONS

County	Name of Source and Location	Date	Action
Clackamas	R. L. Hunt Boat Building, Rodlun Road, Boring	4/88	Referred to Clackamas Co.
Multnomah	Ast Hay Company, Portland	4/88	In compliance
Multnomah	Columbia Steel Casting Co., Portland	4/88	Referred to City of Portland
Multnomah	Day's Exxon, Portland	4/88	Referred to Multnomah Co.
Multnomah	East County Recycling Co., Portland	4/88	In compliance
Multnomah	Jones' Photo Lab, Portland	4/88	In compliance
Multnomah	Schnitzer Steel, Inc., Portland	4/88	No violation
Multnomah	Tune-Up Specialties, Portland	4/88	Referred to City of Portland
Multnomah	U & I Tavern, Portland	4/88	In compliance
Washington	Chloride, Inc. (Pacific Chloride, Inc.), Beaverton	4/88	In compliance
Washington	Tri-County Gen Club, Sherwood	4/88	No violation
Marion	Olinger Porsche, Salem	4/88	In compliance
Lane	Boyce & Sons, Cottage Grove	4/88	No violation
Lane	Cascade Handle, Inc., Springfield	4/88	In compliance
Lane	Dave's Market, Springfield	4/88	Referred to Springfield Police Dept.

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit) — April, 1988 (Month and Year)

FINAL NOISE CONTROL ACTIONS

County	Name of Source and Location	Date	Action
Lane	Diamond Wood Products, Inc. Eugene	4/88	In compliance
Lane	Emerald Forest Products, #1, Eugene	4/88	In compliance
Lane	Fircrest Willamette Farms, Creswell	4/88	In compliance
Lane	Safeway Store, W. 6th Street, Eugene	4/88	In compliance
Josephine	Hellgate Excursions, Inc., on the Rogue River near Grants Pass	4/88	In compliance
Washington	Lincoln Center Heliport, Tigard	2/88	Boundary approved
Douglas	Heaven's Gate Ranch (Woods) Airport, near Roseburg	3/88	Boundary approved
Lincoln	Sea-Whirl Heliport, Lincoln City	4/88	Boundary approved

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY
1988

CIVIL PENALTIES ASSESSED DURING MONTH OF APRIL 1988:

Name and Location of Violation	Case No. & Type of Violation	Date Issued	Amount	Status
Paul G. Anderson Marion County	OS-WVR-88-30 Installed two on-site sewage disposal systems without being licensed as a sewage disposal service.	4/7/88	$200	Paid 4/15/88.
George N. Lammi dba/Lammi Sand and Rock Products Clatskanie, Oregon	WQ-NWR-88-24 Excessive turbidity on 3 days, in violation of waste discharge permit limits.	4/7/88	$600	Paid 4/27/88.
Town of Bonanza Bonanza, Oregon	WQ-CR-88-27 Discharged inadequately treated sewage from the town's sewage lagoons into the Lost River.	4/18/88	$250	Paid 5/5/88.

GB7521

April, 1988
DEQ/EQC Contested Case Log

ACTIONS	LAST MONTH	PRESENT
Preliminary Issues	2	1
Discovery	0	0
Settlement Action	4	2
Hearing to be scheduled	0	0
Department reviewing penalty	0	0
Hearing scheduled	3	3
HO's Decision Due	0	0
Briefing	0	0
Inactive	3	4
SUBTOTAL of cases before hearings officer.	12	10
HO's Decision Out/Option for EQC Appeal	1	0
Appealed to EQC	2	0
EQC Appeal Complete/Option for Court Review	0	1
Court Review Option Taken	0	0
Case Closed	5	4
TOTAL Cases	20	15

15-AQ-NWR-87-178	15th Hearing Section case in 1987 involving Air Quality Division violation in Northwest Region jurisdiction in 1987; 178th enforcement action in the Department in 1987.
$	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
HW	Hazardous Waste
HSW	Hazardous and Solid Waste Division
Hrng Rfrl	Date when Enforcement Section requests Hearing Section schedule a hearing
Hrngs	Hearings Section
NP	Noise Pollution
NPDES	National Pollutant Discharge Elimination System wastewater discharge permit
NWR	Northwest Region
OSS	On-Site Sewage Section
P	Litigation over permit or its conditions
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

CONTES.B

April 1988
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	Current permit in force. Hearing deferred.
WAH CHANG	04/78	04/78		Prtys	03-P-WQ-WVR-78-2012-J NPDES Permit Modification	Current permit in force. Hearing deferred.
DANT & RUSSELL, INC.	05/31/85	05/31/85	03/21/86	Dept	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of $2,500	Bankruptcy.
BRAZIER FOREST PRODUCTS	11/22/85	12/12/85	02/10/86	Prtys	23-HSW-85 Declaratory Ruling	EQC issued declaratory ruling July 25, 1986. Settlement action.
NULF, DOUG	01/10/86	01/13/86	05/05/86	Dept	01-AQFB-85-02 $500 Civil Penalty	Penalty paid. Case closed.
MERIT USA, INC.	05/30/87	06/10/87	09/14/87	Resp	4-WQ-NWR-87-27 $3500 civil penalt (oil)	EQC Final Order issued April 19, 1988. Court Review option pending.
THE WESTERN COMPLIANCE SERVICES, INC.	09/11/87	09/15/87	05-31-88	Prtys	7-HW-NWR-87-48 RGRA & PGB violations	EQC mitigated penalty to $4,770. Case closed.
ROGER DEJAGER	10/13/87	03/18/88		Prtys	8-WQ-WVR-87-68 $1,000 Civil Penalty	EQC mitigated penalty to $750. Case closed.
CITY OF KLAMATH FALLS			05/03/88		1-P-WQ-88 Salt Caves	Hearing abated.

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April 1988
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
Container-Care Portland	01/25/88	01/27/88	05/27/88	Prtys	6-HW-NWR-87-83 $2,500 civil penalty	Settlement action. Hearing re-scheduled.
Richard Doerfler	01/08/88	01/11/88	05/19/88	Prtys	4-AQ-FB-87-05	Hearing scheduled.
~~Joe L. Heitzman~~	~~12/28/87~~	~~12/31/87~~	~~02/19/88~~	~~Resp~~	~~2-AQ-FB-87-09~~	Decision upholding penalty issued March 21, 1988. No appeal. Case closed.
Zelmer, dba Rivergate Auto	3/2/88	3/3/88	5/16/88	Prtys	AQOB-NWR-88-03 $1,000 Civil Penalty	Hearing Scheduled.
Markey	4/1/88	4/11/88		Prtys	WQ-WVR-88-22 Civil Penalty	Settlement Action.
CSSI	3/31/88	4/19/88		Prtys	Permit 089-452-353	Preliminary Issues.

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NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item C, June 10, 1988, EQC Meeting

TAX CREDIT APPLICATIONS

Director's Recommendation

It is recommended that the Commission take the following action:

1. Issue tax credit certificate for pollution control facility:

Appl. No.	Applicant	Facility
2141	Portland General Electric	oil spill containment system Liberty sub-station
2170	Portland General Electric	oil spill containment system at Oswego sub-station
2172	Portland General Electric	oil spill containment system at Sheridan sub-station
2179	Portland General Electric	oil spill containment system at Orient sub-station
2349	Portland General Electric	replacement and disposal of PCB filled pole mounted capacitors with non-PCB capacitors
2393	Gregory Affiliates, Inc.	installation of Burley Scrubbers on two veneer dryers

2. Revoke Pollution Control Facility Certificate number 650, held by National Metallurgical Corporation, and reissue to Dow Corning Corporation.

   Revoke Pollution Control Facility Certificate number 876, held by Kawecki Berylco Industries, Incorporated, and reissue to Dow Corning Corporation.

Proposed June 10, 1988 Totals:

Air Quality	$ 129,161
Water Quality	428,877
Hazardous/Solid Waste	-0-
Noise	-0-
	$ 558,038

1988 Calendar Year Totals are not including Tax Credits Certified at this EQC meeting.

Air Quality	$ 5,583,042
Water Quality	-0-
Hazardous/Solid Waste	167,142
Noise	-0-
	$ 5,750,184

Fred Hansen

C. Nuttall:y
(503) 229-6484
May 12, 1988
MY7077

Application No. T-2141

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

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

The applicant owns and operates an electric utility company with substations throughout Oregon.

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

2. Description of Facility

The facility is an oil spill containment system at the Liberty Substation in Salem, Oregon The facility consists of pressure treated 2 x 12 lumber, sand, filter fabric and 3/4 minus crushed rock.

Claimed Facility Cost: $ 12,118.15

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed June 30, 1986, more than 30 days before construction commenced on September 1, 1986.

b. The request for preliminary certification was approved before application for final certification was made.

c. Construction of the facility was substantially completed on October 10, 1986 and the application for final certification was found to be complete on September 18, 1987, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency, to prevent water pollution. In accordance with federal law, electric utility companies must provide oil spill containment facilities at substations where oil filled equipment is utilized.

Four sides of the Liberty Substation have been trenched and backfilled with sand. A 2 x 12 pressure treated wood timber has been partially buried in the sand to act as a containment berm. The sand has been covered with crushed rock.

Normal storm runoff will flow towards the trenches and pass through the sand under the timber. In the event of an oil spill, the sand would retard the oil and provide time for the cleanup crew to be dispatched to the site. Equipment monitors would warn crews of any failure. The crews would remove the oil contaminated sand and reconstruct the facility following site cleanup.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

There is no return on investment from this facility.

3) The alternative methods, equipment, and costs for achieving the same pollution control objective.

a. Transformer/oil circuit breaker pits. Cost of equipment is $30,000 to $40,000 plus operational cost.

b. Oil stop valve, piping and storage container. Cost of equipment is $24,000 to $30,000.

Alternatives were rejected due to cost and operational maintenance.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings or increase in costs as a result of the facility modification.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent, water pollution. It accomplishes this purpose by the containment of industrial waste as defined in ORS 468.700.

c. The facility complies with DEQ statutes and rules,

d. The portion of the facility cost that is properly allocable to pollution control is 100 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $ 12,118.15 with 100 % allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2141.

RCDulay:c
WC3269
(503) 229-5876
4/28/88

Application No. T-2170

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

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

The applicant owns and operates an electric utility company with substations throughout Oregon.

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

2. Description of Facility

The facility is an oil spill containment system at the Oswego Substation in Lake Oswego, Oregon The facility consists of pressure treated 2 x 12 lumber, sand, filter fabric and 3/4 minus crushed rock.

Claimed Facility Cost: $ 13,655.66

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed August 20, 1986, more than 30 days before construction commenced on September 26, 1986.

b. The request for preliminary certification was approved before application for final certification was made.

c. Construction of the facility was substantially completed on October 27, 1986 and the application for final certification was found to be complete on September 18, 1987, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency, to prevent water pollution. In accordance with federal law, electric utility companies must provide oil spill containment facilities at substations where oil filled equipment is utilized.

Three sides of the Oswego Substation have been trenched and backfilled with sand. A 2 x 12 pressure treated wood timber has been partially buried in the sand to act as a containment berm. The sand has been covered with crushed rock.

The untrenched side of the substation is upgradient. Normal storm runoff will flow towards the trenches and pass through the sand under the timber. In the event of an oil spill, the sand would retard the oil and provide time for the cleanup crew to be dispatched to the site. Equipment monitors would warn crews of any failure. The crews would remove the oil contaminated sand and reconstruct the facility following site cleanup.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

There is no return on investment from this facility.

3) The alternative methods, equipment, and costs for achieving the same pollution control objective.

a. Transformer/oil circuit breaker pits. Cost of equipment is $30,000 to $40,000 plus operational cost.

b. Oil stop valve, piping and storage container. Cost of equipment is $24,000 to $30,000.

Alternatives were rejected due to cost and operational maintenance.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings or increase in costs as a result of the facility modification.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent, water pollution. It accomplishes this purpose by the containment of industrial waste as defined in ORS 468.700.

c. The facility complies with DEQ statutes and rules,

d. The portion of the facility cost that is properly allocable to pollution control is 100 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $ 13,655.66 with 100 % allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2170.

RCDulay:c
WC3270
(503) 229-5876
4/28/88

Application No. T-2172

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

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

The applicant owns and operates an electric utility company with substations throughout Oregon.

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

2. Description of Facility

The facility is an oil spill containment system at the Sheridan Substation in Sheridan, Oregon The facility consists of pressure treated 2 x 12 lumber, sand, filter fabric and 3/4 minus crushed rock.

Claimed Facility Cost: $8,542.12

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed August 25, 1986, less than 30 days before construction commenced on September 25, 1986. However, in accordance with the process provided in OAR 340-16-015(1)(b),the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.

b. The request for preliminary certification was approved before application for final certification was made.

c. Construction of the facility was substantially completed on October 31, 1986 and the application for final certification was found to be complete on September 18, 1987, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency, to prevent water pollution. In accordance with federal law, electric utility companies must provide oil spill containment facilities at substations where oil filled equipment is utilized.

Three sides of the Sheridan Substation have been trenched and backfilled with sand. A 2 x 12 pressure treated wood timber has been partially buried in the sand to act as a containment berm. The sand has been covered with crushed rock.

The untrenched side of the substation is upgradient. Normal storm runoff will flow towards the trenches and pass through the sand under the timber. In the event of an oil spill, the sand would retard the oil and provide time for the cleanup crew to be dispatched to the site. Equipment monitors would warn crews of any failure. The crews would remove the oil contaminated sand, and reconstruct the facility following site cleanup.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

There is no return on investment from this facility.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

a. Transformer/oil circuit breaker pits. Cost of equipment is $30,000 to $40,000 plus operational cost.

b. Oil stop valve, piping and storage container. Cost of equipment is $24,000 to $30,000.

Alternatives were rejected due to cost and operational maintenance.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings or increase in costs as a result of the facility modification.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent, water pollution and accomplishes this purpose by the containment of industrial waste as defined in ORS 468.700.

c. The facility complies with DEQ statutes and rules,

d. The portion of the facility cost that is properly allocable to pollution control is 100 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $8,542.12 with 100 % allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2172.

RCD:c
WC3180
(503) 229-5876
4/13/88

Application No. T-2179

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

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

The applicant owns and operates an electric utility company with substations throughout Oregon.

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

2. Description of Facility

The facility is an oil spill containment system at the Orient Substation near Gresham, Oregon The facility consists of pressure treated 2 x 12 lumber, sand, filter fabric and 3/4 minus crushed rock.

Claimed Facility Cost: $ 9,251.76

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed September 10, 1986, more than 30 days before construction commenced on April 27, 1987.

b. The request for preliminary certification was approved before application for final certification was made.

c. Construction of the facility was substantially completed on May 31, 1987 and the application for final certification was found to be complete on September 18, 1987, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency, to prevent water pollution. In accordance with federal law, electric utility companies must provide oil spill containment facilities at substations where oil filled equipment is utilized.

Three sides of the Orient Substation have been trenched and backfilled with sand. A 2 x 12 pressure treated wood timber has been partially buried in the sand to act as a containment berm. The sand has been covered with crushed rock.

The untrenched side of the substation is upgradient. Normal storm runoff will flow towards the trenches and pass through the sand under the timber. In the event of an oil spill, the sand would retard the oil and provide time for the cleanup crew to be dispatched to the site. Equipment monitors would warn crews of any failure. The crews would remove the oil contaminated sand and reconstruct the facility following site cleanup.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

There is no return on investment from this facility.

3) The alternative methods, equipment, and costs for achieving the same pollution control objective.

a. Transformer/oil circuit breaker pits. Cost of equipment is $30,000 to $40,000 plus operational cost.

b. Oil stop valve, piping and storage container. Cost of equipment is $24,000 to $30,000.

Alternatives were rejected due to cost and operational maintenance.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings or increase in costs as a result of the facility modification.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent, water pollution. It accomplishes this purpose by the containment of industrial waste as defined in ORS 468.700.

c. The facility complies with DEQ statutes and rules,

d. The portion of the facility cost that is properly allocable to pollution control is 100 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $ 9,251.76 with 100 % allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2179.

RCDulay:c
WC3260
(503) 229-5876
4/27/88

Application No. T-2349

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

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

The applicant owns and operates an electric utility company with distribution lines throughout Oregon.

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

2. Description of Facility

The project consists of the replacement and disposal of PCB filled pole mounted capacitors. Each unit was replaced with a capacitor filled with non-PCB insulating oil.

Claimed Facility Cost: $ 385,311.31
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed February 26, 1986, more than 30 days before installation commenced on April 1, 1986.

b. The request for preliminary certification was approved before application for final certification was made.

c. Installation of the facility was substantially completed on December 31, 1986 and the application for final certification was found to be complete on September 3, 1987, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency, to prevent water pollution. This prevention is accomplished by equipment replacement to eliminate the potential of PCB releases to the environment.

In accordance with federal law, the use of PCB capacitors outside restricted-access electrical substations is prohibited after October 1,1988. The applicant has replaced approximately 167 pole mounted capacitors with non-PCB units at various locations in Clackamas, Columbia, Marion, Multnomah, Polk, Washington, and Yamhill Counties. The PCB units were removed and, as required by federal regulations, sent to an EPA approved incinerator in Arkansas for final destruction.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

   The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

   The capacitors are like for like replacement and there is no benefit to PGE's overall return on investment other than the early equipment replacement. In this case the use of other factors will be more applicable since they accurately reflect the gain to PGE from installation of the new capacitors.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

   No alternatives to replacement of the capacitors have been identified.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

   PGE does realize some savings from the project. Since the useful life of capacitors is about 27 years and the average age of the replaced capacitors was 10 years, the applicant benefitted by obtaining new electrical distribution equipment.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

The costs associated with this project are for labor, overhead equipment, and PCB treatment. The Department agrees with the analysis of PGE for the cost allocation for pollution control. The cost for PCB treatment is fully allocable for pollution control, but the labor, overhead, and equipment costs are prorated based on the average years of remaining life (17 years). The portion of the facility cost that is allocable for pollution control is calculated as follows:

PCB incineration	$ 89,909.26
Labor (17/27 x 49,434.23)	31,143.56
Overhead (17/27 x 185,388.00) Includes construction supervision, engineering accounting	116,794.44
Equipment (17/27 x 234,069.92)	147,464.05
	$ 385,311.31

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100 %.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the federal Environmental Protection Agency to prevent water pollution. It accomplishes this purpose by equipment replacement or redesign to eliminate the potential for toxic releases to the environment.

c. The facility complies with DEQ statutes and rules.

d. The portion of the facility cost that is properly allocable to pollution control is 100 %.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $ 385,311.31, with 100 % allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2349.

R. C. Dulay:c
WC3243
(503) 229-5876
April 25, 1988

Application No. T2393

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Gregory Affiliates, Inc.
Gregory Forest Products, Inc.
4800 SW Griffith Drive
Beaverton, OR 97005

The applicant owns and operates a plywood manufacturing plant in Glendale, Oregon.

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

2. Description of Facility

The facility described in this application consists of the installation of Burley Scrubbers on two veneer dryers.

Claimed Facility Cost: $129,161
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

a. The request for preliminary certification was filed August 16, 1985, more than 30 days before construction commenced on November 1, 1985.

b. The request for preliminary certification was approved before application for final certification was made.

c. Installation of the facility was substantially completed on December 31, 1985, and the application for final certification was found to be complete on February 27, 1986, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department, to reduce air pollution. The requirement is to comply with OAR 340-25-315(1).

Prior to installation of claimed facility, the company found it increasingly difficult to hold veneer dryer visible blue haze to within state visible emission standards. Subsequent to the installation of the Burley Industries scrubbers, opacity standards have been attained and maintained.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

There is no return on investment from the facility. Therefore, by using the return on investment formula, 100% of the facility cost would be allocable to pollution control.

3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is the accepted method for control of veneer dryers.

4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings from the facility. The cost of maintaining and operating the facility is approximately $41,700 annually.

5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

a. The facility was constructed in accordance with all regulatory deadlines.

b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department, to reduce air pollution.

c. The facility complies with DEQ statutes, rules, and permit conditions.

d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of $129,161 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2393.

RHarris:k
AK452
(503) 229-5259
April 13, 1988

State of Oregon

Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATION

1. Certificate issued to :

National Metallurgical Corporation
1801 South "A" Street
Springfield, Oregon 97477

The certificate was issued for a Particulate Emission Control and Handling System.

2. Summation:

In March of 1976, the EQC issued pollution control facility Certificate 650 to National Metallurgical Corporation. National Metallurgical Corporation sold to Dow Corning Corporation in September 1980.

3. Director's Recommendation:

It is recommended that Certificate Number 650 be revoked and reissued to Dow Corning Corporation; the certificate to be valid only for the time remaining from the date of the first issuance.

C. Nuttall
229-6484
April 13,1988

DOW CORNING

DOW CORNING CORPORATION
SPRINGFIELD PLANT
1801 Aster Street
Springfield, Oregon 97477-0013

March 1, 1988

Department of Environmental Quality
811 Southwest 6th Street
Portland, OR 97204

ATTN: Christy Nuttal

Dear Ms. Nuttal,

The following is the official request from Dow Corning Corporation to transfer ownership of pollution control facilities, certificate numbers 650 and 876, from National Metallurgical and National Metallurgical Division (subsidiary of Kawecki Berylco Industries, Inc.) respectively to Dow Corning Corporation. Copies of the official transfer to Dow Corning Corporation of said facilities, i.e. Statutory Warranty Deed, and the Statutory Bargain and Sale Deed are attached. These transfer documents are on file with the Lane County Register of Deeds Office.

The said facilities have been and continue to be in constant use since Dow Corning Corporation purchased the facilities in 1980.

Any further questions on this matter should be addressed to the plant engineer, Mike Stremlow at (503) 746-7674. Once ownership of said facilities are formally transferred to Dow Corning Corporation, please copy Dow Corning with new certificates indicating such.

Respectfully yours,

James T. Leicht
Plant Manager

35

CT-153806

8049073

After recording, return to:
HERSHNER, HUNTER, MILLER,
MOULTON & ANDREWS
260 East 11th Avenue
Eugene, Oregon 97401

Until a change is requested, mail all tax statements to:
DOW CORNING CORPORATION
Midland, Michigan 48640

STATUTORY BARGAIN AND SALE DEED

KAWECKI BERYLCO INDUSTRIES, INC., a Pennsylvania corporation, as successor by merger of NMC Corporation, a Delaware corporation, Grantor, conveys to DOW CORNING CORPORATION, a Michigan corporation, Grantee, any right, title or interest Grantor has in and to that certain right of first refusal to purchase and an easement to use and occupy certain real property, all as more fully described in that certain instrument recorded October 6, 1952, Recorder's Reception No. 86863, Lane County Oregon Deed Records, Lane County, Oregon.

The true consideration for this conveyance is none.

DATED this 29th day of September, 1980.

KAWECKI BERYLCO INDUSTRIES, INC.

By [signature]
Vice-President

By [signature]
Vice-President

COMMONWEALTH OF MASSACHUSETTS
STATE OF ______)
: ss.
County of SUFFOLK)

E 9 6181 00005.50

The foregoing instrument was acknowledged before me this 29th day of September, 1980, by [signature] Vice-Pres.
and [signature] Vice-President
and ______ of KAWECKI BERYLCO INDUSTRIES, a Pennsylvania corporation, on behalf of the corporation.

[signature]
Notary Public for
My commission expires

STATUTORY BARGAIN AND SALE DEED

17.50

CT-153806 8049074

After recording, return to:
HERSHNER, HUNTER, MILLER,
MOULTON & ANDREWS
260 East 11th Avenue
Eugene, Oregon 97401

Until a change is requested,
mail all tax statements to
DOW CORNING CORPORATION
Midland, Michigan 48640

STATUTORY WARRANTY DEED

KAWECKI BERYLCO INDUSTRIES, INC., a Pennsylvania corporation, as successor by merger of NMC Corporation, a Delaware corporation, Grantor, conveys and warrants to DOW CORNING CORPORATION, a Michigan corporation, Grantee, the real property described on the attached Exhibit A free of encumbrances, except as specifically set forth on the attached Exhibit A.

The true consideration for this conveyance is the amount of $2,400,000.00.

DATED this 22nd day of September, 1980.

KAWECKI BERYLCO INDUSTRIES, INC.

By Robert G. Chaffee
Vice-President

By John A. Lemargo
Vice-President

STATE OF COMMONWEALTH OF MASSACHUSETTS)
: ss.
County of SUFFOLK)

E 9 • M86181 0017.50

The foregoing instrument was acknowledged before me this 22nd day of September, 1980, by Robert G. Chaffee Vice-Pres and John A. Lemargo Vice-President and of KAWECKI BERYLCO INDUSTRIES, INC., A Pennsylvania corporation, on behalf of the corporation.

Notary Public for
My commission expires

STATUTORY WARRANTY DEED

Certificate No. 650

Date of Issue 3-12-76

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Application No. T-733

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To:	As:	Location of Pollution Control Facility:
National Metallurgical Corporation 1801 ~~South "A" Street~~ Aster St. Springfield, Oregon 97477	Owner	Springfield Lane Now Known as: Dow Corning Corp. 1801 Aster Street Springfield, Or. 97477

Description of Pollution Control Facility:

Particulate Emission Control and Handling System

Date Pollution Control Facility was completed and placed in operation: May 7, 1975

Actual Cost of Pollution Control Facility: $ 2,678,828.00

Percent of actual cost properly allocable to pollution control:

80% or more

In accordance with the provisions of ORS 449.605 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "pollution control facility" within the definition of ORS 449.605 and that the facility was erected, constructed, or installed on or after January 1, 1967, and on or before December 31, 1978, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air or water pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 449 and regulations thereunder.

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

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing air pollution.

2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.

3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

Signed _____

Title Chairman

Approved by the Environmental Quality Commission

on the 12th day of March 19 76

All facts relati...

Certificate No. 650

Date of Issue _____

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Application No. T-733

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To:	As:	Location of Pollution Control Facility:
National Metallurgical Corporation 1801 South "A" Street Springfield, Oregon 97477	Owner	Springfield Lane

Description of Pollution Control Facility:

Particulate Emission Control and Handling System

Date Pollution Control Facility was completed and placed in operation: May 7, 1975

Actual Cost of Pollution Control Facility: $ 2,678,828.00

Percent of actual cost properly allocable to pollution control:

80% or more

In accordance with the provisions of ORS 449.605 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "pollution control facility" within the definition of ORS 449.605 and that the facility was erected, constructed, or installed on or after January 1, 1967, and on or before December 31, 1978, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air or water pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 449 and regulations thereunder.

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

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing air pollution.

2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.

3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

Signed _____

Title Chairman

Approved by the Environmental Quality Commission

on the 12th day of March 19 76

State of Oregon

Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATION

1. Certificate issued to :

Kawecki Berylco Industries, Inc.
National Metallurgical Division
P.O. Box 56
Springfield, OR 97477

The certificate was issued for hooding, ducting and a baghouse collector to control dust emissions from the charge preparation system.

2. Summation:

In March of 1978, the EQC issued pollution control facility Certificate 876 to Kawecki Berylco Industries Incorporated - National Metallurgical Division. Kawecki sold its facility to Dow Corning Corporation in September 1980.

3. Director's Recommendation:

It is recommended that Certificate Number 876 be revoked and reissued to Dow Corning Corporation; the certificate to be valid only for the time remaining from the date of the first issuance.

C. Nuttall
229-6484
April 13,1988

DOW CORNING

DOW CORNING CORPORATION
SPRINGFIELD PLANT
1801 Aster Street
Springfield, Oregon 97477-0013

March 1, 1988

Department of Environmental Quality
811 Southwest 6th Street
Portland, OR 97204

ATTN: Christy Nuttal

Dear Ms. Nuttal,

The following is the official request from Dow Corning Corporation to transfer ownership of pollution control facilities, certificate numbers 650 and 876, from National Metallurgical and National Metallurgical Division (subsidiary of Kawecki Berylco Industries, Inc.) respectively to Dow Corning Corporation. Copies of the official transfer to Dow Corning Corporation of said facilities, i.e. Statutory Warranty Deed, and the Statutory Bargain and Sale Deed are attached. These transfer documents are on file with the Lane County Register of Deeds Office.

The said facilities have been and continue to be in constant use since Dow Corning Corporation purchased the facilities in 1980.

Any further questions on this matter should be addressed to the plant engineer, Mike Stremlow at (503) 746-7674. Once ownership of said facilities are formally transferred to Dow Corning Corporation, please copy Dow Corning with new certificates indicating such.

Respectfully yours,

James T. Leicht
Plant Manager

CT-153806

8049073

After recording, return to:
HERSHNER, HUNTER, MILLER,
MOULTON & ANDREWS
260 East 11th Avenue
Eugene, Oregon 97401

Until a change is requested,
mail all tax statements to:

DOW CORNING CORPORATION
Midland, Michigan 48640

STATUTORY BARGAIN AND SALE DEED

KANECKI BERYLCO INDUSTRIES, INC., a Pennsylvania corporation, as successor by merger of NMC Corporation, a Delaware corporation, Grantor, conveys to DOW CORNING CORPORATION, a Michigan corporation, Grantee, any right, title or interest Grantor has in and to that certain right of first refusal to purchase and an easement to use and occupy certain real property, all as more fully described in that certain instrument recorded October 6, 1952, Recorder's Reception No. 86863, Lane County Oregon Deed Records, Lane County, Oregon.

The true consideration for this conveyance is none.

DATED this 19th day of September, 1980.

KANECKI BERYLCO INDUSTRIES, INC.

By _____
Vice-President

By _____
Vice-President

COMMONWEALTH OF MASSACHUSETTS
STATE OF _____)
: ss.
County of SUFFOLK)

E 9 [illegible] 80 [illegible]

The foregoing instrument was acknowledged before me this 19th day of September, 1980, by _____ Vice-Pres. and _____ Vice-President and _____ of KANECKI BERYLCO INDUSTRIES, INC., a Pennsylvania corporation, on behalf of the corporation.

_____
Notary Public for
My commission expires:

STATUTORY BARGAIN AND SALE DEED

CT-153806 8049074

After recording, return to:
HERSHNER, HUNTER, MILLER,
MOULTON & ANDREWS
260 East 11th Avenue
Eugene, Oregon 97401

Until a change is requested,
mail all tax statements to
DOW CORNING CORPORATION
Midland, Michigan 48640

STATUTORY WARRANTY DEED

KANECKI BERYLCO INDUSTRIES, INC., a Pennsylvania corporation, as successor by merger of NMC Corporation, a Delaware corporation, Grantor, conveys and warrants to DOW CORNING CORPORATION, a Michigan corporation, Grantee, the real property described on the attached Exhibit A free of encumbrances, except as specifically set forth on the attached Exhibit A.

The true consideration for this conveyance is the amount of $2,400,000.00.

DATED this 24th day of September, 1980.

KANECKI BERYLCO INDUSTRIES, INC.

By Robert G. Chapman
Vice-President

By [illegible]
Vice-President

STATE OF COMMONWEALTH OF MASSACHUSETTS)
: ss.
County of SUFFOLK)

The foregoing instrument was acknowledged before me this 24th day of September, 1980, by Robert G. Chapman, Vice-President and [illegible], Vice-President of KANECKI BERYLCO INDUSTRIES, INC., A Pennsylvania corporation, on behalf of the corporation.

[illegible]
Notary Public for
My commission expires

STATUTORY WARRANTY DEED

Certificate No. 876

Date of Issue 3/31/78

Application No. T-953

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

POLLUTION CONTROL FACILITY CERTIFICATE

Issued To: Kawecki Berylco Industries, Inc. National Metallurgical Division P. O. Box 56 Springfield, Oregon 97477	Location of Pollution Control Facility: 1801 South "A" Street Springfield, Oregon
As: ☐ Lessee ☒ Owner	
Description of Pollution Control Facility: Hooding, ducting and a baghouse collector to control dust emissions from the charge preparation system	
Type of Pollution Control Facility: ☒ Air ☐ Noise ☐ Water ☐ Solid Waste	
Date Pollution Control Facility was completed: 11/1/77	Placed into operation: 11/2/77
Actual Cost of Pollution Control Facility: $ 50,374.05	
Percent of actual cost properly allocable to pollution control: 80% or more	

In accordance with the provisions of ORS 468.155 et seq., it is hereby certified that the facility described herein and in the application referenced above is a "Pollution Control Facility" within the definition of ORS 468.155 and that the air or water facility was constructed on or after January 1, 1967, the solid waste facility was under construction on or after January 1, 1973, or the noise facility was constructed on or after January 1, 1977, and the facility is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water, noise or solid waste pollution, and that the facility is necessary to satisfy the intents and purposes of ORS Chapter 459, 467 or 468 and the regulations 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.

Signed Joe B. Richards

Title Joe B. Richards, Chairman

Approved by the Environmental Quality Commission on the 31st day of March, 1978.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: Agenda Item D, June 10, 1988, EQC Meeting: Request for authorization to conduct a public hearing on proposed amendments and new rules relating to the opportunity to recycle yard debris, OAR 340-60-015 through 125.

On December 11, 1987, the Environmental Quality Commission (EQC) adopted rules which identified yard debris as a principal recyclable material in the five Portland area wastesheds. The Department drafted additional rules to clarify acceptable alternative methods for recycling yard debris and presented them to the EQC on April 29, 1988.

At the meeting, the EQC denied the request to go to public hearing with the proposed rules and requested that the rules be modified to: 1) more clearly define a minimum yard debris recycling program, 2) establish program performance standards, 3) take DEQ out of having to predict the market for yard debris, and 4) provide for flexibility in local yard debris recycling programs. These requests are reflected in the revised, proposed rules.

The key features of these revised rules would: 1) require local governments to develop yard debris recycling plans (OAR 340-60-115 and OAR 340-60-120), 2) describe a range of acceptable alternative recycling methods for yard debris (OAR 340-60-125), 3) establish performance standards for yard debris recycling programs (OAR 340-60-120(4)), and 4) would provide a link between yard debris processor demand and the performance standards (OAR 340-60-120(5).

Although the Department has worked with a special yard debris task force to resolve many issues, consensus was not reached on the rules. Therefore, the Department feels that the proposed rules need to go to public hearing in order to identify major new issues and to hear testimony on the proposed performance standards, financing of these local programs, and the role of the Metropolitan Service District (METRO) in this program.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item D, June 10, 1988, EQC Meeting

Request for authorization to conduct a public hearing on proposed amendments and new rules relating to the opportunity to recycle yard debris, OAR 340-60-015 through 125.

BACKGROUND

On December 11, 1987 the Environmental Quality Commission (EQC) adopted rules which identified yard debris as a principal recyclable material in the five Portland area wastesheds. At that meeting the EQC directed the Department to draft additional rules which clarify the range of acceptable alternative methods for providing the opportunity to recycle yard debris. On April 29, 1988 the Department returned to the Commission with proposed rules and a request for authorization to hold a public hearing. The Commission directed the Department to make further modifications to the proposed rules.

The Commission has been dealing with the issue of yard debris recycling since the ban on backyard burning in 1983 and the adoption of rules relating to the implementation of the Oregon Recycling Opportunity Act in December 1984. Over that time period the Department has met with a series of yard debris recycling task forces, held a number of informational meetings and public hearings and periodically returned to the Commission with issues related to yard debris recycling.

The major questions which have been raised before the Commission and the Department have been as follows:

1) Are the yard debris processors capable of handling the additional volume which will be generated from a collection system? Is there a market for more processed yard debris products?

2) How can yard debris collection and processing capacity be balanced?

3) Who will plan, provide and pay for yard debris collection.

4) What level of yard debris recycling/collection service will be required?

5) What are acceptable alternative methods for providing the opportunity to recycle? What standard will be used for the acceptance or non acceptance of a proposed alternative method?

Local governments, solid waste and recyclable material collectors and yard debris processors in each of the five wastesheds of focus must determine where yard debris can be successfully collected and recycled and where it fails to meet the definition of a "recyclable material".

Program costs are a concern for both the service providers and the public. If programs are established too quickly they may overload the existing processing capacity and create economic and environmental problems. If inefficient programs are established they may be so costly that there will be a public backlash with a resulting low participation. On the other hand, local government and the collection industry are very hesitant to initiate a costly new collection program without assurance of program success and some form of cost recovery.

The Department has continued to work with an advisory group of affected persons during this rule drafting process. This group has reviewed and commented on the proposed rules but has not reached a consensus in support of the proposed rules. There remains a strong difference of opinion as to the appropriate level of yard debris recycling and the appropriate role for the Department and Commission in directing the development of yard debris collection and recycling programs.

The proposed rules address five issues: (1) a range of acceptable alternative methods (OAR 340-60-125(2)); (2) responsibility for development of the yard debris recycling plan (OAR 340-60-120); (3) responsibility for providing the opportunity to recycle yard debris (OAR 340-60-125); (4) performance standards for yard debris recycling programs (OAR 340-60-120(4)); and (5) linkage between the processor demand and collection system performance standards (OAR 340-60-120(5).

The responsibility for planning and development of yard debris recycling program is assigned to local government (OAR 340-60-115). Some of the advisors felt either the planning or both the planning and implementation functions were more appropriately done at the regional level. The proposed rules provide an option for local governments to use regional planning and implementation agencies if they so desire. There was also a suggestion that the Department or Commission should use its authority over Metro's regional waste reduction plan to facilitate the development of a regional yard debris recycling program. The rules do not address this issue.

Performance standards for yard debris programs have been incorporated into the proposed rules. The standards set minimum rates of recovery of yard debris from the solid waste stream. The recovery rates increase over a four

year period. The previously proposed rules called for the Department to report on processor demand so that this information could be incorporated into the planning process. The performance standards were designed so that local government would not be required to provide yard debris collection programs which were beyond the processors' marketing capacity. There was strong advisor support for the concept of linking collection requirements to processor market capacity. However, some advisors felt this relationship was already implicit in the definition of "recyclable material" and that it was unnecessary to delineate it further in performance standards. In the new proposed rule this linkage has been incorporated into the local government planning process (OAR 340-60-120(5)).

The previous rules discussed at the April EQC meeting provided guidance for the operation of collection depots at disposal sites or other appropriate locations and restrict disposal of source separated yard debris at landfills. This material has been removed from the proposed rules. If such regulation is necessary it can be accomplished through disposal site permit requirements.

The question of how new yard debris collection programs will be financed is another major issue. Early drafts of the proposed rules contained specific financing mechanisms. However, the advisory group felt that local and regional governments already had adequate authority to finance the cost of yard debris collection and specific financing proposals were removed at their suggestion.

ALTERNATIVES AND EVALUATION

The Commission has three major alternatives in considering the proposed rules. They can authorize the proposed rules, with no major changes, for public hearing. They can consider and make major changes in some or all of the approaches to the five significant issues covered in the proposed rules and send the rules with those changes directly to public hearing. Or, they could propose major changes to the proposed rules and direct the Department to draft those changes and make them available for advisory group review prior to returning to the Commission for hearings authorization. Discussion of these alternatives follows.

The proposed rules have already received substantial Commission and interest group consideration. The major policy issues related to yard debris recycling are presently incorporated into the proposed rules. If there are new major issues or directions which should be considered in these rules they will probably be raised at the public hearing. Any issues which are raised at the hearing will be reviewed and responded to by the Department and available for Commission consideration. All such issues will be forwarded to the Commission in the hearings officer's report and the Department's response to comments.

The Commission may wish to change the details or the specific approach to each of the five significant issues addressed in these rules. The

Commission may wish to change the methods of providing yard debris recycling which are categorized in OAR 340-60-125(2). The proposed rules place the responsibility for yard debris recycling planning with local government (OAR 340-60-115 and 120). This responsibility could be placed on regional government or some other affected person. The responsibility for yard debris recycling implementation is also placed with local government (OAR 340-60-125). This responsibility could be shifted to regional government or to private industry. The previous proposed rules placed responsibility for determining market capacity with the Department. These proposed rules place that role in the local planning process (OAR 340-60-125(2) and (5)). The Commission may wish to reassign this responsibility.

If there are extensive changes suggested to the proposed rules it might be most appropriate to send those changes back to the Department and advisory group for review and comments prior to making them available for a public hearing. While this procedure would further extend the rulemaking process it might eliminate problems with new policy directions which would not become apparent until after the public hearing. The delay would not be notable in relation to the total scope of the proposed program.

SUMMATION

1. The Commission has identified yard debris as a principal recyclable material in the five Portland area wastesheds.

2. The Commission has directed the Department to draft additional rules which clarify the range of acceptable alternative methods for providing the opportunity to recycle source separated yard debris.

3. The Department has drafted proposed rules which clarify the range of alternative methods.

4. These proposed rules also assign responsibility for planning and implementation of yard debris recycling programs and provide a process for linking the rate of yard debris collection to the demand for material from yard debris processors.

5. The Department has conferred with key affected person during the development of the proposed rules. Although many suggestions were incorporated into the proposed rules there was no consensus on several of the major issues addressed in the rule.

6. The proposed rules provide guidance on the major issues relating to yard debris recycling. These rules also set minimum standards for yard debris recycling programs and for alternative methods for providing the opportunity to recycle yard debris. However, these rules still leave room for local governments and other affected persons to decide what specific direction yard debris recycling will take in their jurisdiction.

DIRECTOR'S RECOMMENDATION

Based upon the summation, it is recommended that the Commission authorize a public hearing on the proposed rule changes related to yard debris recycling programs as proposed by the Department.

Fred Hansen

Attachments
- I. Proposed Rule Changes OAR 340-60-015 to 125
- II. Rule Making Statements
- III. Public Notice

William R. Bree:m
229-6975
May 12, 1988
YF3027.1

RULEMAKING STATEMENTS
for
Amendments and Proposed New Rules Pertaining to the Opportunity to Recycle

OAR Chapter 340, Division 60, Sections 015 through 125

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

STATEMENT OF NEED:

Legal Authority

ORS 459.170 requires the Commission to adopt rules and guidelines necessary to carry out the provisions of ORS 459.165 to 459.200. Yard debris has been identified as a principal recyclable material in five wastesheds. The Commission is amending rules and adopting new rules which are necessary to carry out the provisions of the Act relating to providing the opportunity to recycle yard debris.

Need for the Rule

Yard debris represents a significant portion of the solid waste stream presently going to disposal in the Portland metropolitan area. The Environmental Quality Commission has identified source separated yard debris as a principal recyclable material in the five Portland area wastesheds. Local governments and other affected persons are now required to determine if yard debris meets the definition of a recyclable material at the specific locations where on-route or depot collection systems for recyclable materials are required. Additional rules from the Commission will clarify the responsibility of each of the affected persons, provide a mechanism to balance the level of collection of yard debris to the potential demand for yard debris at processing facilities, and clarify the range of acceptable alternative methods for providing the opportunity to recycle yard debris. The yard debris recycling programs which will be developed under these rules would result in a significant reduction in waste disposal at land disposal sites.

Principal Documents Relied Upon

a. Oregon Revised Statutes, Chapter 459.
b. Oregon Administrative Rules, Chapter 340, Division 60.
c. Technical Report: Feasibility Analysis of Yard Debris Collection Alternatives, Metropolitan Service District, January 1988.
d. Metro Marketing Plan for Yard Debris Compost, Metropolitan Service District, November 1986.
e. Market Analysis of Portland Metropolitan Area Yard Debris, Metropolitan Service District, September 1986.

g. "Economics of On-Route Collection of Yard Debris," Metropolitan Service District, December 1985.
h. "A Demonstration Project for Recycling Yard Debris," Metropolitan Service District, March 1983.

FISCAL AND ECONOMIC IMPACT STATEMENT:

This action will have no significant fiscal impact on the Department. It will have an economic impact on local government, private businesses and the public.

Separate systems for the collection of source separated yard debris will have costs associated with them. These costs will have to be paid by the yard debris generator, solid waste generator or appropriate local government. The amount of cost will vary depending on the system of collection and the type of regulation and rate control exercised by local government. Ultimately, the public will pay additional costs of new yard debris collection systems.

In many cases the collection and recycling of yard debris can be provided at less cost to the generator of that material than collection and disposal of the same material as solid waste. These savings over the cost of disposal should be experienced by the public in lower solid waste collection and disposal costs.

Small businesses will also be affected by any change in the collection system for yard debris. Competition between small businesses for this new level of service will cause some companies to benefit, potentially at the expense of others. There should be a significant net increase in business activity in the collection of yard debris.

Yard debris processors should also benefit from the increased levels of material recovery. Finally, there should be an increase in the availability of processed yard debris products. This may result in a price reduction on this material to the public.

LAND USE CONSISTENCY STATEMENT:

The proposed rules appear to affect land use and appear to be consistent with statewide planning goals.

With regard to Goal 6 (air, water and land resources quality), the rules provide for recycling of solid waste in a manner that encourages the reduction, recovery and recycling of material which would otherwise be solid waste, and thereby provide protection for air, water and land resource quality.

With regard to Goal 11 (public facilities and services), the rules provide for solid waste disposal needs by promoting waste reduction at the point of generation, through beneficial use and recycling. The rules also intend to assure that current and long-range waste disposal needs will be reduced by the provision of the opportunity to recycle.
The rules do not appear to conflict with other goals.

Public comment on any land use issue involved is invited and may be submitted in the manner described in the accompanying NOTICE OF PUBLIC HEARING.

It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflicts brought to our attention by local, state or federal authorities.

WRB:b
YB5173.R
6/10/88

(5/12/88)
Attachment I
Agenda Item D
6/10/88, EQC Meeting

OREGON ADMINISTRATIVE RULES
DIVISION 60
Recycling and Waste Reduction

OAR 340-60-015 is amended as follows:

Policy Statement

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

(1) To require effective and efficient waste reduction and recycling service to both rural and urban areas.

(2) To promote and support comprehensive local or regional government solid waste and recyclable material management:

(a) Utilizing progressive waste reduction and recycling techniques;

(b) Emphasizing recovery and reuse of solid waste; and

(c) Providing the opportunity to recycle to every person is Oregon through best practicable methods.

(3) To establish a comprehensive statewide program of solid waste management which will, after consideration of technical and economic feasibility, establish the following priority in methods of managing solid waste:

(a) First, to reduce the amount of solid waste generated;

(b) Second, to reuse material for the purpose for which it was originally intended;

(c) Third, to recycle material which cannot be reused;

(d) Fourth, to recover energy from solid waste that cannot be reused or recycled so long as the energy recovery facility preserves the quality of air, water and land resources; and

(e) To dispose of solid waste that cannot be reused, recycled, or from which energy cannot be recovered by landfilling or other methods approved by the Department.

(4) To retain primary responsibility for management of adequate solid waste programs with local government units.

(5) To encourage maximum participation of all affected persons and generators in the planning and development of required recycling programs.

(6) To place primary emphasis on the provision of the opportunity to recycle to residential generators of source separated recyclable materials.

(7) To encourage local government to develop programs to provide the opportunity to recycle which cause only minimum dislocation of:

(a) Recycling efforts, especially the activities of charitable, fraternal, and civic groups; and

(b) Existing recycling collection from commercial and industrial sources.

(8) To encourage local governments to develop programs to provide the opportunity to recycle source separated recyclable material in a manner which results in the highest level of public participation and the greatest level of removal of recyclable material from the solid waste stream. Such a program should provide frequent, convenient and easily publicized and understood system for the collection of recyclable material from every generator in the jurisdiction.

(9) To encourage the utilization of products made from recyclable material including processed or composted yard debris products.

(10) To coordinate the recovery of source separated recyclable materials with the demand for those materials and the demand for the products made from recyclable materials.

OAR 340-60-030 is amended as follows:

Principal Recyclable Material

340-60-030 (1) The following are identified as the principal recyclable materials in the wastesheds as described in Sections (4) through (12) of this rule:

(a) Newspaper;
(b) Ferrous scrap metal;
(c) Non-ferrous scrap metal;
(d) Used motor oil;
(e) Corrugated cardboard and kraft paper;
(f) Aluminum;
(g) Container glass;
(h) Hi-grade office paper;
(i) Tin cans;
(j) Yard debris[, effective upon adoption by the Commission of additional rules which clarify the range of acceptable alternative methods for providing the opportunity to recycle source separated yard debris].

(2) In addition to the principal recyclable materials listed in section (1) of this rule, other materials may be recyclable material at specific locations where the opportunity to recycle is required.

(3) The statutory definition of "recyclable material" (ORS 459.005(15)) determines whether a material is a recyclable material at a specific location where the opportunity to recycle is required.

(4) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (j) of this rule:

(a) Clackamas wasteshed;
(b) Multnomah wasteshed;
(c) Portland wasteshed;
(d) Washington wasteshed;
(e) West Linn wasteshed.

(5) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (i) of this rule:

(a) Benton and Linn wasteshed;
(b) Clatsop wasteshed;
(c) Hood River wasteshed;
(d) Lane wasteshed;
(e) Lincoln wasteshed;
(f) Marion wasteshed;
(g) Polk wasteshed;
(h) Umatilla wasteshed;
(i) Union wasteshed;
(j) Wasco wasteshed;
(k) Yamhill wasteshed.

(6) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (g) of this rule:
(a) Baker wasteshed;
(b) Crook wasteshed;
(c) Jefferson wasteshed;
(d) Klamath wasteshed;
(e) Tillamook wasteshed.

(7) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (h) of this rule:
(a) Coos wasteshed;
(b) Deschutes wasteshed;
(c) Douglas wasteshed;
(d) Jackson wasteshed;
(e) Josephine wasteshed.

(8) In the following wasteshed, the principal recyclable materials are those listed in subsections (1)(a) through (f) of this rule:
Malheur wasteshed.

(9) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (g) and (i) of this rule:
(a) Columbia wasteshed;
(b) Milton-Freewater wasteshed.

(10) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (e) of this rule:
(a) Curry wasteshed;
(b) Grant wasteshed;
(c) Harney wasteshed;
(d) Lake wasteshed.

(11) In the following wastesheds, the principal recyclable materials are those listed in subsections 1(a) through (d) of this rule:
(a) Morrow wasteshed;
(b) Sherman wasteshed;
(c) Wallowa wasteshed.

(12) In the following wastesheds, the principal recyclable materials are those listed in subsections (1)(b) through (d) of this rule:
(a) Gilliam wasteshed;
(b) Wheeler wasteshed.

(13) (a) The opportunity to recycle shall be provided for each of the principal recyclable materials listed in sections (4) through (12) of this rule and for other materials which meet the statutory definition of recyclable material at specific locations where the opportunity to recycle is required.

(b) The opportunity to recycle is not required for any material which a recycling report, approved by the Department, demonstrates does not meet the definition of recyclable material for the specific location where the opportunity to recycle is required.

(14) Between the time of the identification of the principal recyclable materials in these rules and the submittal of the recycling reports, the Department will work with affected persons in every wasteshed to assist in identifying materials contained on the principal recyclable material list which do not meet the statutory definition of recyclable material at some locations in the wasteshed where the opportunity to recycle is required.

(15) Any affected person may request the Commission modify the list of principal recyclable material identified by the Commission or may request a variance under ORS 459.185.

(16) The Department will at least annually review the principal recyclable material lists and will submit any proposed changes to the Commission.

OAR 340-60-035 is amended as follows:

Acceptable, Alternative Methods for Providing the Opportunity to Recycle

340-60-035 (1) Any affected person in a wasteshed may propose to the Department an alternative method for providing the opportunity to recycle. Each submittal shall include a description of the proposed alternative method and a discussion of the reason for using this method rather than the general method set forth in OAR 340-60-020(1)(a).

(2) The Department will review these proposals as they are received. Each proposed alternative method will be approved, approved with conditions, or rejected based on consideration of the following criteria:

(a) The alternative will increase recycling opportunities at least to the level anticipated from the general method set forth in OAR 340-60-020 for providing the opportunity to recycle;

(b) The conditions and factors which make the alternative method necessary;

(c) The alternative method is convenient to the people using or receiving the service;

(d) The alternative method is as effective in recovering recyclable materials from solid waste as the general method set forth in OAR 340-60-020 for providing the opportunity to recycle.

(3) The affected persons in a wasteshed may propose as provided in section (1) of this rule an alternative method to providing on-route collection as part of the opportunity to recycle for low density population

area within the urban growth boundaries of a city with a population over 4,000 or, where applicable, the urban growth boundaries established by a metropolitan district.

(4) In addition to any other standards or conditions, an alternative method for providing the opportunity to recycle yard debris shall meet the following minimum standards:

(a) The alternative method is available to substantially all yard debris generators in the local jurisdiction,

(b) The alternative method results in the recycling of yard debris from the solid waste stream,

(c) There is a promotion campaign which is designed to inform all potential users about the availability and use of the method,

(d) The jurisdictions covered by the alternative method are included in a yard debris recycling plan approved by the Department which includes the alternative method, and

(e) Implementation of the alternative method is designed to meet the performance requirements of OAR 340-60-120(4).

OAR 340-60-075 is amended as follows:

Reasonable Specifications for Recyclable Materials

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

Local Government Responsibility

340-60-115 Each local government unit in a wasteshed where yard debris has been identified as a principal recyclable material shall, either individually or jointly through intergovernmental agreement, provide for the following:

(1) The yard debris recycling plan called for in OAR 340-60-120.

(2) Yard debris recycling service using one of the methods listed in OAR 340-60-125 and

(3) An education and promotion program which meets the requirements of OAR 340-60-040.

Yard Debris Recycling Plans

340-60-120 (1) Each local government unit in the wastesheds where yard debris has been identified as a principal recyclable material shall, individually or jointly through intergovernmental agreement, submit to the Department, as part of the wasteshed recycling report, a yard debris recycling plan which describes how the opportunity to recycle yard debris will be provided to the residents in their jurisdiction.

(2) The yard debris recycling plan shall include the following information:

(a) The estimated amount of yard debris available,

(b) The proposed collection method for yard debris.

(c) The number of potential participants in the program.

(d) The projected participation level.

(e) The expected amount of material to be recovered.

(f) The process by which the yard debris will be recycled or the names of the facilities to which the yard debris will be sent for recycling.

(g) The projected capability of the facility which will be accepting yard debris generated in the jurisdiction to accept and utilize that yard debris.

(h) The projected growth of the program over the first four years of operation.

(i) A description of any alternative method for providing the opportunity to recycle yard debris which is going to be used.

(j) A timeline which displays

(A) the projected growth of the program,

(B) use of collection and recycling methods, and

(C) projected growth of the facilities to which the yard debris will be sent.

(3) The Department shall review and approve or disapprove the yard debris recycling plans based on whether the information in the plan is accurate and the program described in the plan is designed to meet the performance requirements in section (4) of this rule.

(4) Unless otherwise provided in an approved yard debris recycling plan, yard debris recycling programs developed for local jurisdictions in the Clackamas, Multnomah, Portland, Washington, or West Linn Wastesheds shall be designed and implemented to meet the following standards for recovery of yard debris generated from within individual jurisdictions or multi-jurisdictional planning areas:

(a) By July 1, 1989 recovery of at least 25% of the yard debris in the waste stream.

(b) By July 1, 1990 recovery of at least 40% of the yard debris in the waste stream.

(c) By July 1, 1991 recovery of at least 60% of the yard debris in the waste stream.

(d) By July 1, 1992 recovery of at least 80% of the yard debris in the waste stream.

(5) Yard debris recycling plans shall incorporate the minimum standards set out in section (4) of this rule except when it can be demonstrated to the Department's satisfaction, that the yard debris processor or processors serving the local or regional government jurisdiction are not capable of utilizing the amount of material set in those standards.

(6) If a local government unit does not submit an acceptable yard debris recycling plan or if a yard debris recycling program fails to meet the performance standards set out in this rule it shall be considered to be not providing the opportunity to recycle yard debris and the EQC may order the local government to provide the level of recycling service including education and promotion, which, in the Commission's opinion, is necessary to meet the standards.

Yard Debris Recycling Program Implementation

340-60-125 Each local government unit in a wasteshed where yard debris has been identified as a principal recyclable material shall, either individually or jointly through intergovernmental agreement, provide a yard debris recycling program by one of the following methods:

(1) Provide the opportunity to recycle as identified in OAR 340-60-020 or an equivalent level of service.

(2) Provide the opportunity to recycle yard debris by using an acceptable alternative method as identified in OAR 340-60-035. Acceptable alternative methods for collection or recycling of source separated yard debris include but are not limited to the following:

(a) Monthly or more often on-route collection of yard debris during the months of March, April, May and September, October, November with a drop-off depot for noncollection service customers available at least monthly, or

(b) A biweekly or more often yard debris collection depot within one mile of the yard debris generators, or

(c) A monthly or more often yard debris collection depot, supplemented by a weekly or more often yard debris depot during the months of March, April, May and September, October, November, both within one mile of the yard debris generators.

(3) Provide a yard debris recycling program by using an acceptable alternative method or methods that are part of a Department approved yard debris recycling plan, as described in OAR 340-60-120.

(4) The Department shall include, but is not limited to, the following criteria in an evaluation of an alternative method for providing the opportunity to recycle yard debris submitted under section (2) or (3) of this rule.

(a) Projected participation rate,

(b) Projected recovery rate,

(c) Distance the residents of the jurisdiction have to travel to use the alternative method,

(d) Potential for expansion,

(e) The type and level of promotion and education associated with the alternative method.

YF3030.A

Attachment III
Agenda Item
6/10/88, EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Rules Related to Providing the Opportunity to Recycle Source Separated Yard Debris

Date Prepared: 5/12/88
Hearing Date : 7/13/88
Comments Due : 7/14/88

WHO IS AFFECTED: Owners and operators of solid waste collection and disposal businesses and their customers. Operators of yard maintenance services. Operators of yard debris processing facilities. Local governments. The public who generate yard debris. Individuals involved in the implementation of the Oregon Recycling Opportunity Act (ORS 459.005 to 459.285).

WHAT IS PROPOSED The Department proposes to amend Oregon Administrative Rules, Division 340, Section 60 to set standards for yard debris recycling programs, initiating a process for the collection of source separated yard debris from generators. Implementation would begin January 1, 1989.

WHAT ARE THE HIGHLIGHTS: These rules assign the responsibility for yard debris recycling to local government. They set criteria for determining when an alternative method of providing the opportunity to recycle is acceptable. They also outline a planning and implementation process for yard debris recycling programs. The rules contain an enforcement procedure for jurisdictions which fail to provide the opportunity to recycle yard debris.

HOW TO COMMENT: Public hearings will be held before a hearings officer at:

2:00 p.m. and 7:00 p.m.
Wednesday July 13, 1988
Hearing Room - 2nd Floor
Portland Building
1120 S.W. 5th Avenue
Portland, Oregon

Written or oral comments can be presented at the hearing. Written comments can also be sent to the Department of Environmental Quality, Hazardous and Solid Waste Division, 811 S.W. 6th Avenue, Portland, Oregon 97204, but must be received no later than 5:00 p.m., Thursday. July 14, 1988.

(OVER)

811 S.W. 6th Avenue
Portland, OR 97204

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.

Attachment III
Agenda Item
6/10/88, EQC Meeting

Copies of the complete proposed rule package may be obtained from the DEQ Hazardous and Solid Waste Division in Portland (811 S.W. 6th Avenue). For further information contact William R. Bree at 229-6975.

WHAT IS THE NEXT STEP: The Environmental Quality Commission may adopt the amendments and new rules identical to the ones proposed, adopt modified amendments and rules as a result of testimony received or may decline to adopt any changes to the existing rules. The Commission may consider the proposed amendments and new rules at its meeting on August 19, 1988.

YF3027.D

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item E, June 10, 1988, EQC Meeting. Executive Summary of Staff Report Proposing Revisions to OAR Chapter 340, Division 12, Civil Penalty.

BACKGROUND

Oregon Revised Statutes (ORS) 468.130 authorizes the Environmental Quality Commission to adopt civil penalty schedules for violations and lists factors which the Commission is required to consider when imposing civil penalties. ORS 468.125(2) lists specific violations for which a civil penalty may be assessed without a prior warning notice.

In recent years, the Oregon Legislature has amended and adopted several laws which affect the Department's civil penalty authority. In 1985, the Legislature adopted legislation concerning the disposal of polychlorinated biphenols (PCBs) which included civil penalty authority. In 1987, the Legislature amended ORS 468.125(2) to include violations which related to the release of asbestos fibers into the environment. The Legislature also created new programs concerning waste tires and remedial action for hazardous waste sites which included civil penalty authority. It also amended ORS 468.130(2) requiring the Commission to consider additional factors before imposing a civil penalty. Because of these changes and new programs, the Department is proposing to revise OAR Chapter 340, Division 12 to be consistent with the statutes and establish penalty schedules necessary to make the new penalty authorities enforceable.

SUMMARY OF STAFF REPORT KEY ISSUES

1. The 1985 and 1987 Legislatures created additional programs with civil penalty authority. New penalty schedules need to be adopted in order for the Commission to exercise this authority.

2. The 1987 Legislature amended ORS 468.125(2) to authorize the Department to assess civil penalties without prior warning for violations relating to the release of asbestos fibers into the environment.

3. The 1987 Legislature amended ORS 468.130(2) to include a additional factors to be considered by the Commission before imposing a civil penalty.

4. The civil penalty rules in the federally-enforceable SIP must be revised to be consistent with current and proposed modifications to the state rules.

DIRECTOR'S RECOMMENDATION

Based upon the summary, it is recommended the Commission authorize a public hearing to take testimony on the proposed revisions to the civil penalty rules, OAR Chapter 340, Division 12, and proposed revisions to the SIP.

Yone C. McNally
229-5152
May 17, 1988

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item E, June 10, 1988, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Revisions of Oregon Administrative Rule Chapter 340, Division 12, Civil Penalties, and Revisions to the Clean Air Act State Implementation Plan (SIP)

BACKGROUND

Oregon Revised Statutes (ORS) 468.130 authorizes the Commission to adopt civil penalty schedules for violations and lists factors which the Commission is required to consider when imposing civil penalties. ORS 468.125(2) lists specific violations for which a civil penalty may be assessed without a prior warning notice.

In recent years, the Oregon Legislature has amended and adopted several laws which affect the Department's civil penalty authority. In 1985, the Legislature adopted legislation concerning the disposal of polychlorinated biphenols (PCBs) which included civil penalty authority. In 1987, the Legislature amended ORS 468.125(2) to include violations which related to the release of asbestos fibers into the environment. It also created new programs concerning waste tires and remedial action which included civil penalty authority. It also amended ORS 468.130(2) requiring the Commission to consider additional factors before imposing a civil penalty. Because of these changes and new programs, the Department is proposing to revise OAR chapter 340, division 12 so it would be consistent with controlling statutes and establish penalty schedules necessary to make the new penalty authorities enforceable.

PROPOSAL

1. Proposed State Rule Revision.

Division 12 was last revised in 1984. As part of this revision process, the entire division has been reviewed. As a result, several changes beyond those made necessary by the Legislature are being recommended that would make the division more clear.

ORS 468.130(1) authorizes the Commission to adopt civil penalty schedules. Several new civil penalty schedules are proposed for the disposal of PCBs, hazardous waste remedial action and waste tires storage and disposal. Adoption of civil penalty schedules for these areas would be necessary before the Department could exercise civil penalty authority for violations. Waste tire civil penalties are being added to the Solid Waste Management Schedule of Civil Penalties.

Pursuant to ORS 468.125(1), before a penalty can be assessed, the Department must first inform a violator that it plans to assess a penalty in the future should the violation continue, or a similar violation occur, five or more days after the violator receives notice before a penalty can be assessed. ORS 468.125(2) lists exceptions to this requirement. The 1987 Legislature amended ORS 468.125(2) to include violations which relate to the release of asbestos fibers into the environment as an exception to this requirement. It is proposed to add this exception to Division 12 also so it would be consistent with the statute. The Department is proposing to add violations of asbestos abatement work practice standards to the Air Quality Schedule of Civil Penalties.

ORS 468.130(2) was amended in 1987 to include additional factors to be considered by the Commission when imposing a civil penalty. It is proposed to revise Division 12 to reflect these changes and make the Department's rules consistent with the statute. Previously, the Commission was required to consider only three factors. The 1987 Legislature extended the list to eight factors including the cause, gravity and magnitude of the violation, and the violators cooperativeness and efforts to correct the violation.

Finally, several housekeeping changes to Division 12 have been proposed. These include updating references to statutes, making language consistent throughout the division, and renumbering sections for clear organization.

2. Proposed Clean Air Act State Implementation Plan Revision

Certain proposed changes in the state civil penalty rules must be incorporated into the SIP in order to meet federal requirements. As new authority concerning air quality has been added to Division 12, this is an appropriate time to bring the SIP rules relating to civil penalties up to date. The Department, therefore, is proposing the following SIP actions:

- Retain the following existing rules with proposed modifications: OAR 340-12-040 (Notice of Violation), 340-12-045 (Mitigating and Aggravating Factors), and 340-12-050 (Air Quality Schedule of Civil Penalties).
- Renumber the following existing rules: OAR 340-12-070 (Written Notice of Assessment of Civil Penalty) to 340-12-046, and 340-12-075 (Compromise or Settlement of Penalty) to 340-12-047.
- Retain the following existing rules:

OAR 340-12-030 (Definitions) and 340-12-035 (Consolidation of Proceedings).

ALTERNATIVES AND EVALUATION

1. Do not revise Division 12.

   If Division 12 is allowed to remain as is, some civil penalty authorities and schedules would not be listed. Further, because statutory changes affecting Division 12 have been made, not revising Division 12 could result in inconsistency and confusion in its application.

2. Revise Division 12 as proposed.

   If Division 12 is revised as proposed, this will eliminate the confusion and inconsistency that might otherwise result, add the schedules necessary for assessing civil penalties, and list newly created categories of violations in the areas such as waste tire storage and disposal and hazardous waste remedial action.

3. Do not revise the Oregon SIP.

   The Department must have current and appropriate civil penalty rules in the SIP in order to meet federal requirements. Failure to incorporate proposed changes to the state civil penalty rules in the SIP or bring the existing rules in the SIP up to date with current state rules would put the state in technical violation of the Clean Air Act requirements and ultimately force EPA to take remedial or sanction action.

4. Revise the Oregon SIP as proposed.

   This alternative would make the federally enforceable SIP rules consistent with current state rules.

SUMMATION

1. The 1985 and 1987 Legislatures created additional programs with civil penalty authority. New penalty schedules need to be adopted in order for the Commission to exercise this authority.

2. The 1987 Legislature amended ORS 468.125(2) to authorize the Department to assess civil penalties without prior warning for violations relating to the release of asbestos fibers into the environment.

3. The 1987 Legislature amended ORS 468.130(2) to include additional factors to be considered by the Commission before imposing a civil penalty.

4. The civil penalty rules in the federally-enforceable SIP must be revised to be consistent with current and proposed modifications to the state rules.

DIRECTOR'S RECOMMENDATION

Based upon the summation, it is recommended the Commission authorize a public hearing to take testimony on the proposed revisions to the civil penalty rules, OAR Chapter 340, Division 12, and proposed revisions to the SIP.

Fred Hansen

Attachments
Statement of Need for Rulemaking
Statement of Land Use Consistency
Public Hearing Notice
Proposed Revision to OAR Chapter 340, Division 12

Yone C. McNally:ycm
229-5152
May 6, 1988

ATTACHMENT I

Agenda Item E, June 10, 1988, EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(1), this statement provides information on Environmental Quality Commission's intended action to adopt a rule.

(1) Legal Authority:

ORS 468.125(2) identifies categories of violations for which the Department is not required to provide prior notice before assessing a civil penalty. The 1987 Legislature amended ORS 468.125(2) to include violations of asbestos abatement work standards.

ORS 468.130(2) lists factors the Commission is required to take into account when imposing a civil penalty. The 1987 Legislature amended ORS 468.130(2) to require the Commission specific factors before imposing a civil penalty.

ORS 468.130(1) requires the Commission to adopt by rule civil penalty schedules establishing amounts which may be imposed for particular violations.

(2) Need for Rule:

A schedule of civil penalties is required in order for the Commission to impose civil penalties for violations. A schedule also gives guidance for determining penalty levels in particular cases, and provides notice to the regulated community as to the types of violations that could result in civil penalties.

The proposed schedules achieve this goal by establishing schedules for new authorities.

Revisions are needed in the Clean Air Act SIP to make this federally enforceable rules consistent with existing and proposed state rules.

(3) Principal Documents Relied Upon:

The existing schedules of civil penalties for all programs, and ORS Chapters 454, 459, 466, and 468. These documents are available for review at the Department of Environmental Quality, Regional Operations, 10th floor, 811 SW Sixth Avenue, Portland, OR 97204.

(4) Fiscal and Economic Impact:

The newly proposed schedules would only have a fiscal and economic impact on individuals, public entities, and small and large businesses if a penalty were imposed for a violation of Oregon's environmental statutes or the Commission's rules concerning the disposal of polycholorinated biphenols and hazardous waste remedial action orders.

ATTACHMENT II

Agenda Item E, June 10, 1988, EQC Meeting

LAND USE CONSISTENCY STATEMENT

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

Yone C. McNally
229-5152
May 6, 1988

PROPOSED REVISION OF CIVIL PENALTY RULES

NOTICE OF PUBLIC HEARING

Date Prepared: May 6, 1988
Hearing Date: August 3, 1988
Comments Due: August 3, 1988

WHO IS AFFECTED: People who may violate Oregon's air quality, noise pollution, water quality, solid waste, on-site sewage disposal and hazardous waste regulations.

WHAT IS PROPOSED: The DEQ is proposing to revise the civil penalty rules, OAR 340-12-030 through 12-075, and to revise the federally-enforceable Oregon State Implementation (SIP) to be consistent with state rules.

WHAT ARE THE HIGHLIGHTS:

1. Proposed State Rule Revisions:

>Violations related to the control of asbestos fibers into the environment are being added to the category of violations for which a civil penalty may be assessed without a prior warning notice.
>Civil penalty schedules are being added for violations hazardous waste remedial action orders, and disposal of polychlorinated biphenols (PCBs).

2. Proposed State Implementation Plan (SIP) Revisions:

>The following existing rules with proposed modifications are being retained: OAR 340-12-040, 340-12-045, and 340-12-050.
>The following existing rules for procedures to assess a civil penalty and mitigate/settle a civil penalty are being renumbered: OAR 340-12-070 to 340-12-046, and 340-12-075 to 340-12-047.
>The following existing rules are being retained: OAR 340-12-030 and 340-12-035.

HOW TO COMMENT: Copies of the complete proposed rule package may be obtained from the Regional Operations Division, Enforcement, in Portland (811 S.W. Sixth Avenue, Tenth Floor) or the regional office nearest you. For further information, contact Yone C. McNally at 229-5152.

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

2:00 p.m.
Wednesday August 3, 1988
DEQ Offices, Fourth Floor
811 S.W. Sixth Avenue, Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ Enforcement

Section, 811 S.W. Sixth Avenue, Tenth Floor, Portland, OR 97204. Written comments must be received no later than 5:00 p.m., August 3, 1988.

WHAT IS THE NEXT STEP: After public hearing, the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The Commission's deliberation may come on October 7, 1988, as part of the agenda of the regularly scheduled Commission meeting. If adopted, the proposed SIP revisions will be submitted to the U.S. Environmental Protection Agency as a revision of the Clean Air Act SIP.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

CHAPTER 340, DIVISION 12

Definitions
340-12-030

Unless otherwise required by context, as used in this Division:
(1) "Commission" means the Environmental Quality Commission.
(2) "Director" means the Director of the Department or the Director's authorized deputies or officers.
(3) "Department" means the Department of Environmental Quality.
(4) "Order" means:
  (a) Any action satisfying the definition given in ORS Chapter 183; or
  (b) Any other action so designated in ORS Chapter 454, 459, 466, 467, or 468.
(5) "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.
(6) "Respondent" mean the person against whom a civil penalty is assessed.
(7) "Violation" means a transgression of any statute, rule, standard, order, license, permit, compliance schedule, or any part thereof and includes both acts and omissions.

(Statutory Authority: ORS CH 468)

Consolidation of Proceedings
340-12-035

Notwithstanding that each and every violation is a separate and distinct offense, and in case of continuing violation, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations may be consolidated into a single proceeding.

(Statutory Authority: ORS CH 468)

Notice of Violation
340-12-040

(1) Except a provided in section (3) of this rule, prior to the assessment of any civil penalty the Department shall serve a Notice of Violation upon the respondent. Service shall be in accordance with rule 340-11-097.
(2) A Notice of Violation shall be in writing, specify the violation and state that the Department will assess a civil penalty if the violation continues or occurs after five days following receipt of the notice.

Note:
Underlined material is new.
[Bracketed material is deleted]

(3) (a) A Notice of Violation shall not be required where the respondent has otherwise received actual notice of the violation not less than five days prior to the violation for which a penalty is assessed.

(b) No advanced notice, written or actual shall be required under sections (1) and (2) of this rule if:

(A) The act or omission constituting the violation is intentional;

(B) The violation consists of disposing of solid waste or sewage at an unauthorized disposal site;

(C) The violation consists of constructing a sewage disposal system without the Department's permit;

(D) The water pollution, air pollution, or air contamination source would normally not be in existence for five days;

(E) The water pollution, air pollution, or air contamination source might leave or be removed from the jurisdiction of the Department; [or]

(F) The penalty to be imposed is for a violation of ORS 466.005 to 466.385[459.410 to 459.450 and 459.460 to 459.690], or rules adopted or orders or permits issued pursuant thereto[.]; or

(G) The penalty to be imposed is for a violation of ORS 468.893(8) relating to the control of asbestos fiber releases into the environment, or rules adopted thereunder.

(Statutory Authority: ORS CH 459, 466 & 468)

Mitigating and Aggravating Factors
340-12-045

(1) In establishing the amount of a civil penalty to be assessed, the Director may consider the following factor:

(a) Whether the respondent has committed any prior violation[,] of statutes, rules, orders or permits pertaining to environmental quality or pollution control [regardless of whether or not any administrative, civil, or criminal proceeding was commenced therefore];

(b) The past history of the respondent in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(c) The economic and financial conditions of the respondent;

(d) The gravity and magnitude of the violation;

(e) Whether the violation was repeated or continuous;

(f) Whether a cause of the violation was an unavoidable accident, or negligence, or an intentional act of the respondent;

[(g) The opportunity and degree of difficulty to correct the violation;]

(g) [(h)] The respondent's cooperativeness and efforts to correct the violation for which the penalty is to be assessed;

(h) [(i)] Any relevant rule of the commission [The cost to the Department of investigation and correction of the cited violation prior to the time the Department receives respondent's answer to the written notice of assessment of civil penalty]; or

(i) [(j)] Any other relevant factor.

Note:
Underlined material is new.
[Bracketed material is deleted]

(2) In imposing a penalty subsequent to a hearing, the Commission shall consider factors (a) through (h) [, (b), and (c), or section (1) of this rule, and each other factor cited by the Director]. The Commission may consider any other relevant factor.
(3) Unless the issue is raised in respondent's answer to the written notice of assessment of civil penalty, the Commission may presume that the economic and financial conditions of respondent would allow imposition of the penalty assessed by the Director. At the hearing, the burden of proof and the burden of coming forward with evidence regarding the respondent's economic and financial condition shall be upon the respondent.

(Statutory Authority: ORS CH 468)

Written Notice of Assessment of Civil Penalty; When Penalty Payable
340-12-046 [070]

(1) A civil penalty shall be due and payable when the respondent is served a written notice of assessment of civil penalty signed by the Director. Service shall be in accordance with rule 340-11-097.
(2) The written notice of assessment of civil penalty shall be in the form prescribed by rule 340-11-098 [100] for a notice of opportunity for a hearing in a contested case, and shall state the amount of the penalty or penalties assessed.
(3) The rules prescribing procedure in contested case proceedings contained in Division 11 shall apply thereafter.

(Statutory Authority: ORS CH 468)

Compromise of Settlement of Civil Penalty by Director
340-12-047 [075]

Any time subsequent to service of the written notice of assessment of civil penalty, the Director is authorized to seek to compromise or settle any unpaid civil penalty which the Director deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

(Statutory Authority: ORS CH 468)

Air Quality Schedule of Civil Penalties
340-12-050

In addition to any liability, duty, or other penalty provided by law, the Director, or the director of a regional air quality control authority, may assess a civil penalty for any violation pertaining to air quality by service

Note:
Underlined material is new.
[Bracketed material is deleted]

of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than on hundred dollars ($100) nor more than ten thousand dollars ($10,000) for violation of an order of the Commission, Department, or regional air quality control authority.

(2) Not less than fifty dollars ($50) nor more than ten thousand dollars ($10,000) for:

(a) Violating any condition of any Air Contaminant Discharge Permit, Hardship Permit, Letter Permit, Indirect Source Permit, or variance;

(b) Any violation which causes, contributes to, or threatens the emission of any air contaminant into the outdoor atmosphere;

(c) Operating any air contaminant source without first obtaining an Air Contaminant Discharge Permit; or

(d) Any unauthorized open burning.

(e) Any violation of the asbestos abatement project statutes ORS 468.875 to 468.899 or rules adopted or orders issued pursuant thereto pertaining to asbestos abatement.

(3) Not less than twenty-five dollars ($25) nor more than ten thousand dollars ($10,000) for any other violation.

(Statutory Authority: ORS CH 468)

Noise Control Schedule of Civil Penalties
340-12-052

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to noise control by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars ($100) nor more than five hundred dollar ($500) for violation of an order of the Commission or Department.

(2) Not less than fifty dollar ($50) nor more than five hundred dollars ($500) for any violation which causes, substantially contributes to, or will probably cause:

(a) The emission of noise in excess of levels established by the Commission for any category of noise emission source; or

(b) Ambient noise at any type of noise sensitive real property to exceed the levels established therefor by the Commission.

(3) Not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) for any other violation.

(Statutory Authority: ORS CH 467 & 468)

Note:
Underlined material is new.
[Bracketed material is deleted]

Water Pollution Schedule of Civil Penalties
340-12-055

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation relating to water pollution by service of written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars ($100) nor more than ten thousand dollars ($10,000) for any violation of an order of the Commission or Department.

(2) Not less than fifty dollars ($50) nor more than ten thousand dollars ($10,000) for:

(a) Violating any condition of any National Pollutant Discharge Elimination System (NPDES) Permit or Water Pollution Control Facilities (WPCF) Permit;

(b) Any violation which causes, contributes to, or threatens the discharge of a waste into any waters of the state or causes pollution of any waters of the state; or

(c) Any discharge of waste water or operation of a disposal system without first obtaining a National Pollutant Discharge Elimination System (NPDES) Permit or Water Pollution Control Facilities (WPCF) Permit.

(3) Not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for failing to immediately clean up an oil spill.

(4) Not less than twenty-five dollars ($25) nor more than ten thousand dollars ($10,000) for any other violation.

(5) (a) In addition to any penalty which may be assessed pursuant to sections (1) through (4) of this rule, any person who intentionally causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than one thousand dollars ($1,000) nor more than twenty thousand dollars ($20,000) for each violation.

(b) In addition to any penalty which may be assessed pursuant to sections (1) through (4) of this rule, any person who negligently causes or permits the discharge of oil into the waters of the state shall incur a civil penalty of not less than five hundred dollars ($500) nor more than twenty thousand dollars ($20,000) for each violation.

(Statutory Authority: ORS CH 468)

On-Site Sewage Disposal Systems Schedule of Civil Penalties
340-12-060

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to on-site sewage disposal activities [systems] by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

Note:
Underlined material is new.
[Bracketed material is deleted]

(1) No less than one hundred dollars ($100) nor more than five hundred dollars ($500) upon any person who:

(a) Violates [a final] an order of the Commission [requiring remedial action];

[(b) Violates an order of the Commission limiting or prohibiting installation of an on-site sewage disposal systems in an area;]

(b) [(c)] Performs, or advertises or represents one's self as being in the business of performing, sewage disposal services, without obtaining and maintaining a current license form the Department, except as provided by statute or rule;

(c) [(d)] Installs or causes to be installed an on-site [a subsurface alternative or experimental] sewage disposal system or any part thereof, without first obtaining a permit from the Agent;

(d) [(e)] Fails to obtain a permit from the Agent within three days after beginning emergency repairs on an on-site [a subsurface, alternative or experimental] sewage disposal system.

(e) [(f)] Disposes of septic tank, holding tank, chemical toilet, privy or other treatment facility sludges in a manner or location not authorized by the Department;

(f) [(g)] Connects or reconnects the sewage plumbing form any dwelling or commercial facility to an existing system without first obtaining an Authorization Notice from the Agent;

(g) [(h)] Installs or causes to be installed a nonwater-carried waste disposal facility without first obtaining written approval from the Agent therefor;

(h) [(i)] Operates or uses an on-site sewage disposal system which is failing by discharging sewage or septic tank effluent onto the ground surface or into surface public waters; or

(i) [(j)] As a licensed sewage disposal service worker, performs any sewage disposal service work in violation of the rules of the Department.

(2) Not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) upon any person who:

(a) Installs or causes to be installed an on-site sewage disposal system, or any part thereof, which fails to meet the requirements for satisfactory completion within thirty (30) days after written notification or posting of a Correction Notice at the site;

(b) Operates or uses a nonwater-carried waste disposal facility without first obtaining a letter of authorization from the Agent therefore;

(c) Operates or uses a newly constructed, altered or repaired on-site sewage disposal system, or part thereof, without first obtaining a Certificate of Satisfactory Completion from the Agent, except as provided by statute or rule;

(d) Fails to connect all plumbing fixtures from which sewage is or may be discharged to a Department approved system; or

(e) Commits any other violation pertaining to on-site sewage disposal systems. [;]

(Statutory Authority: ORS CH 468)

Note:
Underlined material is new.
[Bracketed material is deleted]

Solid Waste Management Schedule of Civil Penalties
340-12-065

In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to solid waste management by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for violation of an order of the Commission or Department.

(2) Not less than fifty dollars ($50) nor more than five hundred dollars ($500) for:

(a) Disposing of solid waste at an unauthorized site;

(b) Establishing, operating or maintaining a solid waste disposal site without first obtaining a Solid Waste Disposal Permit;

(c) Violating any condition of any Solid Waste Disposal Permit or variance;

(d) Disposing of waste tires at an unauthorized site; or

(e) Establishing, operating or maintaining a waste tire storage site without first obtaining a Waste Tire Storage Permit.

(3) Not less than twenty-five ($25) nor more than five hundred dollars ($500) for any other violation.

(Statutory Authority: ORS CH 459)

Underground Storage Tank Schedule of Civil Penalties
340-12-067

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to management of or releases from underground storage tanks by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person owning or having control over a regulated substance who fails to immediately cleanup releases as required by ORS 466.705 through ORS 466.995 and OAR 340 - Division 150.

(2) Not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person owning or having control over a regulated substance who fails to immediately report all releases of a regulated substance as required by ORS 466.705 through ORS 466.995 and OAR 340 - Division 150.

Note:
Underlined material is new.
[Bracketed material is deleted]

(3) Not less than one hundred dollars ($100) nor more than ten thousand dollars (10,000) per day of the violation upon any person who:

(a) Violates an order of the Commission or the Department; or [,]

(b) Violates any underground storage tank rule or ORS 466.705 through ORS 466.995.

(Statutory Authority: ORS Chapter 466)

Hazardous Waste Management Schedule of Civil Penalties
340-12-068

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to hazardous waste management by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person who:

(a) Establishes, constructs or operates a geographical site in which or upon which hazardous wastes are disposed without first obtaining a license form the Commission; [.]

(b) Disposes of a hazardous waste at any location other than at a licensed hazardous waste disposal site; [.]

(c) Fails to immediately collect, remove or treat a hazardous waste or substance as required by ORS 466.205 and OAR Chapter 340 division 108; [.]

(d) Is an owner or operator of a hazardous waste surface impoundment, landfill, land treatment or waste pile facility and fails to comply with the following:

(A) The groundwater monitoring and protection requirements of Subpart F of 40 CFR Part 264 or Part 265;

(B) The closure plan requirements of Subpart G of 40 CFR Part 264 or Part 265;

(C) The post-closure plan requirements of Subpart G of 40 CFR Part 264 or Part 265;

(D) The closure cost estimate requirements of Subpart H of 40 CFR Part 264 or Part 265;

(E) The post-closure cost estimate requirements of Subpart H of 40 CFR Part 264 or Part 265;

(F) The financial assurance for closure requirements of Subpart H of 40 CFR Part 264 or Part 265;

(G) The financial assurance for post-closure care requirements of Subpart H or 40 CFR Part 264 or Part 265; or

(H) The financial liability requirements or Subpart H or 40 CFR Part 264 or Part 265.

Note:
Underlined material is new.
[Bracketed material is deleted]

(2) Not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person who:

(a) Establishes, constructs or operates a geographical site or facility upon which, or in which, hazardous wastes are stored or treated without first obtaining a license from the Department; [.]

(b) Violates a Special Condition or Environmental Monitoring Condition of a hazardous waste management facility license; [.]

(c) Dilutes a hazardous waste for the purpose of declassifying it; [.]

(d) Ships hazardous waste with a transporter that is not in compliance with OAR Chapter 860, Division 36 and Division 46 or OAR Chapter 340, Division 103 or to a hazardous waste management facility that is not in compliance with OAR Chapter 340, Divisions 100 thru 106; [.]

(e) Ships hazardous waste without a manifest; [.]

(f) Ships hazardous waste without containerizing and marking or labeling such waste in compliance with OAR Chapter 340, Division 102; [.]

(g) Is an owner or operator of a hazardous waste storage or treatment facility and fails to comply with any of the following:

(A) The closure plan requirements of Subpart G of 40 CFR Part 264 or Part 265;

(B) The closure cost estimate requirements of Subpart H of 40 CFR Part 264 or Part 265;

(C) The financial assurance for closure requirements of Subpart H of 40 CFR Part 264 or Part 265; or

(D) The financial liability requirements of Subpart H of 40 CFR Part 264 or Part 265;

(3) Not less than one hundred dollars ($100) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person who:

(a) Violates an order of the Commission or Department; or [.]

(b) Violates any other condition of a license or written authorization or violates any other rule or statute.

(4) Any person who has care, custody or control of a hazardous waste or a substance which would be a hazardous waste except for the fact that it is not discarded, useless or unwanted shall incur a civil penalty according to the schedule set forth in this section for the destruction, due to contamination of food or water supply by such waste or substance, of any of the wildlife referred to in this section that are property of the state.

(a) Each game mammal other than mountain sheep, mountain goat, elk or silver gray squirrel, $400.

(b) Each mountain sheep or mountain goat, $3,500.

(c) Each elk, $750.

(d) Each silver gray squirrel, $10.

(e) Each game bird other than wild turkey, $10.

(f) Each wild turkey, $50.

(g) Each game fish other than salmon or steelhead trout, $5.

(h) Each salmon or steelhead trout, $125.

(i) Each fur-bearing mammal other than bobcat or fisher, $50.

(j) Each bobcat or fisher, $350.

Note:
Underlined material is new.
[Bracketed material is deleted]

(k) Each specimen of any wildlife species whose survival is specified by the wildlife laws or the laws of the United States as threatened or endangered, $500.

(l) Each specimen of any wildlife species otherwise protected by the wildlife laws or the laws of the United, but not otherwise referred to in this section, $25.

(Statutory Authority: ORS CH [459 &] 466)

Oil and Hazardous Material Spill and Release Schedule of Civil Penalties.
340-12-069

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to oil or hazardous materials spills or releases or threatened spills or releases by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:

(1) Not less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person owning or having control over oil or hazardous material who fails to immediately cleanup spills or releases or threatened spills or releases as required by ORS 466.205, 466.645, 468.795 and OAR 340- Divisions 47 and 108.

(2) Not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person owning or having control over oil or hazardous material who fails to immediately report all spills or releases or threatened spills or releases in amounts greater than the reportable quantity listed in rule 340-108-010 to the Oregon Emergency Management Division.

(3) Not less than one hundred dollars ($100) nor more than ten thousand dollars ($10,000) for each day of the violation upon any person who:

(a) Violates an order of the commission or Department; <u>or</u>

(b) Violates any other rule or statute.

(Statutory Authority: ORS CH 466)

<u>PCB Schedule of Civil Penalty</u>
<u>340-12-071</u>

<u>In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to management of or disposal of PCBs by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of such civil penalty shall be determined consistent with the following schedule:</u>

<u>(1) Not less than two thousand five hundred dollars ($2,500) nor more than ten thousand dollars ($10,000) for:</u>

Note:
<u>Underlined material is new.</u>
[Bracketed material is deleted]

(a) Treating or disposing of PCBs anywhere other than at a permitted PCB disposal facility; or

(b) Establishing, constructing or operating a PCB disposal facility without first obtaining a permit;

(2) Not less than one hundred dollars ($100) nor more than ten thousand dollars ($10,000) for:

(a) Any violation of an order issued by the Commission or the Department;

(b) Violating any condition of PCB disposal facility permit; or

(c) Any other violation.

(Statutory Authority: ORS Chapter 466)

Remedial Action Schedule of Civil Penalty
340-12-073

In addition to any liability, duty, or other penalty provided by law, the Director may assess a civil penalty for any violation pertaining to remedial action required by the Department by service of a written Notice of Assessment of Civil Penalty upon the respondent. The amount of such civil penalty shall be not less than one hundred dollars ($100) nor more than ten thousand dollars ($10,000) for violation of any order issued by the Commission or the Department requiring remedial action.

(Statutory Authority: ORS Chapter 466)

Note:
Underlined material is new.
[Bracketed material is deleted]

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: Agenda Item G, June 10, 1988, EQC Meeting. Executive Summary of Staff Report Authorization for Public Hearing on Vehicle Inspection Program Operating Rules, Test Procedure, and Licensed Exhaust Analyzers, OAR 340-24-300 through -350.

Vehicle Inspection Program operating rules are reviewed periodically. Review is complete, and a number of changes are proposed. As a first step in implementing these changes, the Department is requesting authorization to conduct a series of public hearings. The purpose of the hearings is to gather public input on the suggested changes to the operating rules for the Vehicle Inspection Program.

Some of the items are more housekeeping in nature, such as the correction of the legal description of the boundary of the Medford-Ashland AQMA. Other changes are more substantive. These include a proposal to ease the tampering part of the inspection for 1975-1979 model year vehicles. Tampering is the "buzz word" used to describe the inspection for emission control equipment. If eased, much of the inspection for emission control equipment for these vehicles would be omitted from the test procedure. This action would result in an approximate 5% increase in overall vehicle pass rate. EPA has indicated that this action will not significantly impact air quality.

The engine exchange policy would be simplified to be consistent with this action. Separate standards for certain makes of vehicles with very little marked penetration are being combined into the overall base standards for the 1972-1974 model year group. This should not change the pass rates for these vehicles affected. However, current regulations provide an exemption procedure from the base standard, should that be necessary.

The other items under discussion concern those fleets licensed for self inspection by the Department. The Commission is being asked to reaffirm some of the aspects of the licensed fleet policy. Specifically, the policies to be reaffirmed deal with the number of vehicles established in the rule which are necessary to qualify as a licensed fleet and the policy that licensed fleets not be allowed to certify any vehicle that is being held for resale. (Licensed fleets need 100 vehicles, 50 vehicles for government operations.)

The final item, and potentially most significant as it applies to the licensed fleets, is the proposed decertification of the older series of exhaust gas analyzers used by the licensed fleets. The staff is recommending that the oldest series, BAR-74, be decertified as of January 1, 1990. At this time, the Department wants to work with the licensed fleets and develop a new inspection system, utilizing new computer controlled testers. It is planned that the new series of testers would be available and operational in the licensed fleets by January 1, 1993.

AK580 (5/88)

Item F

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item G, June 10, 1988, EQC Meeting

REQUEST FOR AUTHORIZATION TO CONDUCT PUBLIC HEARING ON VEHICLE INSPECTION PROGRAM OPERATING RULES, TEST PROCEDURE, AND LICENSED EXHAUST GAS ANALYZERS, OAR 340-24-300 THROUGH 24-350

BACKGROUND

It has been over two years since the Vehicle Inspection Program rule changes have been presented to the Commission for review and consideration. The rules had been presented to the Commission on an annual basis, but as the program matured, the need for the annual review decreased. This year, there are several items up for consideration. Some of the rule proposals are due in part to changing times, necessitating review of internal program operations to meet these changes. Others being proposed are part of a bigger plan that will involve the automation of the inspection process and the information handling. As elements of that plan evolve, additional operational changes, reflected by rule revisions, will need to be presented to the Commission for their review.

The staff is proposing several changes in the operating rules. Also incorporated in the discussion are suggestions made from several individuals. The changes discussed are as follows:

OAR 340-24-301 -- Boundary designation for Medford-Ashland AQMA
OAR 340-24-310 -- Procedural changes to the test method section, specifying how failure reports are made to the customer.
OAR 340-24-320&325 -- Modifications to the test criteria section that will affect the tampering inspection for older vehicles and the engine exchange policy for older vehicles.

OAR 340-24-330&335 -- Simplification of emission test standards for older vehicles.
OAR 340-24-340&350 -- Discussion of licensed fleet program criteria and the decertification of "BAR-74" series analyzers. Effective date for decertification of these analyzers would be Jan. 1, 1990.

The proposed rule changes are contained in Attachment A. These proposed rules and their effects are described below. The changes range from housekeeping changes and corrections, to significant changes in policy that will affect owners of vehicles about 10 years old. The Commission is also being asked to reaffirm other aspects of rule and policy, specifically as it

relates to the fleet inspection program. The draft notice of public hearing and Statement of Need and Fiscal Impact are attached as Attachment B.

ALTERNATIVES AND EVALUATION

OAR 340-24-301 When the legal description of the boundaries for the Medford-Ashland AQMA were adopted, there was an inadvertent typographical error incorporated. The first change proposed is the correction of this error. Legal counsel has indicated to staff that the error was not substantive, especially in light of the fact, that a map had also been adopted as part of the rule. The error involved the specification of township 29 south (T29S) Douglas County, in lieu of township 39 south (T39S) Jackson County, in only one phrase of the legal description. This action does not affect the boundary as shown in the map, Exhibit 1 of the rule.

OAR 340-24-310 This section covers the test procedure used in the inspection lanes. The staff is proposing that paragraph 6 of section 310 be modified to indicate that the entire testing procedure be completed, rather than stopping the test at the first observable failure point. This will allow more information to be given to the customer. Doing such, will create some difficulties, particularly with those vehicles that are passing one mode of the test, but are being rejected for another cause. It is believed that the extra effort that will be required on the part of the inspection staff, will be worth the extra information that is given to the customer.

It is intended that the complete emission reading and all other items observed during the inspection would be reported.

OAR 340-24-320 & 325 This section of the rules establishes the inspection criteria. This section contains the directions for what rpm range is allowed, how the inspection for emission control equipment is to conducted, and how to attribute or characterize vehicles that have been modified substantially from original manufacture. Examples would include how to categorize vehicles that have had an engine exchange for the purpose of re-powering; or been reconstructed or remanufacture after having been destroyed. Or other necessary guidelines for inspection personnel or individuals on the appropriateness of certain actions. Less than 5% of all vehicle tests need the direction provided, yet this part of the rule causes a lot of consternation.

To make the rule simple and understandable, the staff is proposing the following changes.

(1) A change in OAR 340-24-320(3) and 24-325(3) to eliminate most of the tampering portion of the inspection on 1975 through 1979 vehicles. Wording is proposed that for this model year group of vehicles, only the unleaded fuel restrictor and catalyst check need be made. The tampering check would remain unchanged for 1980 and newer vehicles.

The reason that the staff is proposing easing the tampering check on this older class of vehicles is in response to a growing problem of parts availability and the reluctance and refusal of the vehicle owners to expend

money for emission related repairs on vehicles over 10 years old. The older group of vehicles has the highest failure rate of all the vehicle categories tested. Under the proposed procedural change a 1975-1979 vehicle would not be failed for the sole reason of having tampered emission control equipment. The tailpipe emission standards (or cut points) for these vehicles would not change.

The air quality impact of this action has been modeled. Based upon the results of the Mobile 3 analysis, this modification would produce negligible (2%) change in non-methane hydrocarbon reductions attributable to the program. Similarly, there would be only a (1%) reduction of CO and no reduction in NO_x emissions. A copy of the correspondence from EPA on this subject is attached with other correspondence in Attachment C. The tailpipe emission standards for these vehicles will not change.

(2) OAR 340-24-320(4) and (5) and 24-325(4) and (5) would be changed to be consistent with the change in paragraph (3).

(3) The engine exchange policy OAR 340-24-320(6) and 24-325(6) would be rewritten so that the Department would not make a change of model year determination in emission tailpipe standard, if the vehicle has a different engine. The effect of this change is illustrated by the following example. Under current rule, a vehicle owner could install a newer 1983 engine in their 1973 passenger car. Under current rule the 1973 car is judged against 1983 standards. Under the proposal it would be judged against 1973 values, regardless of the model year of the power plant.

A different approach for engine exchanges has been put forward by Mr. John Jeleneo of Crash Parts International, Inc. Attachment C. He had proposed a more complex mechanism for dealing with a smaller part of vehicle repowering - used engines imported from Japan. In the past, the staff has warned consumers to use caution when purchasing any used product. While the proposal does not change statute ORS 815.305, which still makes tampering with emission control equipment a Class A Misdemeanor, it removes the inspection staff from making a "tampering" decision on the older cars. By allowing the vehicle owner more latitude for engine exchange on these older vehicles, the Department wishes to remove the source of "picky this and that" that has been the norm for this aspect of the rule since the program's start.

The engine exchange update, would be consistent with the emission equipment inspection change proposed. The effect of this change would be that for 1979 and older vehicles, the model year is the absolute governing criteria for the tailpipe emission standard, regardless of modifications made by the vehicle owner. At the same time, the stricter engine exchange guidelines in effect for 1980 and newer vehicles would remain.

OAR 340-24-330 & 335 This section covers the inspection program test standards. The staff is proposing that the tailpipe numbers for the older vehicles be combined into simpler categories. In the past, there were complex arrays of standards. It was appropriate since these vehicles were new and constituted a majority of the vehicles subject to testing. Such is

not now the case. The pre-1975 vehicles subject to the inspection account for about 23% of the tests.

There are also ten specific year groups/makes of vehicles that have separate inspection standards. These vehicles represent less than 2,000 vehicles out of the more than 600,000 vehicles subject to the inspection test. Without computerized testing control, the separate standards are more often then not overlooked, and the general standards applied. It is proposed to eliminate these specific categories and combine then into the general category. If there is a problem with specific vehicle, current administrative oversight encompassed in both sections 24-320/5 and 24-330/5 can be utilized to handle individual instances for these vehicles.

OAR 340-24-340 This section deals with the criteria for the licensing of fleets for self inspection. The Department has received a request that the fleet size limit of 100 vehicles be reviewed, or that an exemption procedure be developed. In letters, Mr. Dennis Marsh requested that the fleet size requirement currently in rule be reduced to a smaller number so that his firm might qualify as a licensed fleet for self inspection. This correspondence is also in Attachment C.

"Motor Vehicle Fleet Operation" is defined in administrative rule OAR 340-24-305(24) as **"ownership by any person of 100 or more Oregon registered, in-use, motor vehicles, excluding those vehicles held primarily for the purposes of resale."** The motor vehicle fleet operation was implemented to allow large fleets flexibility with their testing and maintenance needs. The Department administers a fleet testing program with over 50 fleet participants. The vehicles that the licensed private and government fleets inspect is approximately 2% of the Department's total test volume.

The fleet size limits were chosen to provide large organizations with an alternative to having their vehicles tested at inspection stations. Some inspection programs in the United States do not offer this option. The 100 vehicle size limit is still a good delimiter. Staff is concerned that if the fleet size limits are reduced to a number lower than 100, the number of fleets that could qualify would increase substantially. This would place an extra burden on existing resources, the current level of quality and oversight could not be maintained. The 100 vehicle limit still appears appropriate.

Statute requires that special consideration be given to government fleet operations. Statute also requires all government vehicles to be certified on an annual basis, rather than biennially. That was part of the justification for reducing the size of government fleets, licensed for self inspection to 50. The staff is concerned that if the limit is lowered the expense to the Department to correctly administer this part of the I/M program would require personnel increase. The staff does not have an estimate of how many new fleets might apply if the size limit is reduced. The staff is recommending to the Commission, that no change be made in the size limits as they exist in the rule.

There have also been discussions that the rule be changed to allow fleet licensing and testing by car dealers. The rule specifically excludes "vehicles held for the purposes of resale." The original advisory committees that assisted the Department in developing the operating guidelines for the inspection program, wanted the testing separated from retail repair. This committee also believed that car dealers should not be in the position to issue Certificates for the used cars in their lots. Nothing has occurred in the ensuing years to offer evidence that changing this position would benefit the public or improve air quality.

There has been some informal discussions about which staff has been advised, that some new/used car dealers have expressed interest in self-inspecting and certifying cars for emission compliance. Other dealers and dealer organizations have expressed informal opposition, stating that they continue to support the concept of separation of testing and repair. If dealers were to be licensed for self-inspection there would also be the problem of audit and enforcement. In captive fleets the vehicles remain. In a "dealer fleet" the tested vehicles would disperse, inhibiting effective audit, and enforcement efforts. That being the case, it is requested that the Commission reemphasis that the current guideline for a licensed fleet remain the same.

OAR 340-24-350 The staff is proposing a change in the equipment specifications for the licensed fleets. The staff is recommending the decertification of the "BAR-74" level exhaust gas analyzers. Decertification means that after January 1, 1990, fleets licensed for self inspection cannot use a BAR-74 series piece of equipment for testing or certification purpose. Table 1 lists the licensed fleets affected. The BAR designation refers to a level of specification developed by the California Bureau of Automotive Repair.

The effect of this action is significant. Almost two-thirds of the licensed fleets have exhaust gas analyzers classified under the BAR-74 certification. The remaining equipment is classified under a BAR-80 and BAR-84 classifications. This older style equipment poses significant accuracy and reliability problems for a licensed fleet that uses this equipment both as a shop tool and a Certification device; and for the Department which is licensing the fleet to act as our agent. Spare parts and service is becoming a problem for this equipment. Program staff has had to assume a role of training many of the licensed fleet personnel in proper operational techniques of this old equipment. There are recent experiences where the trouble shooting available to the licensed fleet inspector will not adequately diagnose a problem, so that the testing results are incorrect.

At this time, the regulation is being proposed that would not allow BAR-80 or BAR-84 equipment to be purchased for testing after December 31, 1991. By that time, equipment that meets specifications referred to as BAR-90 (or equivalent) should be available on the marketplace. The staff believes that all testing by the licensed fleets should utilize this newer type of testing equipment, and will be proposing in the future, regulations that would

specify a BAR-90 (or equivalent) series of exhaust gas analyzers for all licensed fleet applications. The staff would like comments from the licensed fleets on this subject.

The cost associated with de-certifying the BAR-74 series of equipment is significant. Minimum costs for these testers will be in the range of $7,000-10,000.

SUMMATION The Department is requesting authorization for public hearings to receive testimony on a wide range of rule changes. These changes proposed include items that are more housekeeping in nature, to items that will have significant fiscal impact on the licensed fleets. They are as follows:

(1) Provide better information to the customers of the vehicle inspection program.

(2) Ease the emission equipment tampering check on 1975-1979 vehicles, along with the implications that this action would have on the engine exchange policy.

(3) Simplify the emission standards for the pre-1975 vehicles.

(4) Reaffirm the policy for qualifications as a licensed fleet inspection operation.

(5) De-certify the BAR-74 series of exhaust gas analyzers.

DIRECTOR'S RECOMMENDATION

Based upon the summation, the Director recommends that the Commission authorize the Department to schedule public hearings to receive testimony on the Vehicle Inspection Program rules.

Fred Hansen

Attachments: Table I
Attachment A - Draft Rules
Attachment B - Draft Notice of Public Hearing and Statement of Need and fiscal impact.
Attachment C - Relevant Correspondence

WPJasper
229-5081
AD2731
May 25, 1988

TABLE 1

Exhaust Gas Analyzers
Licensed For
Fleet Inspection Operations
As of April 1, 1988

Fleet #	Fleet Name	Analyzer Mfg.	Model
001	Portland Motor Pool	Sun	EPA 75*
		Sun	EPA 75*
002	Mobil Chef, Inc.	Marquette	42-076*
003	City of Portland	Sun	1115*
		Sun	1215*
		Sun	1115*
		Sun	1215*
004	US Postal Service	Sun	1805-9*
005	Oregon Highway Division	Snap-On	MT 498
		Stewart-Warner	3160-AC-1*
006	Washington County Fleet	Bear	42-904
007	GTE Northwest, Inc.	Sun	EET 910-1*
		Sun	1115*
009	N. W. Natural Gas	Sun	EPA 75*
		Bear	42-904
010	Portland General Elec		
		Sun	EPA 75*
		Sun	EPA 75*
		Sun	EPA 75*
		Sun	EPA 75*
		Sun	EPA 75*
		Sun	EPA 75*
	Oregon City	Sun	EPA 75*
	Beaverton	Sun	EPA 75*
011	Pacific N W Bell	Sun	EPA 75*
		Sun	EPA 75*
		Sun	SGA 9000
012	Clackamas County	Sun	EPA 75*
		Bear	42-904
013	Multnomah County	Sun	U-912-1*
		Sun	1215*

014	United Parcel Service	Bear	42-090
015	Port of Portland	Bear	42-904
		Stewart-Warner	3160-AC-1*
		Bear	42-090
		Sun	1805-9
016	Portland School Dist		
	Bus Shop	Sun	1115*
	Fleet Garage	Stewart-Warner	3160-AC-1*
		Bear	42-090
017	Pacific Power & Light	Sun	EPA 75*
018	Beaverton School Dist.	Bear	42-090
020	Carnation Company	Allen	23-360CA*
021	Laidlaw Transportation	Bear	42-090
022	City of West Linn	Bear	42-904
023	Power Rents, Inc.	Sun	EPA 75*
024	Tri-Met Transportation	Bear	42-904
026	City of Lake Oswego	Sun	1042
027	North Clackamas School	Sun	EPA 75*
028	Washington County Fire	Marquette	42-706*
		Bear	42-904
029	Lake Oswego School Dist.	Marquette	42-706*
		Bear	42-904
031	City of Oregon City	Allen	23-390
032	Oregon City School Dist.	Marquette	42-076*
033	City of Milwaukie	Sun	EPA 75*
		Bear	42-904
034	Portland Bottling Co.	Sun	MGA-90
035	Unified Sewage Agency	Sun	EPA 75*
036	Parkrose School Dist.	Sun	MGA-90
037	Tektronix, Inc.	Bear	42-904
038	David Douglas Sch Dist.	Allen	23-360*

039	City of Forest Grove	Bear	42-904
040	Army National Guard	Sun	EPA 75*
041	Reynolds School Dist.	Sun	EPA 75*
042	City of Beaverton	Sun	U-912-I*
043	Hillsboro School Dist.	Sun	1115*
044	Oregon Air Nat Guard	Allen	23-360*
045	Tualatin Rural Fire	Sun	1115*
046	City of Hillsboro	Peerless Bear	675* 42-924
047	City of Tualatin	Sun	MGA-90
049	City of Gresham	Bear	42-900B
050	McCracken Motor Freight	Sun	1115-9

(*) DENOTES BAR-74 LEVEL
FLTALYZ May 25, 1988

ATTACHMENT A

PROPOSED RULE REVISIONS

BOUNDARY DESIGNATIONS

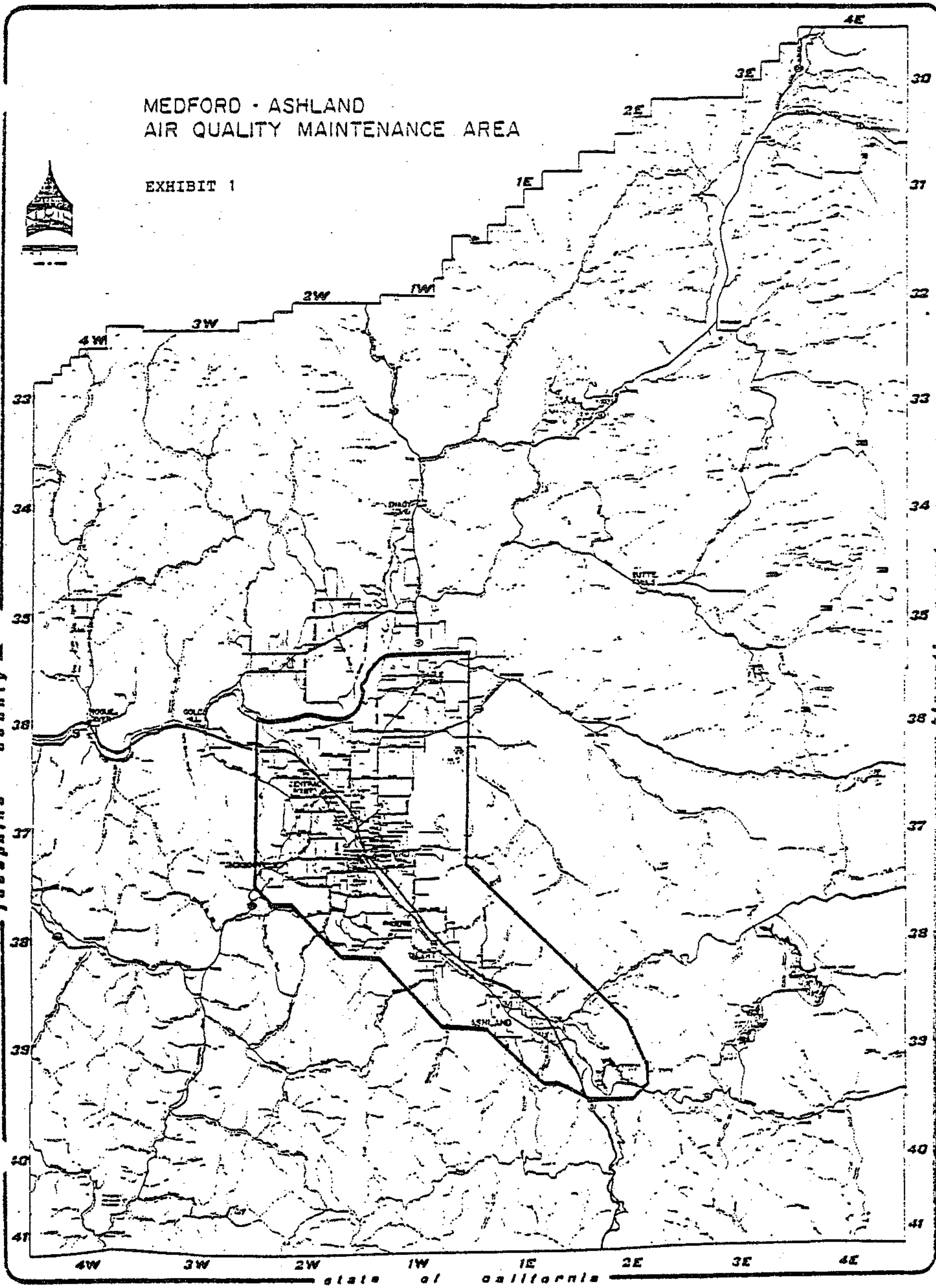
340-24-301

(1) In addition to the area specified in ORS 815.300 pursuant to ORS 468.397 the following geographical area, referred to as the Medford-Ashland AQMA, is designated as an area within which motor vehicles are subject to the requirement under ORS 815.300 to have a Certificate of Compliance issued pursuant to ORS 468.390 to be registered or have the registration of the vehicle renewed.

(2) As used in this paragraph, "Medford-Ashland Air Quality Maintenance Area" means the area of the state beginning at a point approximately one mile northeast of the town of Eagle Point, Jackson County, Oregon, at the northeast corner of section 36. T35S. R1W: thence south along the Willamette Meridian to the southeast corner of section 25. T37S. R1W: thence southeast along a line to the southeast corner of section 9. T39S. R2E: thence south-southeast to the corner of section 22. T39S. R2E: thence south to the southeast corner of section 27. T39S. R2E: thence southwest to the southeast corner of section 33. T39S. R2E: thence west to the southwest corner of section 31. T39S. R2E: thence northwest to the northwest corner of section 36. T39S. R1E: thence west to the southwest corner of section 26. [T29S]T39S. R1E: thence northwest along a line to the southeast corner of section 7. T39S. R1E: thence west to the southwest corner of section 12. T39S. R1W: thence northwest along a line to the southwest corner of section 20. T39S. R1W: thence west to the southwest corner of section 24. T38S. R2W: thence northwest along a line to the

southwest corner of section 4. T38S. R2W: thence west to the southwest corner of section 5. T38S, R2W: thence northwest along a line to the southwest corner of section 31. T37S. R2W: thence north along a line to the Rogue River, thence north and east along the Rogue River to the north boundary of section 32. T35S. R1W: thence east along a line to the point of beginning.

(3) The above area is shown in Exhibit 1 of this section.


MEDFORD - ASHLAND
AIR QUALITY MAINTENANCE AREA
EXHIBIT 1
4W
3W
2W
1W
1E
2E
3E
4E
30
31
32
33
34
35
36
37
38
39
40
41
ASHLAND
josephine county
klamath county
state of california

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

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

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

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

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

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

~~A report shall be supplied to the driver indicating the reason(s)~~

~~for rejection.~~}, but upon completion of the testing process, shall have a report issued to the driver stating all reasons for noncompliance.

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

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

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

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

(11) If the vehicle is equipped with a multiple exhaust system, then steps (7) through (10) are to be repeated on the other exhaust outlet(s).

The readings from the exhaust outlets are to be averaged into one reading for each gas measured for comparison to the standards of rule 340-24-330.

(12) If the vehicle does not comply with the standards specified in rule 340-24-330, and it is a 1981 newer Ford Motor Company vehicle, or if its a 1984 through 1986 Honda Prelude; the vehicle shall have the ignition turned off, be restarted, and have steps (8) through (11) repeated.

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

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

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

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

(17) No certificate of compliance or inspection shall be issued unless the vehicle complies with all requirements of these rules and those applicable provisions of ORS 468.360 to 468.405, 803.350, 815.295 to 815.325 and 467.030.

Light Duty Motor Vehicle Emission Control Test Criteria

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

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

(3)(a) No vehicle emission control test for a 1975 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1), except <u>that for 1975 through 1979 model year vehicles the inspection shall be limited to the Catalytic converter system and Fuel filler inlet restrictor listed below ,and</u> as noted in section (2) or as provided for by 40 CFR 85.1701-1709. Motor vehicle pollution control systems include, but are not necessarily limited to:

(A) Positive crankcase ventilation (PVC) system;

(B) Exhaust modifier system:

(i) Air injection reactor system;

(ii) Thermal reactor system;

(iii) Catalytic converter system.

(C) Exhaust gas recirculation (EGR) systems;

(D) Evaporative control system;

(E) Spark timing system:

(i) Vacuum advance system;

(ii) Vacuum retard system.

(F) Special emission control devices. Examples:

(i) Orifice spark advance control (OSAC);

(ii) Speed control switch (SCS);

(iii) Thermostatic air cleaner (TAC);

(iv) Transmission controlled spark (PCS);

(v) Throttle solenoid control (TSC);

(vi) Fuel filler inlet restrictors;

(vii) Oxygen Sensor;

(viii) Emission Control Computer;

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

(4) No vehicle emission control test for a ~~[1975]~~1980 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 815.305(1), except as noted in section (2). For the purposes of this section, the following apply:

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 815.305, if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such a part or system is listed on the exemption list of "Modifications to Motor Vehicle Emission Control System Permitted Under California Vehicle Code Section 27156 granted by the Air Resources Board," or is on the list maintained by the U.S. Environmental Protection Agency of "Certified to EPA Standards," or has been determined after review of testing data by the Department that there is no decrease in the efficiency or effectiveness in the control of air pollution.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 815.305.

(5) A [1975]1980 and newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

(6) The following applies:

(a) [to 1975 through 1979 motor vehicles. When a motor vehicle is equipped with other than the original engine and the factory installed vehicle pollution control systems, it shall be classified by the model year and manufacture make of the non-original engine and its factory-installed motor vehicle pollution control systems, except that when the non-original engine is older than the motor vehicle any requirement for evaporative control system and fuel filler inlet restrictor and catalytic converter shall be based on the model year of the vehicle chassis. Diesel (compression ignition) engine powered vehicles changed to gasoline (spark ignition) engine power shall be required to maintain that model year's equivalent or better factory pollution control system, including, but not limited to, catalytic converters, unleaded fuel requirements, and computer controls.] to vehicles older than the 1980 model year. If these vehicles are now equipped with other than the original engine and factory installed

vehicle pollution control systems, the vehicle for the purposes of determining test standards, shall be classified by the vehicles original model year classification and current fuel system.

(b) to 1980 and newer motor vehicles. These motor vehicles shall be classified by the model year and make of the vehicle as designated by the original chassis, engine, and its factory-installed motor vehicle pollution control systems, or equivalent. This in no way prohibits the vehicle owner from upgrading the engine and emission control system to a more recent model year category including a diesel (compression ignition) power plant providing the equivalent factory-installed pollution control system is maintained.

Heavy Duty Gasoline Motor Vehicle Emission Control Test Criteria

340-24-325 (1) No vehicle emission control test shall be considered valid if the vehicle exhaust system leaks in such a manner as to dilute the exhaust gas being sampled by the gas analytical system. For the purpose of emission control tests conducted at state facilities, tests will not be considered valid if the exhaust gas is diluted to such an extent that the sum of the carbon monoxide and carbon dioxide concentrations recorded for the idle speed reading from an exhaust outlet is 8 percent or less.

(2) No vehicle emission control test shall be considered valid if the engine idle speed either exceeds the manufacturer's idle speed specifications by over 200 RPM on 1970 and newer model vehicles, or exceeds 1000 RPM for any age model vehicle.

(3)(a) No vehicle emission control test for a [~~1975~~]1980 or newer model vehicle shall be considered valid if any element of the following factory-installed motor vehicle pollution control systems have been disconnected, plugged, or otherwise made inoperative in violation of ORS 815.305(1) except as noted in section (2):

(A) Positive crankcase ventilation;

(B) Exhaust modifier system. Examples:

(i) Air injection system;

(ii) Thermal reactor system;

(iii) Catalytic converter system.

(C) Exhaust gas recirculation (EGR) systems;

(D) Evaporative control system;

(E) Spark timing system. Examples:

(i) Vacuum advance system;

(ii) Vacuum retard system.

(F) Special emission control devices. Examples:

(i) Orifice spark advance control (OSAC);

(ii) Speed control switch (SCS);

(iii) Thermostatic air cleaner (TAC);

(iv) Transmission controlled spark (TCS);

(v) Throttle solenoid control (TSC);

(vi) Fuel filler inlet restrictor.

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

(4) No vehicle emission control test conducted for a ~~[1975]~~1980 or newer model vehicle shall be considered valid if any element of the factory-installed motor vehicle pollution control system has been modified or altered in such a manner so as to decrease its efficiency or effectiveness in the control of air pollution in violation of ORS 815.305 except as noted in section (2). For the purposes of this section, the following apply;

(a) The use of a non-original equipment aftermarket part (including a rebuilt part) as a replacement part is not considered to be a violation of ORS 815.305, if a reasonable basis exists for knowing that such use will not adversely effect emission control efficiency. The Department will maintain a listing of those parts which have been determined to adversely affect emission control efficiency.

(b) The use of a non-original equipment aftermarket part or system as an add-on, auxiliary, augmenting, or secondary part or system, is not considered to be a violation of ORS 483.825(2), if such part or system is listed on the exemption list maintained by the Department.

(c) Adjustments or alterations of a particular part or system parameter, if done for purposes of maintenance or repair according to the vehicle or engine manufacturer's instructions, are not considered violations of ORS 815.305.

(5) A [~~1975~~]1980 or newer model motor vehicle which has been converted to operate on gaseous fuels shall not be considered in violation of ORS 815.305 when elements of the factory-installed motor vehicle air pollution control system are disconnected for the purpose of conversion to gaseous fuel as authorized by ORS 815.305.

[~~(6) For the purposes of these rules, a 1975 or newer motor vehicle with an exchange engine shall be classified by the model year and manufacturer make of the exchange engine, except that any requirement for evaporative control systems shall be based upon the model year of the vehicle chassis.~~]

LIGHT DUTY MOTOR VEHICLE EMISSION CONTROL CUTPOINTS OR STANDARDS

340-24-330

(1) Light Duty Diesel Motor Vehicle Emission Control Cutpoints

All:	1.0% CO	No HC Check

(2) Light Duty Gasoline Motor Vehicle Emission Control Cutpoints
Two Stroke Cycle

All:	6.5% CO	No HC Check

(3) Light Duty Gasoline Motor Vehicle Emission Control Cutpoints
Four Stroke Cycle - Passenger Cars

Pre-1968 Model Year

4 or less cylinders		
All:	6.5% CO	1550 ppm HC
More than 4 cylinders		
All:	6.0% CO	1250 ppm HC

1968 - 1969 Model Year

4 or less cylinders		
All:	5.5% CO	850 ppm HC
More than 4 cylinders		
All:	5.0% CO	650 ppm HC

1970 - 1971 Model Year

All:	4.5% CO	550 ppm HC

1972 - 1974 Model Year

{General Standards}

4 or less cylinders		
All:	4.0% CO	450 ppm HC
More than 4 cylinders		
All:	3.0% CO	350 ppm HC

{Specific Standards

BL-MG	4.5% CO	450 ppm HC
BL-Other	4.5% CO	450 ppm HC
Colt, Dodge	5.5% CO	450 ppm HC
Cricket, Plymouth--		
Single Cab Only	7.5% CO	450 ppm HC
Fiat	4.5% CO	450 ppm HC
Honda Automobile 1972	5.5% CO	450 ppm HC
Jensen Healy	5.0% CO	350 ppm HC
Mazda--Piston Engine	4.5% CO	450 ppm HC
Porsche 914 1974	5.5% CO	450 ppm HC
Volkswagen--Type 4	4.5% CO	450 ppm HC}

1975 - 1980 Model Year

Catalyst Equipped		
All:	0.5% CO	175 ppm HC
Non-Catalyst Equipped		
All:	2.0% CO	250 ppm HC

1981 and Newer Model Year

All: At idle	0.5% CO	175 ppm HC
At 2500 rpm	0.5% CO	175 ppm HC

(4) Light Duty Gasoline Motor Vehicle Emission Control Cut Points - Light Duty Trucks

(a) 6000 GVWR or less

Pre-1968 Model Year

4 or less cylinders		
All:	6.5% CO	1550 ppm HC
More than 4 cylinders		
All:	6.5% CO	1250 ppm HC

1968 - 1969 Model Year

4 or less cylinders		
All:	5.5% CO	850 ppm HC
More than 4 cylinders		
All:	5.0% CO	650 ppm HC

1970 - 1971 Model Year

All:	4.5% CO	550 ppm HC

1972 - 1974 Model Year

4 or less cylinders		
All:	4.0% CO	450 ppm HC
More than 4 cylinders		
All:	3.0% CO	350 ppm HC

1975 - 1980 Model Year

Catalyst Equipped		
All:	0.5% CO	175 ppm HC
Non-Catalyst Equipped		
All:	2.0% CO	250 ppm HC

1981 and Newer Model Year

All: At idle	0.5% CO	175 ppm HC
At 2500 rpm	0.5% CO	175 ppm HC

(b) 6001 to 8500 GVWR

Pre-1968 Model Year

All:	6.0% CO	1250 ppm HC

1968 - 1969 Model Year		
All:	5.0% CO	650 ppm HC
1970 - 1971 Model Year		
All:	4.5% CO	550 ppm HC
1972 - 1974 Model Year		
All:	3.0% CO	350 ppm HC
1975 - 1978 Model Year		
All:	2.0% CO	250 ppm HC
1979 - 1980 Model Year		
Catalyst Equipped		
All:	0.5% CO	175 ppm HC
Non-Catalyst Equipped		
All:	2.0% CO	250 ppm HC
1981 and Newer		
All: At idle	0.5% CO	175 ppm HC
At 2500 rpm	0.5% CO	175 ppm HC

(5) An enforcement tolerance of 0.5% carbon monoxide and 50 ppm hydrocarbon will be added to the above cutpoints.

(6) There shall be no visible emission during the steady-state unloaded and raised rpm engine idle portion of the emission test from either the vehicle's exhaust system or the engine crankcase. In the case of diesel engines and two-stroke cycle engines, the allowable visible emission shall be no greater than 20% opacity.

(7) The Director may establish specific separate standards, differing from those listed in subsections (1), (2), (3), (4), (5) and (6) for vehicle classes which are determined to present prohibitive inspection problems using the listed standards.

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GAS ANALYTICAL SYSTEM LICENSING CRITERIA

340-24-350 (1) To be licensed, an exhaust gas analyzer must:

(a) Conform substantially with either:

(A) All specifications contained in the document "Specifications for Exhaust Gas Analyzer System Including Engine Tachometers" dated July 9, 1974, prepared by the Department and on file in the office of the Vehicle Inspection Program of the Department,

(B) The technical specifications contained in the document "Performance Criteria, Design Guidelines, and Accreditation Procedures for Hydrocarbon (HC) and Carbon Monoxide (CO) Analyzers Required in California Official Motor Vehicle Pollution Control Stations," issued by the Bureau of California, and on file in the office of the Vehicle Inspection Program of the Department. Evidence that an instrument model is approved by the California Bureau of Automotive Repair will suffice to show conformance with this technical specification, or

(C) If a gas analytical system is purchased after January 1, 1982, the technical specifications contained in the document "The California Bureau of Automotive Repair Exhaust Gas Analyzer Specification - 1979" on file in the office of the Vehicle Inspection Program of the Department.

(D) Not withstanding any of the above certifications, no license shall

be issued or renewed for any battery powered exhaust gas analyzer after December 31, 1984.

(E) Not withstanding any of the above certifications, no license shall be issued or renewed for any exhaust gas analyzer which does not conform to subsection (C) after December 31, 1989.

(b) Be owned by the licensed motor vehicle fleet operation or the Department.

(c) Be span gas calibrated and leak checked within a 14 calendar day period prior to the test date by the licensed inspector. The calibration and leak check is to be performed following the analyzer manufacturer's specified procedures. The manufacturer's operation manual and calibration and leak check procedures are defined as an integral part of the analyzer, and shall be kept with the analyzer at all times. The date of calibration and leak check and the inspector's initials are to be recorded on a form provided by the Department for verification prior to any day of testing for the purposes of issuing a Certificate of Compliance. The analyzer shall be mechanically checked and corrected for zero and span drift once a day prior to performing the day's first vehicle exhaust gas inspection.

(2) Application for a license must be completed on a form provided by the Department.

(3) Each license issued for an exhaust gas analyzer shall be valid through December 31 of each year, unless returned to the Department or revoked.

(4) A license for an exhaust gas analyzer system shall be renewed upon submission of a statement by the motor vehicle fleet operation that all conditions pertaining to the original license issuance are still valid and that the unit has been gas calibrated and its proper operation verified within the last 30 days by a vehicle emission inspector in their employment.

(5) Grounds for revocation of a license issued for an exhaust gas analyzer system include the following:

(a) The unit has been altered, damaged, or modified so as to no longer conform with the specifications of subsection (1)(a) of this rule.

(b) The unit is no longer owned by the motor vehicle fleet operation to which the license was issued.

(c) The Department verifies that a Certificate of Compliance has been issued to a vehicle which has been emission tested by an analyzer that has not met the requirements of subsection (1)(c) of this section.

(6) No license shall be transferable.

(7) No license shall be issued until all requirements of section (1) of this section are fulfilled and required fees paid.

ATTACHMENT B

DRAFT NOTICE OF PUBLIC HEARING
AND STATEMENTS OF NEED AND FISCAL IMPACT

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

NOTICE OF PUBLIC HEARING

Date Prepared: May 25, 1988
Comments Due: July 29, 1988

WHO IS AFFECTED: All Motor Vehicle owners in areas that require vehicle inspection, and motor vehicle fleets licensed by the Department for self inspection.

WHAT IS PROPOSED: DEQ is conducting public hearing to receive comments on changes to the operating rules for the inspection program. [redacted].

WHAT ARE THE HIGHLIGHTS:

(1) Corrects a typographical error in the legal description of the Medford-Ashland Air Quality Maintenance Area;
(2) Makes the reports given to customers at vehicle emission inspection stations more complete;
(3) Eases the criteria for examining emission control equipment, and the engine exchange policy for pre-1980 model year motor vehicles, and combines emission tailpipe standards for certain 1970-1974 model year vehicles into generic standards; and
(4) decertifies a portion of the existing exhaust gas analyzers used by the licensed fleets.

HOW TO COMMENT: Written or oral comments should be presented to DEQ by July 29, 1988. The full copy of the proposed rule changes are available from the Vehicle Inspection Program, 811 S.W. Sixth Avenue, Portland, Oregon, 97204-1334, phone (503) 229-6235.

Public hearings are scheduled as follows:

Tues., July 26, 1988 - 6 p.m.
Jackson County Courthouse
Auditorium
10 South Oakdale
Medford, Oregon

Thurs., July 28, 1988 - 10 a.m.
Department of Environ. Quality
Headquarters
Conference Room 4
811 SW Sixth Avenue
Portland, Oregon

Thurs., July 28, 1988 - 6 p.m.
City of Beaverton/Oper. Center
Hoffman Room
9600 SW Allen Blvd.
Beaverton, Oregon

WHAT IS THE NEXT STEP: The hearing officers report will be presented to the Environmental quality commission at a regularly scheduled meeting. The commission may choose to adopt the proposed rule changes, different changes, or not act. These rules if adopted will be submitted to the US Environmental Protection Agency as part of the State Clean Air Act Implementation Plan update.

AD2747.A

811 S.W. 6th Avenue
Portland, OR 97204

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

Statement of Need for Rulemaking

Pursuant to ORS 183.357(7), this statement provides information on the Environmental Quality Commission's intended action to adopt a rule.

(1) Legal Authority

Legal authority for this actions contained in ORS 468.370 through 468.405.

(2) Need for the Rule

The proposed rule (1) corrects a typographical error in the legal description of the Medford-Ashland Air Quality Maintenance Area; (2) Makes the reports given to customers at vehicle emission inspection stations more compare (3) Eases the criteria for examining emission control equipment, eases the engine exchange policy used by the inspection program, and combines emission tailpipe standards for certain 1970-1974 model year vehicles into generic standards; and (4) decertified a portion of the existing exhaust gas analyzers used by the licensed fleets.

(3) Principal Documents Relied upon in this Rule Making

Vehicle Inspection Program rules, OAR 340-24-300 through 24-250, Equipment Tool Institute Model Specifications, internal memorandum from inspection staff on operational improvements and suggestions, and letters and comments from the general public. Letters from the public are contained in Attachment C of the EQC authorization report. Other documents are on file at the Department office.

Land Use Compatibility Statement

The proposed rule does not appear to affect land use.

Fiscal and Economic Impact

This proposal will directly impact and affect all motor vehicle owners, including private individuals, small businesses, large businesses, all DEQ licensed fleet self inspection operations, and government vehicle operations. Owners of older vehicles will generally benefit financially by the easing of the equipment inspection portion of the test, but they will still have general cost associated with vehicle maintenance. Motor vehicle fleets licensed for self inspection will be significantly impacted. About 60% of the test equipment used by self inspecting fleets will be decertified after almost 15 years use. Cost for replacement analyzers will be $7,000-10,000 each.

AD2747

ATTACHMENT C

RELEVANT CORRESPONDENCE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

MAY 12 1988

William Jasper
Vehicle Inspection Program
Department of Environmental Quality
811 Southwest 6th Avenue
Portland, OR 97204-1334

Dear Bill:

In a recent conversation you requested information concerning reducing the model year coverage of the antitampering portion of the I/M program. You indicated that DEQ plans to recommend to the State Legislature that the earliest five model years (1975-1979) be dropped from the program in 1989.

Based on the results of the enclosed Mobile3 analysis, this modification would produce a negligible (2%) change in the non-methane hydrocarbon reductions attributable to the program. Similarly, there would only be a (1%) reduction of CO and no reduction in NO_x emissions.

If you need additional information, please call me at 202-475-8837.

Sincerely yours,

Deanna

J. Deanna Hughes, EPS
Regional/State/Local Coordination
Section

Enclosure

cc: Ron Householder
Mike Lidgard

Analysis of Portland, OR - I/M + ATP

	NMHC	CO	NOx
o Base emissions (g/mi)	2.62	21.87	1.90
o Original Program (started 1975) I/M - last 20 model years ATP - 1975 and later model years	1.81	10.81	1.80
o Emission reductions	.81 (31%)	11.06 (51%)	.10 (5%)
o Adjustment to emissions due to modified program (starts 1989) I/M - unchanged ATP - 1980 and later model years	.02	.09	.00
o Adjusted emission reductions	.79 (30%)	10.97 (50%)	.10 (5%)

CRASH PARTS INTERNATIONAL INC.
4701 S.E. 24th, Portland, Oregon 97202
(503) 255-0248

February 12, 1988

Dear Bill,

First of all I would like to thank you for the time you gave me when we talked. I'm sorry for the delay in writing you with my thoughts as I was polling my competitors and getting their thoughts and ideas.

As we discussed there is a problem with people circumventing their responsibility to comply. We recognize this problem. If I may, I would like to make some suggestions and ideas that would simplify this issue.

Any import engines from Japan imported for the reason of reinstallation into a vehicle to be used in Oregon or else where could not be sold with any manifolds, carburetor, or pollution equipment that originally came from the Japanese domestic market. This would accomplish a couple of things:

1. Force the customer to install their original pollution equipment that came with their car.

2. Eliminate the customer that would sign our disclaimer agreement to make the necessary change and then not do it.

3. Eliminate the importation of engines that would not convert to U.S. version pollution equipment.

These proposals are something I think the D.E.Q., C.P.I., and our customers can live with; without eliminating this business of the map.

Of course there are lots of details to be discussed and worked out with this issue, which I would be more then happy to participate with you and your staff. One of your concerns was the parts available in the event the customer needs to repair his engine. C.P.I. would be more that happy to carry and maintain a complete stock of the replacement parts to accommodate these needs.

CRASH PARTS INTERNATIONAL INC.

4701 S.E. 24th, Portland, Oregon 97202
(503) 255-0248

As you know the reason this business has developed into an industry is because of price, the high cost of repair, and new car costs. The alternative for the customer if these engines are outlawed completely are:

1. Do not repair engine and let it smoke.

2. Repair it at 3 to 4 times the cost to replace it.

3. Buy a new or used car, which they may not be able to afford.

4. Take a bus or cab.

Trully I'm not trying to be sarcastic, but thats the reality of of the situation. Our experience with these engines relating to the D.E.Q. testing stations to date have been absolutely positive. In talking to my staff we have not had one engine complaint regarding the engine not passing the D.E.Q. test.

Again Bill, if we can help in any way, please call me at 236-6092.

Best regards,

John Jelineo

Director's Chron

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1334 PHONE (503) 229-5696

February 10, 1988

Dennis H. Marsh
Buck Medical Services
1240 SE 12th Ave.
Portland, OR 97215-0339

Dear Mr. Marsh:

Thank you for your suggestions on changes to the Department's Rule covering the Vehicle Inspection Program's minimum fleet size regulation. The suggestion has been forwarded to Mr. Jasper for review. The staff will consider this suggestion during the spring review of the inspection rules.

Our procedures work as follows. After the internal review is complete, any changes proposed will be presented to the Environmental Quality Commission (EQC). The staff prepares a report that summarizes the changes recommended and discusses the merits of the changes. This report also serves as the formal request to conduct public hearings. Hearings occur after both Commission authorization and public notice. The EQC would then make any rule change decision after reviewing both the proposal and the hearing record. I expect that the internal review will be complete and a request for hearing authorization will occur at the Commission's regularly scheduled meeting in April. I have directed that you receive copies of the reports prepared and public hearings notice.

Should you choose to testify on this matter, when a public hearing is scheduled, you may wish to comment on how changes might affect other firms, besides your own. Our concerns in analyzing suggestions will be how we can meet our air pollution goals and better serve the general public while maintaining good control on the State's expenses. A large rise in the number of private fleets licensed for self-inspection, could significantly increase the Department's expenses in administering this important air pollution control strategy.

Again, thank you for your suggestion.

Sincerely,
Original Signed By
Fred Hansen

FEB 1 1 1988

Fred Hansen
Director

FH:d
AD2084

BUCK
MEDICAL SERVICES
1240 S.E. 12th Avenue
P.O. Box 15339
Portland, Oregon 97215-0339

January 19, 1988

Mr. Fred Hansen, Director
Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Dear Mr. Hansen:

We appreciate your prompt response to our letter of December 8, 1987 regarding the minimum fleet size of 100 vehicles for self-inspection for DEQ compliance.

We understand the need to exceed your break-even point for costs of administering the program. We, however, are on the revenue side of your equation, an expense to us. In order for us to exceed our break-even point, we need to control expenses to the greatest degree possible.

Our current fleet consists of 82 vehicles, 18 vehicles short of your minimum size requirement. We employ a full time maintenance department, with qualified mechanics, just to maintain our vehicles in peak operating performance. On analysis, we believe that we can administer a self inspection program at an expense level less than the cost of processing our vehicles through your test station, even though we fall short of your minimum fleet size by 18 units.

We request that any revision of your rules provide a provision to seek a variance from the 100 unit requirement, in those situations such as ours, where we are a few units short, but do maintain full time, fully qualified, mechanics to service our fleet. Thank you for your consideration.

Very Truly Yours,

Dennis H. Marsh
President

Chron

Department of Environmental Quality

NEIL GOLDSCHMIDT
GOVERNOR

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

DEC 04 1989

Dennis H. Marsh
Buck Medical Services
1240 SE 12th Ave.
Portland, OR 97215-0339

Dear Mr. Marsh:

Thank you for your letter of December 8, 1987. When the inspection rules (OAR 340-24-300 through 350, copy attached) were adopted in 1975, there was a demand from many companies for the option to use their own maintenance facilities to do the testing of their vehicles. To accommodate these requests the option of self-inspection was provided. Special provisions within the rules were written to administer this portion of the inspection program.

Oregon law, as well as good business practices, requires that the Department recovers its expenses in administering the licensed fleet program. However, the statutes only allow a $5 licensing fee for these fleets. The 100 vehicle size limit is the break even point that provides both flexibility to companies with large vehicle fleets and sufficient revenue through Certificate sales to pay for the Department's extra expenses in administering this program.

In 1977 the legislature amended the inspection statutes requiring that all government vehicles be inspected and certified; but on an annual, rather than on the two year cycle that passenger vehicle registration uses. The statutes also directed special consideration be given to government fleets. Because of the annual rather than biennial inspection requirement, the fleet size was adjusted to 50 for self-inspecting government fleets.

The inspection program rules are usually reviewed annually. The rules are scheduled for review in the spring of 1988. If you believe that changes in the licensing aspect of the Vehicle Inspection Program rules would be appropriate, contact us with your proposal. Suggestions received are analyzed by the staff. One of the criteria that will be used is how any proposal might affect the self-supporting nature of the inspection program. Reports containing rule proposals are submitted to the Environmental Quality Commission for consideration. You may contact Bill Jasper (229-5081) of the Vehicle Inspection Program staff to discuss your concerns.

Sincerely, Original Signed By
Fred Hansen

JAN 04 1988

Fred Hansen
Director

FH:K
AK183 (12/87)
Attachment

BUCK
MEDICAL SERVICES
1240 S.E. 12th Avenue
P.O. Box 15339
Portland, Oregon 97215-0339

December 8, 1987

Director
Oregon Department of Environmental Quality
Vehicle Inspection Program
1301 SE Morrison St.
Portland, OR 97214

Dear Sir:

It has recently come to our attention that private companies may issue Certificates of Compliance for their vehicles. (Information Bulletin May 1987) According to the information that we have received, private companies must own 100 or more Oregon registered in-use motor vehicles. We further note that public agencies are required to have only 50 vehicles for qualification to issue their own Certificate of Compliance.

We object to this apparent discrimination in allowing public agencies to issue their own Compliance Certificates while servicing 50 or fewer vehicles than a private company. We would appreciate receiving such ordinance or authorization for such discriminatory action. Further, we would appreciate receiving such documentation for appealing such action or for securing a waiver to such requirements.

Very truly yours,

Dennis H. Marsh
President

DHM:alq

cc: Tom Lindley, Attorney at Law

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item G, March 11, 1988, EQC Meeting

Request for Authorization to Conduct Public Hearings on Proposed Amendments to the Solid Waste Fee Schedule, OAR 340-61-120

Background

When the solid waste program began in 1971 it was funded entirely from the State General Fund. With the passage of the federal Resource Conservation and Recovery Act (RCRA) in 1976, federal funding was added to the program. At the height of federal funding (1979-81) 5 FTE were funded by RCRA. Federal funds were eliminated from the program in 1981 when RCRA emphasis transferred to hazardous waste.

Because of the loss of RCRA funds the 1983 Legislature granted the Department authority to collect fees from permittees of solid waste disposal sites. Fees were implemented in July 1984 (OAR 340-61-115 and 120). The Department's 1987-89 legislatively approved budget projects a 20% increase in fees for both solid waste permits and recycling. Solid waste fees are authorized in ORS 459.235 and ORS 468.065 and recycling fees by ORS 459.170. (Attached, Attachment I.)

During the 1985-87 biennium 4 solid waste positions were transferred to hazardous waste because of the increased emphasis on that program. These positions were funded by General Fund. The fee increase was granted by the Legislature to replace lost General Fund and maintain the current program, not to fund an increased effort in solid waste.

A draft fee schedule was presented to both the Executive Department and the Legislature. The fee schedule would produce the revenue necessary to continue operation of the solid waste and recycling program as follows:

	1985-87	1987-89
Solid Waste Permit Fees	$428,180	$520,800
Recycling Fees	$100,000	$123,134

This will be the first increase since fees were implemented in 1984.

When fees were established by the 1983 legislature, it was the Department's intent to fund approximately one half of program needs with permit fees. The present funding is $549,000 general fund and $521,000 permit fees (there are no federal funds available).

Statement of Need for Rulemaking, Fiscal Impact Statement, Land Use Consistency Statement Draft Rule, and Notice of Public Hearing are attached (Attachment II, III, IV and V).

Alternatives and Evaluation

Two alternatives were considered to obtain the additional revenue, both of which increased fees. The first option was an across-the-board 20% fee increase on each category. The second was a targeted increase on certain categories. This targeted increase is the option recommended.

The fee schedule as proposed to the Executive Department and the legislative committee does not alter the highest existing fees (top 7 categories). It was the feeling of staff that those facilities were already paying an equitable amount, but that the lower categories were not. This was based on an analysis of time spent on each category of sites by regional and headquarters staff. The original fee schedule developed by staff in 1983 contained higher fees for the lower volume sites than were finally adopted. The adopted fee schedule was changed because of input during public hearings and ultimately by the State Emergency Board.

The proposed fee increases include a change in fees for monitoring wells. As complexity of sample analysis increases and the number of monitoring wells at the major landfills increase, a new more equitable method of charging for monitoring is necessary. It is proposed that the monitoring fee be changed to $250 per sampling point (groundwater well or surface site) per year.

This more accurately reflects the Department's costs of collection and analysis of well and surface samples. In the Department's opinion, private laboratory analysis cannot be obtained for this cost.

The proposed fee schedule was reviewed by the Solid Waste Advisory Committee and approved subject to two modifications. These modifications were:

1. Formalization of number of sampling points the Department would charge for annually. This could be done by permit condition, operational plan approval or a letter from the Department.

2. Creation of a new fee category for facilities such as waste to energy facilities, incinerator and composting facilities. It was the committee's opinion that while such facilities took more staff time than transfer stations, they did not take the amount of time that landfills did.

Both conditions were acceptable to the Department. Number of sampling points will be negotiated with permittees prior to billing for FY 89 (July 1, 1988). A new category has been proposed for resource recovery facilities, incinerators, composting facilities, and other solid waste facilities not otherwise listed in the fee schedule (OAR 340-61-120(3)(a)(N).

Attached are schedules of fees for the solid waste and recycling programs (Attachments VI and VII). They show existing fees, a 20% increase and the proposed fee, and revenue produced under each option. Legal counsel has indicated that if the draft fee schedule proposed to the Legislature is substantially altered that the Department should return to the Executive Department and the Emergency Board for approval (ORS 459.235 requires approval by these agencies prior to rule adoption). The Department does not consider the one change to be significant as it only affects 3 sites (lower fee).

Without the fee increase, one position of the 10 existing positions in the solid waste program would be lost. Based on the existing solid waste structure in the Department compliance activities at disposal, sites would be significantly reduced.

Summation

1. The 1987 Legislature authorized a 20% increase in permit fees by approval of the Department's budget request.

2. The Commission is authorized to adopt fees for solid waste disposal sites (ORS 459.235 and ORS 468.065) and for recycling implementation fees (ORS 459.170).

3. A draft fee schedule was presented to the Executive Department and the Legislature to comply with ORS 459.235.

4. The Department's Solid Waste Advisory Committee has recommended approval of the draft fee schedule with two recommendations. Their recommendation has been included.

5. Without the fee increase one position would be lost to the program.

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize a public hearing to take testimony on proposed amendments to the solid waste fee schedules in OAR 340-61-120.

Fred Hansen

Attachments:
I. ORS 459.170, 459.235 and 468.065
II. Statement of Need for Rulemaking
III. Statement of Land Use Consistency
IV. Draft Rule
V. Notice of Public Hearing
VI. Table of Existing vs. Proposed Solid Waste Fees
VII. Table of Existing vs. Proposed Recycling Fees

Robert L. Brown:f
SF2894
229-6237
February 10, 1988

Attachment I
Agenda Item G
3/11/88 EQC Meeting

459.170 Commission to adopt rules regarding waste disposal and recycling. (1) By January 1, 1985, and according to the requirements of ORS 183.310 to 183.550, the commission shall adopt rules and guidelines necessary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995, including but not limited to:

(a) Acceptable alternative methods for providing the opportunity to recycle;

(b) Education, promotion and notice requirements, which requirements may be different for disposal sites and collection systems;

(c) Identification of the wastesheds within the state;

(d) Identification of the principal recyclable material in each wasteshed;

(e) Guidelines for local governments and other persons responsible for implementing the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995;

(f) Standards for the joint submission of the recycling report required under ORS 459.180 (1); and

(g) Subject to prior approval of the appropriate legislative agency, the amount of an annual or permit fee or both under ORS 459.235, 459.245 and 468.065 necessary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.165 to 459.200, 459.250, 459.992 and 459.995.

(2) In adopting rules or guidelines under this section, the commission shall consider:

(a) The purposes and policy stated in ORS 459.015.

(b) Systems and techniques available for recycling, including but not limited to existing recycling programs.

(c) Availability of markets for recyclable material.

(d) Costs of collecting, storing, transporting and marketing recyclable material.

(e) Avoided costs of disposal.

(f) Density and characteristics of the population to be served.

(g) Composition and quantity of solid waste generated and potential recyclable material found in each wasteshed. [1983 c.729 §3]

459.235 Applications for permits; fees; bond. (1) Applications for permits shall be on forms prescribed by the department. An application shall contain a description of the existing and proposed operation and the existing and proposed facilities at the site, with detailed plans and specifications for any facilities to be constructed. The application shall include a recommendation by the local government unit or units having jurisdiction and such other information the department deems necessary in order to determine whether the site and solid waste disposal facilities located thereon and the operation will comply with applicable requirements.

(2) Subject to the review of the Executive Department and the prior approval of the appropriate legislative review agency, permit fees may be charged in accordance with ORS 468.065 (2).

(3) If the application is for a regional disposal facility, the applicant shall file with the department a surety bond in the form and amount established by rule by the commission. The bond or financial assurance shall be executed in favor of the State of Oregon and shall be in an amount as determined by the department to be reasonably necessary to protect the environment, and the health, safety and welfare of the people of the state. The commission may allow the applicant to substitute other financial assurance for the bond, in the form and amount the commission considers satisfactory. [1971 c.648 §9; 1977 c.37 §1; 1983 c.144 §1; 1987 c.876 §18]

468.065 Issuance of permits; content; fees; use. Subject to any specific requirements imposed by 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:

(1) Applications for all permits authorized or required by 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 shall be made in a form prescribed by the department. Any permit issued by the department shall specify its duration, and the conditions for compliance with the rules and standards, if any, adopted by the commission 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.

(2) By rule and after hearing, the commission may establish a schedule of permit fees for permits issued pursuant to ORS 459.205, 468.310, 468.315, 468.555 and 468.740. The permit fees contained in the schedule shall be based upon the anticipated cost of filing and investigating the application, of issuing or denying the requested permit, and of an inspection program to determine compliance or noncompliance with the permit. The permit fee shall accompany the application for the permit.

(3) The department may require the submission of plans, specifications and corrections and revisions thereto and such other reasonable information as it considers necessary to determine the eligibility of the applicant for the permit.

(4) The department may require periodic reports from persons who hold permits under ORS 448.305, 454.010 to 454.040, 454.205 to 454.225, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter. The report shall be in a form prescribed by the department and shall contain such information as to the amount and nature or common description of the pollutant, contaminant or waste and such other information as the department may require.

(5) Any fee collected under this section shall be deposited in the State Treasury to the credit of an account of the department. Such fees are continuously appropriated to meet the administrative expenses of the program for which they are collected. The fees accompanying an application to a regional air pollution control authority pursuant to a permit program authorized by the commission shall be retained by and shall be income to the regional authority. Such fees shall be accounted for and expended in the same manner as are other funds of the regional authority. However, if the department finds after hearing that the permit program administered by the regional authority does not conform to the requirements of the permit program approved by the commission pursuant to ORS 468.555, such fees shall be deposited and expended as are permit fees submitted to the department. [Formerly 449.733; 1975 c.445 §7; 1983 c.144 §2; 1983 c.740 §182]

Attachment II
Agenda Item G
3/11/88, EQC Meeting

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of Amending OAR 340-61-120	)	Statement of Need for Rule Amendment and Fiscal and Economic Impact

1. Statutory Authority

ORS 459.235 and ORS 468.065 provide that fees may be charged for solid waste disposal facilities. ORS 459.170 provides that fees may be charged for implementation of a recycling program under ORS 459.165 through ORS 459.200.

2. Statement of Need

The Department's 1987-89 legislatively approved budget anticipates a 20% increase in permit fees to continue the solid waste program at present levels. This amounts to a biennium increase of $92,620.

Failure to increase fees would result in a reduction of solid waste program staff.

3. Principal Documents Relied Upon

A. Oregon Revised Statutes, Chapter 459 and 468.
B. Oregon Administrative Rules, Chapter 340, Division 61.
C. The Department of Environmental Quality's Legislatively Approved Budget 1987-89.

4. Fiscal and Economic Impact

The proposal would amend the existing permit processing fee and annual compliance fee for certain categories of solid waste disposal facilities. These categories now range from $50 to $1200 per site based on population served. The lowest fee of $50 for small transfer stations and closed disposal sites would remain unchanged. Landfills would be raised $50 to $300 again based on population served, to make the schedule from $100 to $1500. Monitoring well charges would be changed from $1000 (5 or under) and $2000 (6 or more) to $250/sampling point. This will be an increase for some facilities and a decrease for others. The fee increases may cause users of these facilities to experience a small increase in user fees. Other than this small increase to users, there will be no fiscal impact on small businesses.

SF2894.2

Attachment III
Agenda Item G
3/11/88, EQC Meeting

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of Amending OAR 340-61-120	))	Land Use Consistency

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

SF2894.3

Attachment IV
Agenda Item G
3/11/88 EQC Meeting

Proposed Amendments to OAR 340-61-120

Permit Fee Schedule

340-61-120 (1) Filing Fee. A filing fee of $50 shall accompany each application for issuance, renewal, modification, or transfer of a Solid Waste Disposal Permit. This fee is non-refundable and is in addition to any application processing fee or annual compliance determination fee which might be imposed.

(2) Application Processing Fee. An application processing fee varying between [$25]$100 and [$1,000]$2,000 shall be submitted with each application. The amount of the fee shall depend on the type of facility and the required action as follows:

(a) A new facility (including substantial expansion of an existing facility):

(A) Major facility[1] .....[$1,000]$2,000
(B) Intermediate facility[2] .....[$ 500]$1,000
(C) Minor facility[3] .....[$ 175]$ 300

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[1]**Major Facility Qualifying Factors:**

-a- Received more than 25,000 tons of solid waste per year; or
-b- Has a collection/treatment system which,, if not properly constructed, operated and maintained, could have a significant adverse impact on the environment as determined by the Department.

[2]**Intermediate Facility Qualifying Factors:**

-a- Received at least 5,000 but not more than 25,000 tons of solid waste per year; or
-b- Received less than 5,000 tons of solid waste and more than 25,000 gallons of sludge per month.

[3]**Minor Facility Qualifying Factors:**

-a- Received less than 5,000 tons of solid waste per year; and
-b- Received less than 25,000 gallons of sludge per month.

All tonnages based on amount received in the immediately preceding fiscal year, or in a new facility the amount to be received the first fiscal year of operation.

(b) Preliminary feasibility only (Note: the amount of this fee may be deducted from the complete application fee listed above):

(A) Major facility .....[$ 600]$1,200
(B) Intermediate facility .....[$ 300]$ 600
(C) Minor facility .....[$ 100]$ 200
(c) Permit renewal (including new operational plan, closure plan or improvements):
(A) Major facility ..... $ 500
(B) Intermediate facility ..... $ 250
(C) Minor facility .....[$ 75]$ 125
(d) Permit renewal (without significant change):
(A) Major facility .....[$ 200]$ 250
(B) Intermediate facility .....[$ 100]$ 150
(C) Minor facility .....[$ 50]$ 100
(e) Permit modification (including new operational plan, closure plan or improvements):
(A) Major facility .....$ 500
(B) Intermediate facility .....$ 250
(C) Minor facility .....[$ 75]$100
(f) Permit modification (without significant change in facility design or operation): All categories .....[$ 25]$ 50
(g) Permit modification (Department initiated) All categories .....No fee
(h) Letter authorizations, new or renewal: .....$ 100
(3) Annual Compliance Determination Fee (In any case where a facility fits into more than one category, the permittee shall pay only the highest fee):
(a) Domestic Waste Facility:
(A) A landfill which received 500,000 tons or more of solid waste per year: $60,000
(B) A landfill which received at least 400,000 but less than 500,000 tons of solid waste per year: $48,000
(C) A landfill which received at least 300,000 but less than 400,000 tons of solid waste per year: $36,000
(D) A landfill which received at least 200,000 but less than 300,000 tons of solid waste per year: $24,000
(E) A landfill which received at least 100,000 but less than 200,000 tons of solid waste per year: $12,000
(F) A landfill which received at least 50,000 but less than 100,000 tons of solid waste per year: .....$ 6,000
(G) A landfill which received at least 25,000 but less than 50,000 tons of solid waste per year: .....$ 3,000
(H) A landfill which received at least 10,000 but less than 25,000 tons of solid waste per year: .....[$ 1,200]$1,500
(I) A landfill which received at least 5,000 but not more than 10,000 tons of solid waste per year: .....[$ 500]$ 750
(J) A landfill which received at least 1,000 but not more than 5,000 tons of solid waste per year: .....[$ 100]$ 200
(K) A landfill which received less than 1,000 tons of solid waste per year: .....[$ 50]$ 100

(L) A transfer station [incinerator, resource recovery facility and each other facility not specifically classified above] which received more than 10,000 tons of solid waste per year: .....$ 500

(M) A transfer station [incinerator, resource recovery facility and each other facility not specifically classified above] which received less than 10,000 tons of solid waste per year: .....$ 50

(N) An incinerator, resource recovery facility, composting facility and each other facility not specifically classified above which receives more than 100,000 tons of solid waste per year:.....$8,000

(O) An incinerator, resource recovery facility, composting facility and each other facility not specifically classified above which receives at least 50,000 tons but less than 100,000 tons of solid waste per year: $4,000

(P) An incinerator, resource recovery facility, composting facility and each other facility not specifically classified above which receives less than 50,000 tons of solid waste per year:.....$2,000

(b) Industrial Waste Facility:

(A) A facility which received 10,000 tons or more of solid waste per year: .....[$1,000]$1,500

(B) A facility which received at least 5,000 tons but less than 10,000 tons of solid waste per year: .....[$ 500]$ 750

(C) A facility which received less than 5,000 tons of solid waste per year: .....[$ 100]$ 150

(c) Sludge Disposal Facility:

(A) A facility which received 25,000 gallons or more of sludge per month: .....[$ 100]$ 150

(B) A facility which received less than 25,000 gallons of sludge per month: .....[$ 50]$ 100

(d) Closed Disposal Site: Each landfill which closes after July 1, 1984:.....10% of fee which would be required, in accordance with subsections (3)(a), (3)(b), and (3)(c) above, if the facility was still in operation or $50 whichever is greater.

(e) [Facility With Monitoring Well: In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane, surface water sampling points, or any other structures or locations requiring the collection and analysis of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:]

[(A) A facility with six or less monitoring wells or sampling points: .....$1,000]

[(B) A facility with more than six monitoring wells or sampling points: .....$2,000]

Facility with Monitoring Wells:

In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane, surface water sampling points, or any other structures or locations requiring the collection and analysis

of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:
.....$250
for each well or sampling point.

(4) Annual Recycling Program Implementation Fee. An annual recycling program implementation fee shall be submitted by each domestic waste disposal site, except transfer stations and closed landfills. This fee is in addition to any other permit fee which may be assessed by the Department. The amount of the fee shall depend on the amount of solid waste received as follows:

(a) A disposal site which received 500,000 tons or more of solid waste per year .....[$19,000]$20,000

(b) A disposal site which received at least 400,000 but less than 500,000 tons of solid waste per year:.....[$15,200]$18,000

(c) A disposal site which received at least 300,000 but less than 400,000 tons of solid waste per year:.....[$11,400]$14,000

(d) A disposal site which received at least 200,000 but less than 300,000 tons of solid waste per year:.....[$ 7,600]$ 9,000

(e) A disposal site which received at least 100,000 but less than 200,000 tons of solid waste per year: .....[$ 3,800]$ 4,600

(f) A disposal site which received at least 50,000 but less than 100,000 tons of solid waste per year: .....[$ 1,900]$ 2,300

(g) A disposal site which received at least 25,000 but less than 50,000 tons of solid waste per year: .....[$ 950]$ 1,200

(h) A disposal site which received at least 10,000 but less than 25,000 tons of solid waste per year: .....[$ 375]$ 450

(i) A disposal site which received at least 5,000 but less than 10,000 tons of solid waste per year:.....[$ 175]$ 225

(j) A disposal site which received at least 1,000 but less than 5,000 tons of solid waste per year: .....[$ 30]$ 75

(k) A disposal site which received less than 1,000 tons of solid waste per year: .....[$ 15]$ 50

Attachment V
Agenda Item G
3/11/88 EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Public Hearing

Hearing Date: 4/18-19-20-22/88
Comments Due: 4/22/88

WHO IS AFFECTED:

Persons applying for or holding solid waste disposal permits issued by the Department will be directly affected. Persons using the Disposal sites will, in most cases, experience a slight increase in fees.

WHAT IS PROPOSED:
PROPOSED:

To maintain the existing solid waste and recycling programs, the Department is proposing to increase certain categories of permit fees to offset state general funds

WHAT ARE THE HIGHLIGHTS:

Application processing fees, annual compliance fees on some categories of sites, and recycling fees are increased. Fee structure for monitoring is changed from categories to number of sources sampled. A new category, including incinerators, resource recovery facilities and other disposal sites not addressed (other than land disposal sites or transfer stations), is created.

HOW TO COMMENT:

Public Hearing

Public hearings are scheduled at the following times and locations:

Baker
Baker County Courthouse
Court Chambers, (1st floor)
1995 Third Street
1:00 p.m., Monday
April 18, 1988

Bend
Bend Regional Office
Conference Room
2150 N.E. Studio Road
1:00 p.m., Tuesday
April 19, 1988

Medford
Medford City Hall
Conference Room #340 (3rd floor)
411 West Eighth
1:30 p.m., Wednesday
April 20, 1988

Portland
DEQ. Headquarters Office
4th Floor Conference Rm.
811 S.W. 6th
1:00 p.m., Friday
April 22, 1988

811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

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.

Attachment V
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Written comments should be sent to Robert L. Brown, Hazardous and Solid Waste Division, 811 S.W. Sixth Avenue, Portland, OR 97204-1390, by 5:00 p.m, April 22, 1988.

WHAT IS THE NEXT STEP:

The Environmental Quality Commission may adopt the fee schedule changes as proposed, adopt a modified schedule or decline to adopt any changes as a result of the hearing testimony.

Statements of Need, Fiscal Impact, Land Use Consistency, Statutory Authority and Principal Documents Relied Upon are filed with the Secretary of State.

SB7324.4

DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS & SOLID WASTE DIVISION

SOLID WASTE PERMIT FEES

CATEGORY	NUMBER OF SITES	CURRENT FEE PER SITE	CURRENT FEE REVENUE	CURRENT FEE WITH 20% INCREASE PER SITE	CURRENT FEE WITH 20% INCREASE REVENUE	PROPOSED FEE PER SITE	PROPOSED FEE REVENUE
50,000 + TONS	1	$60,000	$60,000	$72,000	$72,000	$60,000	$60,000
400,000 - 500,000	0	48,000	0	57,600	0	48,000	0
300,000 - 400,000	0	36,000	0	43,200	0	36,000	0
200,000 - 300,000	1	24,000	24,000	28,800	28,800	24,000	24,000
100,000 - 200,000	3	12,000	36,000	14,400	43,200	12,000	36,000
50,000 - 100,000	3	6,000	18,000	7,200	21,600	6,000	18,000
25,000 - 50,000	5	3,000	15,000	3,600	18,000	3,000	15,000
10,000 - 25,000	7	1,200	8,400	1,440	10,080	1,500	10,500
5,000 - 10,000	9	500	4,500	600	5,400	750	6,750
1,000 - 5,000	16	100	1,600	120	1,920	200	3,200
UNDER 1,000	54	50	2,700	60	3,240	100	5,400
TS OVER 10,000	8	500	4,000	600	4,800	500	4,000
TS UNDER 10,000	51	50	2,550	60	3,060	100	5,100
IND. OVER 10,000	5	1,500	7,500	1,800	9,000	1,500	7,500
IND. 5,000 - 10,000	3	500	1,500	600	1,800	750	2,250
IND. UNDER 5,000	89	100	8,900	120	10,680	150	13,350
SLUDGE OVER 25,000 GAL.	5	100	500	120	600	200	1,000
SLUDGE UNDER 25,000 GAL	11	50	550	60	660	100	1,100
SMALL CLOSED LANDFILL	10	50	500	60	600	50	500
EACH MONITORING WELL	152	-	26,000	-	31,200	250	38,000
SURFACE SAMPLING SITE	34	0	0	0	0	250	8,500
SUBTOTAL			222,200		266,640		260,150
PERMIT FILING FEES + PERMIT PROCESSING FEES			4,000		5,000		5,000
TOTAL			226,200		271,640		265,150

J700
12/31/87

Attachment VI
Agenda Item G
3/11/88 EQC Meeting

DEPARTMENT OF ENVIRONMENTAL QUALITY
HAZARDOUS & SOLID WASTE DIVISION

RECYCLING FEE

CATEGORY (TONS/YEAR)	NUMBER OF SOURCES	CURRENT FEE PER SOURCE	CURRENT FEE REVENUE	CURRENT FEE WITH 20% INCREASE PER SOURCE	CURRENT FEE WITH 20% INCREASE REVENUE	PROPOSED FEE PER SOURCE	PROPOSED FEE REVENUE
OVER 500,000	1	$19,000	$19,000	$22,800	$22,800	$20,000	$20,000
400,000 - 500,000	0	15,200	0	18,240	0	18,000	0
300,000 - 400,000	0	11,400	0	13,680	0	14,000	0
200,000 - 300,000	1	7,600	7,600	9,120	9,120	9,000	9,000
100,000 - 200,000	3	3,800	11,400	4,560	13,680	4,600	13,800
50,000 - 100,000	3	1,900	5,700	2,280	6,840	2,300	6,900
25,000 - 50,000	5	950	4,750	1,140	5,700	1,200	6,000
10,000 - 25,000	7	375	2,625	450	3,150	450	3,150
5,000 - 10,000	9	175	1,575	210	1,890	225	2,025
1,000 - 5,000	16	30	480	36	576	75	1,200
UNDER 1,000	54	15	810	18	972	50	2,700
TOTAL			53,940		64,728		64,775

J701
12/31/87

Attachment VII
Agenda Item G
3/11/88 EQC Meeting

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item H, June 10, 1988, EQC Meeting. Executive Summary of Staff Report Requesting Authorization to Conduct a Public Hearing on Proposed Remedial Action Rules Regarding Degree of Cleanup and Selection of the Remedial Action, OAR Chapter 340, Division 122.

Oregon Superfund Law

The Oregon superfund law establishes a comprehensive program for the identification, investigation and cleanup of sites contaminated by a wide range of hazardous substances from a variety of sources. Site cleanups under this law can range from simple soil removals to complex and massive groundwater cleanups of dozens of hazardous substances. Consequently, these proposed rules must provide the flexibility necessary to work with this wide range of sites.

Cleanup Rules Requirement

ORS 466.553 requires development of rules "establishing the levels, factors, criteria or other provisions for the degree of cleanup including the control of further releases of a hazardous substance, and the selection of the remedial actions necessary to assure protection of the public health, safety, welfare and the environment". The Director appointed the Remedial Action Advisory Committee (RAAC) to assist the Department in developing these rules.

Permitted Releases and Other Cleanup Actions

These proposed rules provide that the cleanup of contamination either resulting from a "permitted release" or remaining after a cleanup under a specified authority, shall be exempt from these proposed rules unless the Director determines that investigation or cleanup is necessary to protect public health or the environment. It is presumed that a permitted release or cleanup action already protects public health and the environment, and that no remedial action would be necessary.

Activities

These proposed rules identify the basic investigatory activities and cleanup options as well as the criteria and decisions, necessary to determine the cleanup level and select the remedial action.

These include:

- Preliminary Assessments
- Removal
- Remedial Investigations
- Feasibility Studies
- Selection of the Remedial Action
- Public Notice and Participation
- Administrative Record
- Corrective Action for Petroleum Underground Storage Tank Releases

These activities are performed by any person who is ordered or authorized by the Director, or by the Department. The scope, order and performance of these activities is subject to the discretion of the Director and will be adapted to suit the complexity of the problem.

The purpose of the Preliminary Assessment is to confirm whether a release has occurred and to determine whether further investigation or cleanup is needed.

Removal is generally a short term or interim action to stabilize a site or take care of an immediate hazard although it can result in a final cleanup.

The purpose of a Feasibility Study is to develop and evaluate options that will attain various degrees of cleanup, ranging from Background Level, to the lowest concentration level attained by the highest and best technology, to the lowest concentration level attained by a technology that is practicable, to "other measures" that supplement, or substitute for, cleanup.

Selection of the Remedial Action and Corrective Action for Petroleum USTs are described in subsequent sections.

The Public Notice and Participation section requires notice and opportunity to comment prior to the approval of a remedial action.

The Administrative Record section specifies the types of documents which will be included in the official record to justify the Director's selection of a remedial action.

Alternatives

The Department considered several alternatives to address the complex problems associated with the selection of the remedial action and decisions on cleanup levels. The alternatives considered included: 1) numeric cleanup standards, 2) risk assessment, 3) Background Level, 4) technology-based, 5) a hybrid approach, 6) an expedited approach for petroleum underground storage tanks (USTs) and 7) a "fast track" approach for motor fuel and heating USTs. Alternative #5 was selected for all hazardous substance releases, except petroleum from USTs which would be regulated under alternatives #6 and #7.

Two Requirements

The proposed rules require that remedial actions, except for petroleum USTs, meet two statutory requirements. First, the remedial action must be protective of present and future public health, safety, and welfare and the environment. Second, to the maximum extent practicable, the remedial action must be cost effective, implementable, effective, and use permanent solutions and alternative technologies or resource recovery technologies. (The first requirement will be referred to as "protection" or "protectiveness", and the second requirement as "practicable" or "practicability".)

Background Level or the Lowest Concentration Level

The proposed rules establish a target for cleanups. The remedial action must attain the Background Level. Background Level is defined as the natural concentration level of hazardous substances existing prior to any and all releases at the site. Background Level is presumed to be protective. However, if no remedial action option can technically achieve Background Level, or if the options that can achieve it are not practicable, the Director may change the cleanup target from Background Level to the lowest concentration level that is practicable and protective.

The potentially responsible party is responsible for demonstrating to the Director that a concentration level higher than Background Level is protective. However, at no time can the concentration of hazardous substances left in the environment after a remedial action is completed, exceed a "ceiling", which is the maximum concentration level that would be protective. This ceiling could be determined from the endangerment assessment or existing numeric standards or other information.

"Practicability" consists of four elements: cost effectiveness, implementability, effectiveness (of the remedy), and the use of permanent solutions, alternative or resource recovery technologies. These elements must be achieved to the greatest degree feasible, and cannot compromise the requirement of protection. The cost effectiveness element allows the Director to consider the incremental costs and total costs of an option relative to the degree of protection achieved. The implementability element involves factors such as: reliability, availability and difficulty of options. The effectiveness (of the remedy) element involves factors such as: expected reduction in toxicity, mobility and volume; and the magnitude of residual risks after completion. The last element expresses a preference for permanent solutions and the use of alternative or resource recovery technologies.

Other Measures

The proposed rules allow the Director to require "Other Measures" to supplement, or where no other option is practicable, to substitute for, the cleanup of hazardous substances. Other measures may include engineering and institutional controls such as site stabilization, caps, environmental hazard notice, alternate drinking water supply, fences, etc.

Corrective Action for Leaking Petroleum USTs

A separate section is proposed for cleanup of petroleum released from leaking underground storage tanks (USTs) due to the large number of these USTs. These proposed rules are directly based on the Environmental Protection Agency's proposed federal regulations for underground storage tanks.

The petroleum cleanup level is based on a review of several risk factors, however, the Department would have the discretion to investigate releases and to determine cleanup levels with the hybrid approach.

Leaking Motor Fuel and Heating Oil USTs

The proposed rules would require the Department to study and develop a set of matrices with numeric soil cleanup levels for motor fuel and heating oil. The matrices would contain specific, stringent cleanup levels based on factors such as the geology of the site and the distance of the contamination to groundwater. The Department would have the discretion to require a site-specific corrective action plan, or to use the other investigative and cleanup provisions in the proposed rules.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item H, June 10, 1988, EQC Meeting

Request for Authorization to Conduct a Public Hearing on Proposed Remedial Action Rules Regarding Degree of Cleanup and Selection of the Remedial Action, OAR Chapter 340, Division 122.

BACKGROUND

Sites containing hazardous substances pose a threat to public health and the environment. These substances may contaminate groundwater, surface water, air, and soil and threaten safe drinking water supplies. Uncontrolled hazardous substances may migrate off-site, further polluting the environment.

Sites contaminated with hazardous substances exist throughout the state. These sites range from abandoned industrial areas with on-site contamination to residential areas affected by migrating hazardous substances. The federal Superfund program is involved in remediating very few of the contaminated sites in Oregon. Most sites will not rank as high enough as a national priority to qualify for federal funds.

The 1987 Oregon Legislature responded to the need to clean up the balance of sites by enacting Senate Bill 122, the state superfund law. This law, codified in ORS 466.540 to 466.590, establishes a comprehensive statewide program to identify, investigate and clean up releases of hazardous substances in the environment. Although the law requires protection of public health, safety, welfare and the environment, it does not specify the level of protection or the degree of cleanup necessary to do so. The purpose of these proposed rules is to provide the process and the criteria for making these decisions.

ORS 466.553 requires development of rules "establishing the levels, factors, criteria or other provisions for the degree of

cleanup including the control of further releases of a hazardous substance, and the selection of the remedial actions necessary to assure protection of the public health, safety, welfare and the environment". The statute further requires that, to the maximum extent practicable, the remedial action (i.e., the cleanup method or technology) be cost effective, and use permanent solutions and alternative treatment technologies.

The Legislature also specified eight factors that the Environmental Quality Commission may, as appropriate, take into account when considering the proposed remedial action rules. These factors are: the long term uncertainties associated with land disposal; the goals, objectives and requirements of the "Notice of Environmental Hazards" law; the persistence, toxicity, mobility and propensity to bioaccumulate of hazardous substances and their constituents; the short-term and long-term potential for adverse health effects from human exposure to the hazardous substance; the long-term maintenance costs; the potential for future remedial action costs if the alternative action in question were to fail; the potential threat to human health and the environment associated with excavation, transport and redisposal or containment; and the cost effectiveness of the remedial action.

Rule Development Process

With these statutory guidelines, the Department began the rulemaking process. Pursuant to the requirements under ORS 466.555, the Director appointed the Remedial Action Advisory Committee (RAAC) to assist the Department in developing rules. The committee, chaired by Judge John Beatty, consists of 22 members representing citizens, local governments, environmental organizations, and industry. A list with the names of the advisory committee members is attached. (See Attachment III) The RAAC members attended monthly meetings from November 1987 through March 1988, and twice-monthly meetings in April and May 1988. In addition to full RAAC meetings, smaller workgroups tackled specific issues, including leaking underground fuel tanks, technical/scientific issues, and risk assessment. In addition, a Drafting Subcommittee carefully reviewed the proposed rules. Staff also worked closely with the attorneys from the Department of Justice.

The proposed remedial action rules were coordinated with the proposed groundwater rules and the underground storage tank regulations.

Interested members of the public were placed on a mailing list and received copies of the draft proposed rules or other materials, including minutes and articles. In addition, members of the audience had an opportunity to comment at Remedial Action Advisory Committee meetings.

Tough policy issues arise when determining "how clean is clean?" and how to select a remedial action. The proposed remedial action rules will need to apply to cleanups of all types of releases of hazardous substances; from small releases of petroleum from a leaking underground storage tank to large releases with extensive groundwater contamination. Adequate scientific data is often not available to determine safe concentrations for many of the hazardous substances regulated under the statute. In addition, investigations of the contaminated sites are expensive and time consuming. These factors necessitate a broad and flexible state superfund program.

Early drafts of the proposed rules focused on the determination of the degree of cleanup and the selection of the remedial action alone. It soon became evident that these determinations could only be made with sufficient investigation and evaluation of the alternatives for cleanup. Therefore, additional sections were developed on Preliminary Assessments, Remedial Investigations, and Feasibility Studies. The purpose of the Preliminary Assessment is to confirm whether a release has occurred and to determine whether further investigation or cleanup is needed. The Remedial Investigation determines the full nature and extent of the contamination. Lastly, the Feasibility Study is used to develop and evaluate options for cleaning up the contaminated site.

Under the schedule contemplated by the Department, the Commission would consider these proposed rules for adoption at its meeting on August 19, 1988. ORS 466.553(2)(a) requires adoption of rules within one year of the effective date of Senate Bill 122, which was enacted on July 16, 1987. The Department and the RAAC worked hard to meet this statutory deadline but the complexity of the issues necessitated a one month extension. The revised schedule allowed for improved clarity in the proposed rules, more opportunity for staff to respond to public comments, and two additional RAAC meetings to resolve remaining issues. The principles and most of the language of the proposed rules have been approved by the Remedial Action Advisory Committee. This consensus would not have been achieved without the extra time allotted to resolve outstanding issues.

Request for Authorization to Conduct a Public Hearing

The Department requests authorization to conduct a public hearing concerning the adoption of rules to implement ORS 466.540 to 466.590. Attached are the Proposed Remedial Action Rules, OAR 340-122-010 to 340-122-120, Oregon Revised Statute 466.540 to 466.575, the Remedial Action Advisory Committee Members list, the draft public hearing notice -- "A Chance to Comment", the Statement of Need for Rulemaking, the Statement of Land Use Consistency, and the Fiscal and Economic Impact Statement.

ALTERNATIVES AND EVALUATION

The Department considered several alternatives to address the complex problems associated with cleanup decisions. These alternatives, which are discussed in more depth below, range from: 1) a specific numeric cleanup standard for each hazardous substance, 2) an acceptable level of risk based on a site-specific risk assessment, 3) Background Level, 4) technology driven cleanups, 5) a hybrid approach which combines elements of these alternatives, 6) petroleum releases from leaking underground storage tanks (UST), and 7) a soil cleanup level matrix for motor fuel and heating oil releases from USTs.

Remedial actions must meet two statutory requirements. First, the remedial action must be protective of public health, safety, welfare and the environment. Second, to the maximum extent practicable, the remedial action must be cost effective, and use permanent solutions and alternative technologies or resource recovery technologies. The proposed rules also add two elements to this second requirement, which are that the remedial action shall be implementable and be effective. (See proposed OAR 340-122-090(1).) The first requirement will be referred to by the terms "protection" or "protectiveness" and the second requirement by the terms "practicable" or "practicability".

Alternative #1: Numeric Standards

Early in the rule making process, the Department considered promulgating specific numeric cleanup standards for hazardous substances. These numeric standards would provide clear guidance for cleanups and expedite decision making. However, this expediency is outweighed by the difficulties of promulgating numeric cleanup levels which will always be protective of public health, safety, welfare and the environment. Many of the numeric standards which currently exist were not developed as health based guidelines for cleanup levels. Further, some numeric standards have had to be revised to be more stringent after additional knowledge was gathered on the acute and chronic effects of the exposure to the hazardous substance.

Most hazardous substances do not currently have numeric standards on which to base cleanups. The Department does not have the resources to develop cleanup levels for all of these substances. In addition, the Remedial Action Advisory Committee advised that it would be technically difficult to develop a single numeric cleanup level for each hazardous substance that would be protective at all the diverse sites at which it would be applied. A single numeric cleanup level is not designed to take into account site-specific factors such as hydrogeology, exposure levels, biological receptors, or potential for migration. For these reasons, the Department decided not to use specific numeric cleanup levels that would be applicable at all sites and rather

favored using a process to determine site-specific cleanup levels based on investigations and evaluation of cleanup options.

Alternative #2: Risk Assessment and "Acceptable Level of Risk"

Another alternative considered was the use of risk assessment to identify an acceptable level of risk and require cleanup of contaminants to that level. This risk assessment approach could require cleanup to levels only slightly more protective than the levels identified as posing a risk. This approach would meet the statutory requirement of protection, but result in minimum protection.

There are many uncertainties associated with risk assessments. Adequate scientific data on hazardous substances, toxicology, and epidemiology is often nonexistent or difficult to obtain. This could lead to a decision for a cleanup level that is not adequately protective. Further, future scientific studies may prove that concentrations of hazardous substances, thought to be safe today, are in fact harmful. Risk assessment is also a very expensive and time consuming methodology. Although it was recognized that some type of limited risk assessment may be helpful in assessing concentration levels that might pose a hazard, the RAAC and the Department felt that risk assessment should not provide the primary basis for determining cleanup levels.

Alternative #3: Background Levels

Another alternative considered was requiring that every cleanup attain Background Levels. Background Level is defined as the concentration of hazardous substance or hazardous substances existing in the environment at the site before the occurrence of any or all past or present releases. Cleanup to Background Level would ensure maximum protection of public health, safety, welfare and the environment and therefore fulfill the statutory requirement to be protective. However, Background Level may not be technically achievable or it may be prohibitively expensive. Since the Legislature also required that, to the maximum extent practicable, the remedial action be cost effective, requirement that every cleanup be performed to Background Level would not be practicable.

Alternative #4: Technology-based

Technology-based cleanup levels was another alternative that was considered. This approach would identify a range of cleanup levels that could be achieved with various technologies. For example, the lowest concentration level that a remedial action can technically achieve will be attained by the "highest and best technology". The lowest concentration level that is also cost effective, implementable, and effective, will be attained by the "best practicable technology". Also, the Legislature directed the

Department to protect public health, safety, welfare and the environment. Evaluating only the technologies without also determining whether the resulting concentration levels protect public health, safety, welfare and the environment, does not fulfill the statutory requirement of protection.

Alternative #5: Hybrid Approach

The final approach considered, incorporates elements from the above alternatives. This hybrid approach is favored by the RAAC and the Department and is proposed in these rules. It includes:

1) Numeric standards for soil cleanup levels for releases of motor fuel and heating oil from releases from leaking underground storage tanks;

2) Risk assessment, referred to in the Remedial Investigation as an "Endangerment Assessment", to establish concentration levels that may pose a hazard and therefore identify the maximum concentration levels, or "ceiling" that may be allowed;

3) Background Level as the target for cleanup, but with the option to change the target to the "lowest concentration level" if Background Level is not practicable" provided it does not exceed the "ceiling"; and

4) Technology-based cleanup levels are used in the Feasibility Study to develop a range of cleanup options based on what is achievable and what is practicable; including the Highest and Best Technology, the Best Practicable Technology, and Other Measures.

Under the proposed rules, a remedial action is required to attain cleanup to Background Level unless the Director determines, based on the potentially responsible party's showing, that Background Level is not practicable. If this is done, some hazardous substance concentrations will be allowed to remain in the environment. However, at no time can the concentration of hazardous substances left in the environment after a remedial action is completed, exceed a "ceiling", which is the maximum concentration level that could be protective of public health, safety, welfare, and environment. The ceiling could be determined from the endangerment assessment or existing numeric standards.

There may be situations where cleanup actions alone are not sufficient to protect public health or the environment. In such cases, the proposed rules authorize the Director to require Other Measures to supplement the cleanup. These Other Measures include institutional and engineering controls, such as security measures, caps, alternate drinking water supplies and Environmental Hazard Notice.

In extreme cases, the proposed rules authorize the Director to allow Other Measures to substitute for cleanup of a site, provided that the Director makes certain findings.

(This hybrid approach is discussed in more detail in the "Summary of Major Elements and Impact" under "Selection of the Remedial Action".)

Alternative #6: Petroleum Releases from Leaking USTs

The Department and the RAAC determined that the hybrid approach is not appropriate for most of the large universe of leaking underground storage tanks (USTs); petroleum in particular. A separate section is proposed for cleanup of petroleum released from leaking underground storage tanks. These proposed rules are directly based on the Environmental Protection Agency's proposed federal regulations for underground storage tanks.

There are five activities required for corrective actions for petroleum USTs: 1) Report the release, 2) control the release from the source, and clean up the visibly contaminated soil and most of the free product, 3) determine the extent of contamination, 4) determine the extent of remediation required, and 5) take the necessary cleanup actions under an approved Corrective Action Plan.

If, after the initial reporting and abatement steps, a Corrective Action Plan is required, the petroleum cleanup level will be based on a review of several risk factors rather than on Background Levels. However, the Department retains the ability to investigate releases and to determine cleanup levels with the hybrid approach under the other provisions of the proposed rules at the Director's discretion. This may be necessary, for example, at sites with extensive groundwater contamination.

Alternative #7: Soil Cleanup Level Matrix for Motor Fuel and Heating Oil Releases from USTs

Concerns were also raised that despite the expedited approach for cleanup of petroleum UST leaks, determination of a site-specific cleanup level is still too burdensome a process for simple releases of motor fuel and heating oil which result in soil contamination and pose little hazard to groundwater or biological receptors. The proposed rules would require the Department to study and develop a set of matrices with numeric soil cleanup levels for motor fuel and heating oil constituents such as benzene, xylene, toluene and ethylbenzene. The matrices would contain specific, stringent cleanup levels based on factors such as the geology of the site and the distance of the contamination to groundwater, which will be highly protective of public health, safety, welfare and the environment.

SUMMARY OF MAJOR ELEMENTS AND IMPACT

These proposed rules identify the basic investigatory activities and cleanup options as well as the criteria and decisions, necessary to determine the cleanup level and the remedial actions to protect the public health, safety, welfare and the environment.

These include:

- Preliminary Assessments
- Removal
- Remedial Investigations
- Feasibility Studies
- Remedial Action
- Public Notice and Participation
- Administrative Record
- Corrective Action for Petroleum Underground Storage Tank Releases

The Oregon superfund law establishes a comprehensive program for the identification, investigation and cleanup of sites contaminated by a wide range of hazardous substances from a variety of sources. Site cleanups under this law can range from simple soil removals involving a single contaminant and taking only a few days, to complex and massive groundwater cleanups of dozens of hazardous substances requiring years to study and clean up. Consequently, these proposed rules must provide the flexibility necessary to work with this wide range of sites.

Proposed Rules are Flexible and Adaptable

These proposed rules achieve this flexibility in two ways. First, the Director has the discretion to determine whether a particular activity must be performed and also to determine the sequence or combination in which activities will be performed. The only statutorily required activities are public comment and the Preliminary Assessment. The latter is necessary to determine whether a release has occurred and if additional investigation or cleanup is needed. Second, the Director also has the discretion to determine the scope of the specific tasks, information or criteria that must be pursued within each activity.

This principle of flexibility is specifically stated in proposed OAR 340-122-050(1), and is found throughout the proposed rules in decisions that are at the Director's (or Department's) discretion. With this flexibility the Department can tailor the investigation and cleanup at each site to the size and complexity of the problem and thereby avoid overly prescriptive and specific rules that would cause excessive, insufficient, or inappropriate work to be performed at many sites.

Scope and Applicability

The Oregon superfund law is one of several cleanup authorities available to the Director. Although the Oregon superfund law may be applied in large part to "past practices" and "abandoned sites", the statutory authority covers all releases of hazardous substances regardless of when they occurred, whether they were permitted at the time, or whether a cleanup has occurred pursuant to another law. This section clarifies the relationship of the Oregon superfund law to "exempted releases", "permitted releases" and "other cleanup actions". It preserves the Department's administrative and enforcement discretion to select under which authority to proceed.

Statutorily Exempted Releases. The proposed rules reflect ORS 466.540(14)(a) to (d) which already exempts releases that occur from workplace exposure; engine exhaust emissions; nuclear materials; and normal application of fertilizers.

Conditional Exemption for Permitted Releases. These proposed rules provide that the cleanup of contamination resulting from a "permitted release" shall be exempt from these proposed rules unless the Director determines that investigation or cleanup is necessary to protect public health or the environment. A permitted release includes: 1) releases of specifically named hazardous substances subject to a control, and 2) releases under a sludge management plan. Such releases must occur in compliance with a permit that is still in effect and legally enforceable. The first exemption above does not apply to unidentified releases from a permitted facility, nor to releases that occurred under a permit that is now expired or has been revoked.

This approach was taken because it is presumed that in most cases a permitted release protects public health and the environment, and that no remedial action would be necessary. Also, as long as the permit is in effect, the Department has the ability to use its permitting authority to require cleanup or other actions to prevent migration or further releases, or to mitigate damage. Releases that result from a violation of a permit or that are not specifically identified, are subject to these proposed rules because their impact on public health or the environment was not contemplated by the permit and the permit authority itself may not be sufficient to carry out the cleanup. Also, if the permit is defunct, then the Oregon superfund law may be the only recourse available, especially to impose liability on a prior owner or operator for past practices.

Coordination of Cleanup Decisions. Each permitting or cleanup law has unique provisions regarding the chemical substances covered, investigatory and enforcement powers, liable persons, penalties and damages, and funds available for the Department to oversee or undertake cleanup activities. In each case, the Department must consider the factors and the circumstances at each site in order

to determine which authority is the most appropriate. The Department intends to develop policy and procedures for making these determinations in an effective and timely manner.

Other Cleanup Actions. The proposed rules provide that where a cleanup has already been completed under another authority, these proposed rules shall not apply. These other authorities are: spill response for oil and hazardous materials, corrective action for hazardous wastes, and cleanup of oil spills on surface waters. It is presumed that a cleanup under another authority protects public health and the environment so that no action under these proposed rules is necessary. As with permitted releases, these proposed rules may apply if the Director finds that additional investigation or removal or remedial action is necessary to protect public health and the environment from contamination which remains after such a cleanup action.

Relationship to the Federal Superfund Program (CERCLA/SARA). The terms used for the major activities -- Preliminary Assessment, Remedial Investigation, Feasibility Study, Removal and Remedial Action -- are the same as those used in the federal Superfund program under the Comprehensive Environmental Response and Comprehensive Liability Act (CERCLA) and the Superfund Amendments and Reauthorization Act (SARA). However despite the usage of similar terms, the specific procedures or substantive requirements under the federal program and statutes have not been adopted. The use of similar terminology simply provides some basic consistency in identifying similar stages of cleanups for both federal and state law.

These proposed rules provide requirements that are unique and appropriate to Oregon. Oregon's approach with these proposed rules is simpler and more flexible, and appropriately so, since the most hazardous sites will be cleaned up under the federal Superfund law, and the relatively less hazardous sites under the Oregon superfund law.

The federal law requires that when cleanup levels are determined at a federal Superfund site, the Environmental Protection Agency (EPA) must consider any "applicable or relevant and appropriate requirements" (ARARs). This is a vehicle for state standards to be considered at cleanups of federal Superfund sites. The process and the criteria for determining the degree of cleanup under Oregon's proposed rules are expected to be regarded as an ARAR on a federal Superfund site.

Definitions 340-122-030, 340-122-120(2)

The definitions in the proposed rules are in addition to those provided in ORS 466.540. They cover new terms that require definition or statutory terms that need clarification. There are also definitions that apply only to the section on releases of petroleum from underground storage tanks.

Standards 340-122-040

These proposed rules have four standards. First, that protection of public health and the environment includes the prevention, elimination, or minimization of potential and actual adverse impacts to biological receptors; present and future uses of the environment; ecosystems and natural resources; and aesthetic characteristics of the environment.

Second, that the environment shall be restored to the Background Level or the lowest concentration level under proposed OAR 340-122-090. (This is discussed in depth in the section on "Selection of the Remedial Action".)

Third, that a removal or remedial action prevent or minimize future releases and migration, and not result in further degradation of the environment.

Fourth, long-term care or management, where necessary, of contamination remaining after a cleanup.

Activities 340-122-050

There are four major activities -- Preliminary Assessment, Remedial Investigation and Feasibility Study, and Remedial Action -- that must be performed by any person who is ordered or authorized by the Director. In most cases, this would be the potentially responsible party under the liability provisions of ORS 466.567. These activities could also be performed, at the Director's discretion, by the Department in situations where a potentially responsible party is recalcitrant, bankrupt or not identifiable. As discussed above, the scope, order and performance of these activities is subject to the discretion of the Director and will be adapted to suit the complexity of the problem. Generally, the actual on-site work will be performed by consultants and contractors hired by the potentially responsible party or the Department. The Department will oversee the on-site work of the contractor, as necessary, and will review the workplans, draft proposals, data, analyses, etc. that the contractor develops.

Preliminary Assessment 340-122-060

The purpose of the Preliminary Assessment is to confirm whether a release has occurred and to determine whether further investigation or cleanup is needed. The proposed rule identifies a list of items that may be included in a Preliminary Assessment. The list includes information such as the facility history, hazardous substances used, facility owners and operators, and

potential or immediate threats. The Preliminary Assessment will include a visit to the site, unless based on a desktop review, this is determined to be unnecessary. ORS 466.563 requires that the Preliminary Assessment shall be conducted as expeditiously as possible within the budgetary constraints of the Department. The proposed rule allows existing information to constitute the equivalent of all or part of a Preliminary Assessment or site inspection.

Remedial Investigation 340-122-080(1) and (2)

The purpose of a Remedial Investigation is to determine the full nature and extent of the contamination, and includes three major elements: characterization of the hazardous substances, characterization of the site, and an endangerment assessment, which evaluates potential or actual hazards to public health and the environment. The proposed rule identifies a list of items that may be included in each of these three Remedial Investigation elements.

Feasibility Study 340-122-080(3)

The purpose of a Feasibility Study is to develop options that will attain various degrees of cleanup. The Feasibility Study includes two major elements: the development of remedial action options and the evaluation of these options.

The proposed rule identifies a list of remedial action options that the Director may require the potentially responsible party to develop. These options identify cleanup levels ranging from Background Level, to the lowest concentration level attained by the highest and best technology, to the lowest concentration level attained by a technology that is practicable (see discussion of "practicable" under proposed 340-122-090), to "other measures" that supplement, or substitute for, cleanup.

Selection of the Remedial Action 340-122-090

The previous sections outline the information needed for the Director to determine the cleanup level and to select the remedial action. That information plus other specified information, forms the Administrative Record upon which the Director must base his determination. This section provides the specific requirements, the cleanup target and the preferences, criteria, and factors that guide the Director's determination.

The goal of these proposed rules is to cleanup sites all the way to the lowest concentration level that is practicable. Background Level is the target that remedial actions must strive to attain and the benchmark that the Director uses to begin the selection of the remedial action. However, if the technology to attain Background Level is not available or the remedial action is not practicable, then the concentration level may begin to rise above

Background Level. This approach can be summarized by the phrase -- Cleaner is better, background is best.

Although the concentration level may rise above Background Level, it may not rise higher than is needed to find a practicable solution. Also, it may not generally exceed a concentration level that is considered protective. The highest concentration level that is considered protective would establish a "ceiling". The concentration level could not go above this ceiling, unless there was no practicable remedial action (including the use of Other Measures to supplement the cleanup) below that ceiling. This ceiling could be determined with existing health standards, the endangerment assessment that is part of a Remedial Investigation or other relevant information.

Further, the use of Other Measures are intended only to supplement the lowest concentration level that is practicable. Other Measures will not generally be used in lieu of cleanup to the lowest concentration level, except as provided under the provision for Other Measures to substitute for cleanup.

Two requirements. The proposed rules require that remedial actions meet two requirements. First, the remedial action must be protective of present and future public health, safety, and welfare and the environment. Second, to the maximum extent practicable, the remedial action must be cost effective, implementable, effective, and use permanent solutions and alternative technologies or resource recovery technologies. (In this report, the first requirement will be referred to as "protection" or "protectiveness", and the second requirement as "practicable" or "practicability". These two requirements are described in detail in the appropriate sections below.)

Background Level or the Lowest Concentration Level. The proposed rules establish a target for cleanups. The remedial action must attain the Background Level. Background Level is presumed to be protective. However, if no remedial action option can technically achieve Background Level, or if the options that can are not practicable, the Director may change the cleanup target from Background Level to the lowest concentration level that is practicable.

Background Level. Background Level is defined as the concentration level of hazardous substances existing prior to any and all releases at the site. If there were naturally occurring hazardous substances such as arsenic, then the natural levels of arsenic are the Background Level for that site. For hazardous substances that are only synthetic and created by manufacturing, the Background Level would be zero.

The Background Level would be the same even if there have been multiple releases over a period of time at a site by one or more responsible parties, or if the contamination came onto the site

due to migration. Background Level is the target that all cleanups initially aim for. It is not related to the determination or allocation of liability among potentially responsible parties.

Protection. The potentially responsible party is responsible for demonstrating to the Director that a concentration level higher than Background Level is protective. Under the proposed rules for protection -- proposed 340-122-090(5) -- if the Director is selecting between two remedial action options, and one achieves a lower concentration level than the other, then on the basis of protection alone, the Director would choose the option with the lowest concentration level. However, the Director could also reject that option on the basis of practicability. An example of this is a site where it cost millions of dollars to reduce the concentration level by an insignificant amount.

Practicability, however, would never result in a remedial action that is not protective. If practicability drove the concentration level above the level which was considered to provide "minimum protection", i.e. the "ceiling", then the Director would have to add "Other Measures" to supplement, or, as a last resort, to substitute for, cleanup.

In identifying this "ceiling", the Director may consider the endangerment assessment if one was required, or other relevant cleanup or health standards, criteria or other guidance (e.g, maximum contaminant level goals or drinking water standards) to determine what is protective.

Practicability. Practicability consists of four elements: cost effectiveness, implementability, effectiveness (of the remedy), and the use of permanent solution, alternative or resource recovery technologies. The proposed rule -- 340-122-090(1)(b) requires that the remedial action shall, to the maximum extent practicable, fulfill these four elements. Necessarily, there will be tradeoffs among these elements. For example, a remedial action option may be cost effective but very difficult to implement, or vice versa. These elements will be balanced against each other and achieve a unique equilibrium in each case. As a group, these elements must be achieved to the greatest degree or extent that is feasible, and without compromising the requirement for protection. Criteria, preferences and factors which the Director may consider in evaluating these four elements are described in proposed rules 340-122-090 (6) to (9).

Cost effectiveness. The cost effectiveness element allows the Director to consider the incremental costs and total costs of an option relative to the degree of protection it achieves; plus any other relevant criterion.

Implementability. The implementability element allows the Director to consider factors such as: the operational reliability

of the option; the availability of equipment or disposal capacity, the need for permits; and any other relevant criterion.

Effectiveness. The effectiveness (of the remedy) element allows the Director to consider factors such as: expected reduction in toxicity, mobility and volume; short term risks from the cleanup itself; length of time to implement the remediation; the magnitude of residual risks after completion; long term care and management requirements; reliability of engineering and institutional controls; potential for failure; and any other relevant criterion.

Use of Alternative and Resource Recovery Technologies. This element expresses a preference for permanent solutions and for alternative or resource recovery technologies. Alternative technologies include available, innovative and emerging technologies. The offsite transport and disposition of hazardous substances may be preferred where practicable alternative treatment technologies are not available or where it would expedite the cleanup or achieve a total cleanup. The hazardous substances and contaminated materials must be taken to a secure facility that will protect public health and the environment.

Supplemental or Substitute Measures. 340-122-090 (3) and (4). The proposed rules allow the Director to require "other measures" to supplement or substitute for cleanup of hazardous substances. Other measures include engineering and institutional controls such as site stabilization, isolation, caps, environmental hazard notice, alternate drinking water supply, fences, etc.. Other measures as a supplement to cleanup may be added in order to meet the requirements for protection and practicability. Other measures as a substitute for cleanup may be used only as a last resort provided: 1) the Director finds there is no remedial action, even combined with supplementary measures, that is protective and practicable, 2) the substitute measures include long term care and management, 3) periodic review is required to determine whether a technology has been developed that would be protective and practicable, and 4) public notice and participation is provided.

Public Notice and Participation 340-122-100

Before approving a remedial action, the proposed rules require the Department to provide public notice and an opportunity to comment, then consider any comments received. The notice must include a brief description of the Department's preferred remedial action option and information on how to get a copy of the full proposal. In addition to publishing the notice in a local paper of general circulation and the Secretary of State's Bulletin as required by ORS 466.575, the Department must make a reasonable effort to identify and notify interested community organizations. The Department has the option to provide public notice regarding a

"removal", which is generally a short term or interim action to stabilize a site or take care of an immediate hazard.

The proposed rule also requires the Department to make available to the public, agency records about removals or remedial action and related investigations, and a record of pending and completed actions.

Administrative Record 340-122-110

For the purposes of the Director's selection of a removal or remedial action and enforcement, cost recovery or review, if any, the proposed rules identify the contents of the Administrative Record as including the Preliminary Assessment, Remedial Investigation, Feasibility Study, and public comments, as well as guidance documents, technical literature, or other analyses that form the basis for the Director's action. Excluded from the Administrative Record, unless the Director expressly includes them, are various documents that are: privileged or confidential, drafts or internal memoranda, and related to liability or state remedial action costs.

Corrective Action for Petroleum Underground Storage Tanks Releases

This section governs cleanups resulting from releases of petroleum from underground storage tanks (UST). This section takes precedence over the other sections (340-122-010 to 340-122-110) of the proposed rules for petroleum releases. However, the Director has the discretion to determine that a specific site should be subject to the other sections of the proposed rules instead. Releases of hazardous substances other than petroleum from underground storage tanks are governed by the other sections of these proposed rules.

These regulations are based directly on Subpart F of the Environmental Protection Agency's proposed federal rules on underground storage tanks which are expected to be promulgated this summer. The Department may need to make some minor amendments to the proposed rules to assure consistency with the final federal regulations. The federal approach was reviewed by a workgroup and approved by the RAAC because it provided an excellent framework for investigation and cleanup of these types of sites. Also, adoption of the proposed federal UST regulations would assist the Department in receiving federal authorization for the underground storage tank program.

The determination of soil and groundwater cleanup levels for petroleum underground storage tanks is very different from the approach taken for cleanup of the other hazardous substances. Cleanups for petroleum leaks will not start at Background Level. If, after the initial reporting and abatement steps, a Corrective

Action Plan is required, the petroleum cleanup level will be based on a review of several risk factors rather than on Background Levels. This approach is appropriate for most petroleum leaks because petroleum is a relatively well understood contaminant. Petroleum products generally float rather than mix with water so they can often be removed relatively easily. Further, the technologies to detect and clean up petroleum releases are readily available. In addition, the Department retains the ability to investigate or clean up releases under the other provisions of the proposed rules, at the Director's discretion. This may be necessary, for example, at sites with extensive groundwater contamination.

A major reason for a separate approach to cleanups for petroleum UST releases is the large number of regulated underground storage tanks. There are over 23,000 regulated underground storage tanks in Oregon. Over 90% of these contain petroleum products. The scope of the problem is so large that both the Department and the RAAC considered it essential to develop rules that provided an expedited approach to these cleanups. The proposed regulations for investigation and cleanup of petroleum releases from USTs are less burdensome than the more complex process specified for releases of other hazardous substances.

The proposed rules require the owner or permittee to report specified types of releases within 24 hours. They require the owner, permittee, or responsible person to conduct specified actions to mitigate fire and safety hazards, stop further releases, remove visibly contaminated soil, report on these activities within 15 days, and determine if there is any liquid petroleum beneath the ground.

The proposed rules further require the prompt removal of as much free floating liquid petroleum as feasible, in a proper manner, and requires submission of a specified report within 15 days of the confirmation or discovery of the free product.

The proposed rules also require additional investigation of the release and the site to determine the extent of soil and groundwater contamination, when previous investigations or corrective action indicate such contamination is possible or when directed by the Department.

Finally, the proposed rules authorize the Director to require submission of a Corrective Action Plan, in accordance with a schedule, for additional soil and/or groundwater cleanup. The Director may approve the Corrective Action Plan only if, after considering specified factors, the Director determines that it protects public health, safety, welfare and the environment.

The only subsection that is not based on the federal proposed rules is proposed 340-122-120(6) on Numeric Soil Cleanup Levels for Motor Fuel and Heating Oil. This subsection requires the

Department to develop and then propose to the EQC for adoption, a matrix of numeric cleanup levels applicable only to soil contamination resulting from leaks of motor fuel and heating oil from underground storage tanks. The cleanup levels are intended to be stringent and to provide a high degree of protection so that in most cases they would be sufficient to protect public health, safety, welfare and the environment.

The matrix would establish a "fast track" for determining the cleanup level which allows the responsible person and the Department to rapidly agree on a corrective action to attain that level. Under the proposed rule, the owner, permittee or responsible person or would have the option of choosing this stringent numeric cleanup level or proposing a less stringent cleanup level as part of a Corrective Action Plan. The Department would retain the ability to either require a site-specific cleanup level as part of the Corrective Action Plan, or to use the investigative and cleanup provisions in the other sections of the proposed rules, if, in the Director's discretion, either of these provisions are necessary to protect public health, safety, welfare and the environment.

The proposed matrix does not apply to groundwater. Groundwater cleanup levels would be determined on a site-specific basis as part of the Corrective Action Plan. This is appropriate because motor fuel and heating oil are relatively well studied contaminants, the resulting environmental hazards are relatively less (except where there are dissolved constituents in groundwater), and these releases are relatively simpler to clean up than most other hazardous substances.

This section of the proposed rules is proposed to be adopted under the authority of both ORS 466.705 to 466.835 (the UST law) and ORS 466.540 to 466.590 (the Oregon superfund law). By doing so this section will provide a unified approach to conducting investigations and cleanups regardless of the authority utilized.

Both statutes provide authority for investigation, cleanup, enforcement, liens, penalties and other provisions to conduct the actions required by these proposed rules. Each statute, however, has some unique aspects. For example, the Oregon superfund law provides additional investigatory authority not found in the UST law. In addition, the UST law allows the Department discretion whether to provide public notice for cleanups of petroleum USTs.

SUMMATION

1. In 1987, the Legislature enacted a law that is codified as "Removal or Remedial Action To Abate Health Hazards" in ORS 446.540 to 466.590. This statute requires the Commission to adopt rules establishing the levels, factors, criteria or other provisions for the degree of cleanup including the

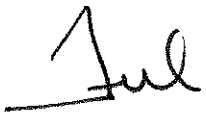
control of further releases of a hazardous substance, and the selection of the remedial actions necessary to assure protection of the public health, safety, welfare and the environment.

2. The Department proposes that the Commission adopt a new rule division for procedures governing the determination of degree of cleanup and the selection of the remedial action.

3. The proposed remedial action rules establish the standards and criteria that the degree of cleanup and the selection of the remedial action shall meet and the activities to be performed for making those determinations, including the Preliminary Assessment, Removal, the Remedial Investigation, the Feasibility Study, the Administrative Record, and public participation. The selection of the remedial action is based upon the information developed during these activities. Remedial actions are required to be both protective and practicable. The proposed rules allow other measures, such as institutional controls, to supplement cleanups, or in extreme cases, to substitute for cleanup. A separate section for corrective action for releases from underground storage tank systems containing petroleum provides an expedited approach for cleanups of thousands of underground storage tanks.

DIRECTOR'S RECOMMENDATION

Based upon the Summation, it is recommended that the Commission authorize the Department to conduct a public hearing and to take testimony on the proposed remedial action rules regarding degree of cleanup and selection of the remedial action.



Fred Hansen

ATTACHMENTS

I. Proposed OAR Chapter 340, Division 122
II. ORS 466.540 to 466.575
III. List of Remedial Action Advisory Committee Members.
IV. Draft Hearing Notice
V. Rulemaking Statements

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5-23-88

Attachment 1A
Agenda Item H
June 10, 1988
EQC Meeting

OUTLINE OF REMEDIAL ACTION RULES

340-122-010 PURPOSE

340-122-020 SCOPE (Relationship to Other Laws & Rules)

- (1) Exempted Releases
- (2) Conditional Exemption of Permitted Releases
- (3) Relationship to Other Cleanup Actions

340-122-030 DEFINITIONS

340-122-040 STANDARDS

- (1) Protection of Public Health and Environment
- (2) Restore to Background Level or Highest Quality
- (3) Prevent or Minimize Migration/Non-Degradation with Exception
- (4) Long-Term Management

340-122-050 ACTIVITIES

- (1) 4 Activities
- (2) Case-by-Case Determination
- (3) Authority to Require, Authorize, or Perform
- (4) Short-Term Degradation Exception

340-122-060 PRELIMINARY ASSESSMENT

- (1) Preliminary Assessment Requirement
- (2) Preliminary Assessment Contents

340-122-070 REMOVAL

- (1) Authority
- (2) Remedial Action Reservation

340-122-080 REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

- (1) Authority
- (2) Remedial Investigation Contents
  - (a) Characterization of the Hazardous substances
  - (b) Characterization of the Facility
  - (c) Endangerment Assessment
- (3) Feasibility Study Contents
  - (a) Development of Remedial Action Options
  - (b) Evaluation of Remedial Action Options

340-122-090 SELECTION OF REMEDIAL ACTION

(1) Requirements
(2) Background Level or Lowest Concentration Level
(3) Other Measures to Supplement Cleanup to Standard
(4) Other Measures to Substitute for Cleanup
(5) Protection
(6) Cost-effectiveness
(7) Permanent Solutions and Alternative or Resource Recovery Technologies
(8) Implementability
(9) Effectiveness
(10) Burden of Proof for Remedial Action Option

340-122-100 PUBLIC NOTICE AND PARTICIPATION

(1) Remedial Action Public Notice Requirements
(2) Notice Contents
(3) Consideration of Comments
(4) Removal Public Notice
(5) Availability of Records

340-122-110 ADMINISTRATIVE RECORD

(1) Contents
(2) Exclusions

340-122-120 CORRECTIVE ACTION FOR PETROLEUM UST SYSTEMS

(1) Scope and Applicability

(a) Purpose
(b) Applies to owner, permittee, or responsible person
(c) Discretion to use OAR 340-122-010 to 340-122-110
(d) Hazardous substance releases under 340-122-010 to 340-122-110

(2) Definitions
(3) Initial Reporting & Abatement Requirements and Procedures
(4) Free Product Removal
(5) Additional Site Investigation
(6) Numeric Soil Cleanup Levels for Motor Fuel and Heating
(7) Corrective Action Plan
(8) Additional Reporting
(9) Public Notice and Participation

Attachment 1B
Agenda Item H
June 10, 1988
EQC Meeting

REMEDIAL ACTION RULES
Proposed OAR 340-122-010 to 340-122-120

340-122-010 PURPOSE

These rules establish the standards and process to be used under ORS 466.540 through 466.590 for the determination of removal, remedial action, and degree of cleanup necessary to assure protection of the present and future public health, safety, and welfare and the environment in the event of a release or threat of a release of a hazardous substances.

340-122-020 SCOPE AND APPLICABILITY

(1) Exempted Releases

These rules shall not apply to releases exempted pursuant to ORS 466.540(14)(a), (b), (c), and (d).

(2) Conditional Exemption of Permitted Releases

Except as provided under 340-122-060, these rules shall not apply to a permitted release of hazardous substances, unless the Director determines that application of these rules is necessary in order to protect public health, safety, or welfare or the environment.

(3) Relationship to Other Cleanup Actions

(a) Except as provided under OAR 340-122-020(3)(b), these rules shall not apply to releases where one of the following actions has been completed:

(A) Spill response pursuant to ORS 466.605 to 466.680;

(B) Oil spill cleanup on surface waters pursuant to ORS 468.780 to 468.815;

(C) Corrective action of a release of a hazardous waste pursuant to ORS 466.005 to 466.350.

(b) Where hazardous substances remain after completion of one of the actions referred to in OAR 340-122-020(3)(a), these rules may apply if the Director

determines that application of these rules is necessary in order to protect public health, safety, or welfare or the environment.

(4) Underground Storage Tanks with Petroleum.

OAR 340-122-120 shall apply to corrective action of releases of petroleum from underground storage tanks, except as provided under OAR 340-122-120(1)(c).

340-122-030 DEFINITIONS

Terms not defined in this section have the meanings set forth in ORS 466.540. Additional terms are defined as follows unless the context requires otherwise:

(a) "Alternative technology" means a system, process, or method that permanently alters the composition of a hazardous substances through chemical, biological, or physical means so as to significantly reduce the volume, toxicity, or mobility of the hazardous substances or contaminated materials treated. Such technology may include a system, process, or method during any of the following stages of development:

(A) Available technology that is fully developed and in routine or commercial or private use;

(B) Innovative technology where cost or performance information is incomplete and where full-scale field testing is required before the technology is considered proven and available for routine use; or

(C) Emerging technology that has not successfully passed laboratory or pilot-scale testing.

(b) "Background Level" means the concentration of hazardous substances, if any, existing in the environment at the site before the occurrence of any past or present release or releases.

(c) "Director" means the director of the Department of Environmental Quality or the Director's authorized representative.

(d) "Environment" includes the waters of the state, any drinking water supply, any land surface and subsurface strata, sediments, saturated soils, subsurface gas, or ambient air or atmosphere.

(e) "Facility" or "site" has the meaning set forth in ORS 466.540(6).

(f) "Permitted release" means a release, which is authorized by and in compliance with a current and legally enforceable:

(A) Permit, of a specifically identified hazardous substances subject to a specified concentration level, standard, control, procedure, or other condition,

(B) Approved sludge management plan pursuant to OAR 340-50-005 through 340-50-080.

340-122-040 STANDARDS

(1) Any removal or remedial action shall attain a degree of cleanup of the hazardous substances and control of further release of the hazardous substances that assure protection of present and future public health, safety, and welfare and the environment. Such protection shall prevent, eliminate, or minimize potential and actual adverse impacts from hazardous substances to:

(a) Biological receptors;

(b) Present and future uses of the environment;

(c) Ecosystems and natural resources; and

(d) Aesthetic characteristics of the environment.

(2) (a) In the event of a release of hazardous substance, the environment shall be restored to Background Level. When a remedial action designed to attain Background Level does not meet the requirements of OAR 340-122-090(1)(b), the environment shall be restored to the lowest concentration level, in accordance with OAR 340-122-090.

(b) In the event of a threat of release of hazardous substances, the Background Level of the environment shall be protected. When a remedial action designed to protect the Background Level does not satisfy the requirement of OAR 340-122-090(1)(b), the environment shall be protected to the lowest concentration level, in accordance with OAR 340-122-090.

(3) A removal or remedial action shall prevent or minimize future releases and migration of hazardous substances in the environment. A removal or remedial action and related activities shall not result in degradation of the environment worse than that existing when the removal or remedial action commenced, unless short-term degradation is approved by the Director under OAR 340-122-050(4).

(4) A removal or remedial action may provide long-term care or management, where necessary, including but not limited to monitoring, operation,and maintenance as appropriate.

340-122-050 ACTIVITIES

(1) The Director may perform or require to be performed the following activities:

(a) Preliminary Assessment, as required under OAR 340-122-060;

(b) Removal;

(c) Remedial Investigation and Feasibility Study; or

(d) Remedial action.

(2) These activities, and the scope of these activities, are to be determined by the Director on a case-by-case basis. The Director may determine that all, a combination of less than all, or only one of the above activities are necessary at a facility. (For example, based upon the results of the Preliminary Assessment, the Director might find that a Remedial Investigation and Feasibility Study is not necessary.) The Director may also determine that performance of the above activities shall overlap or occur in an order different than that set forth above. (For example, the Director might find that a Removal must be undertaken during a Remedial Investigation and Feasibility Study.)

(3) Removals, Remedial Actions, Preliminary Assessments, Remedial Investigations and Feasibility Studies, and related activities shall be performed by any person who is ordered or authorized to do so by the Director, or be performed by the Department.

(4) The Director may allow short-term degradation of the environment during a removal or remedial action or related activities, provided that the Director finds:

(a) Such short-term degradation cannot practicably be avoided during implementation of the removal or remedial action or related activities;

(b) The removal or remedial action or related activity is being implemented in accordance with a schedule approved by the Department; and

(c) The short-term degradation does not present an imminent and substantial endangerment to the public health, safety, or welfare or the environment.

340-122-060 PRELIMINARY ASSESSMENT

(1) (a) When the Department receives information about a release or threat of a release, the Department shall perform or require to be performed a Preliminary Assessment, including a site inspection, to confirm whether a release or a threat of release exists and whether a further investigation or removal or remedial action is needed. The Department shall conduct the Preliminary Assessment as expeditiously as possible within the budgetary constraints of the Department.

(b) If the information received by the Department is not sufficiently reliable or definite to indicate whether a release or threat of release warrants a Preliminary Assessment, the Department may request additional information from the person submitting the information or from the potential facility. If the information received does not warrant a Preliminary Assessment, the Department shall provide a written explanation which shall be a memorandum to the file and shall provide such explanation to persons who request it.

(c) The Department may determine that existing information constitutes the equivalent of all or part of a Preliminary Assessment or site inspection. In such cases, the Department may elect not to perform or require to be performed an additional Preliminary Assessment or site inspection or any part of a Preliminary Assessment or site inspection.

(2) At the discretion of the Department, a Preliminary Assessment may include but is not limited to:

(a) General facility information such as site name(s) and location, including a site map showing property boundaries;

(b) Information regarding hazardous substances present, including the name, types, and quantities of substances and storage, disposal, or handling methods;

(c) Preliminary identification of drainage pathways and potential pathways of exposure of human, biological, and environmental receptors from the release or threat of release;

(d) Review of the facility's history, including past and present uses; practices; hazardous substances used or generated; and environmental permits, approvals, violations, enforcement, or remedial actions;

(e) Preliminary identification of past and present owners and operators and persons potentially liable pursuant to ORS 466.567;

(f) Evaluation of any immediate and potential threat to public health, safety, and welfare and the environment; and

(g) Preliminary sampling to determine whether a release has occurred, including a map of the facility showing sampling locations.

(3) The Director shall, as appropriate, make one or more of the following determinations:

a) A release or threat of release has been confirmed;

(b) No further action is needed;

(c) Current regulatory action under another Department program is adequate to protect human health and safety, or welfare, or the environment; or

(d) Additional investigation is needed.

(4) When the Preliminary Assessment is completed, the Director shall determine the statutory authority or authorities and rules, under which the Department and/or the responsible party shall conduct any investigation or cleanup, or related activities. The Director may revise this determination as appropriate. The potentially responsible party shall, as appropriate, be notified of such determination or subsequent revision.

340-122-070 REMOVAL

(1) Based upon the Preliminary Assessment or other information, the Director may perform or require to be

performed a removal that complies with OAR 340-122-040(1), (2)(b), (3), and (4) and that the Director finds necessary to prevent, minimize, or mitigate damage to the public health, safety, or welfare or the environment that might result from the release or threat of release.

(2) The performance of a removal shall not affect the Director's authority to perform or require to be performed a remedial action in addition to the removal, if such remedial action will permanently or more fully address a release or threat of release. The Director may undertake or require that a removal be undertaken at any time from the discovery of a release or threat of a release through the completion of a remedial action.

340-122-080 REMEDIAL INVESTIGATION AND FEASIBILITY STUDY

(1) If, based upon the Preliminary Assessment, the results of a removal, or other information, the Director determines that remedial action might be necessary to protect public health, safety, or welfare or the environment, the Director may perform or require to be performed a Remedial Investigation and/or Feasibility Study to develop information to determine the need for and selection of a remedial action.

(2) The Remedial Investigation shall include but is not limited to characterization of hazardous substances, characterization of the facility, and an endangerment assessment.

(a) The characterization of the hazardous substances may include but is not limited to information regarding:

(A) Extent to which the source can be adequately identified and characterized;

(B) Amount, form, concentration, toxicity, environmental fate and transport, and other significant characterization of present substances; and

(C) Extent to which the substances might be reused or recycled.

(b) The characterization of the facility may include but is not limited to information regarding:

(A) Hazardous substances mixtures present, media

of occurrence, and interface zones between media;

(B) Hydrogeologic factors;

(C) Climatologic and meteorologic factors; and

(D) Ambient air quality.

(c) The endangerment assessment may include but is not limited to information regarding:

(A) Potential routes of exposure and concentration;

(B) Characterization of toxic effects;

(C) Populations at risk;

(D) Potential or actual adverse impact on:

(i) Biological receptors,

(ii) Present and future uses of the environment,

(iii) Ecosystems and natural resources, and

(iv) Aesthetic characteristics of the environment;

(E) Extent to which substances have migrated or are expected to migrate and the threat such migration might pose to public health, safety and welfare or the environment; and

(F) Potential for release of any substances or treatment residuals that might remain after remedial action.

(3) The Feasibility Study shall include but is not limited to the development of remedial action options and the evaluation of remedial action options.

(a) The development of remedial action options may include but is not limited to the following range of options:

(A) Remedial action attaining Background Level ;

(B) Highest and best technology attaining the lowest concentration levels technically achievable;

(C) Best practicable technology attaining the lowest concentration level that meets the requirements of OAR 340-122-090(1)(b) and (2), and does not exceed a site-specific concentration level considered protective of public health, safety, and welfare and the environment;

(D) Other measures to supplement or substitute for cleanup technologies, including but not limited to engineering or institutional controls (e.g., environmental hazard notice, alternative drinking water supply, caps, security measures, etc.)

(E) Combinations of any of the above options; and

(F) No action option.

(b) (A) Remedial action options developed under OAR 340-122-080(3)(a) shall be evaluated under the requirements, criteria, preferences, and factors set forth in OAR 340-122-090 and according to any other criteria determined by the Director to be relevant to selection of a remedial action under OAR 340-122-090.

(B) The evaluation of remedial action options developed under OAR 340-122-080(3)(a) shall include an evaluation of the extent to which the option or combination of options complies with relevant state, local, and federal law, standards, and guidance.

340-122-090 SELECTION OF THE REMEDIAL ACTION

(1) Two Requirements

Based on the administrative record, the Director shall select a remedial action. Such remedial action shall:

(a) Be protective of present and future public health, safety, and welfare and the environment; and

(b) To the maximum extent practicable:

(A) be cost effective;

(B) use permanent solutions and alternative technologies or resource recovery technologies;

(C) be implementable; and

(D) be effective.

(2) Background Level or Lowest Concentration level

The remedial action shall attain the Background Level of the hazardous substances, unless the Director determines that Background Level does not satisfy the requirement set forth in OAR 340-122-090(1)(b), in which case the Director shall select a remedial action that attains the lowest concentration level of the hazardous substances that satisfies the requirements set forth in OAR 340-122-090(1).

(3) Other Measures to Supplement Cleanup

The Director may require other measures institutional controls, (e.g. environmental hazard notice, alternate drinking water supply, caps, security measures, etc.) to supplement cleanup of hazardous substances to Background Level or the lowest concentration level in accordance with OAR 340-122-090(2), where such supplementary measures are necessary to satisfy the requirements set forth in OAR 340-122-090(1).

(4) Other Measures to Substitute for Cleanup

The Director may require other measures to substitute for cleanup of hazardous substances to Background Level or the lowest concentration level under OAR 340-122-090(2), provided that:

(a) The Director finds that there is no remedial action under OAR 340-122-090(2), combined with supplementary measures under OAR 340-122-090(3), that satisfies the requirements of OAR 340-122-090(1);

(b) Any such substitute measures, as appropriate, include provision for long-term care and management, including monitoring and operation and maintenance, and periodic review to determine whether a remedial action satisfying the requirements of OAR 340-122-090(1) has become available; and

(c) Any proposed use of substitute measures be subject to public notice and participation under OAR 340-122-100.

(5) Protection

(a) In determining whether a remedial action assures protection of the present and future public health, safety, and welfare and the environment under OAR 340-122-090(1)(a), only Background Level shall be presumed to be protective. This presumption may be rebutted by information showing that a higher concentration level is also protective.

(b) In determining whether a concentration level higher than the Background Level is protective, the Director may consider:

(A) The characterization of hazardous substances and the facility, and the endangerment assessment;

(B) Other relevant cleanup or health standards, criteria, or guidance;

(C) Relevant and reasonably available scientific information; and

(D) Any other information relevant to the protectiveness of a remedial action.

(c) When comparing between potential concentration levels, a concentration level lower than another shall generally be considered to be more protective and preferable. This presumption may be rebutted by information showing that a higher concentration level is also protective.

(d) Any person responsible for undertaking the remedial action who proposes that the remedial action attain a concentration level higher than Background Level on the basis of protection shall have the burden of demonstrating to the Director that such concentration level is protective.

(6) Cost-effectiveness

In determining whether a remedial action is cost-effective under OAR 340-122-090(1)(b), the Director may consider:

(a) Costs of the remedial action relative to the costs of another remedial action option, if any, that achieves the same concentration level;

(b) Extent to which the remedial action's incremental costs are proportionate to its incremental results;

(c) Extent to which the remedial action's total costs are proportionate to its total results; and

(d) Any other criterion relevant to cost-effectiveness of the remedial action.

(e) Costs that may be considered include but are not limited to:

(A) Capital costs;

(B) Operation and maintenance costs;

(C) Costs of periodic reviews, where required;

(D) Net present value of capital and operation and maintenance costs; and

(E) Potential future remedial action costs.

(7) Permanent solutions and alternative or resource recovery technologies

In determining whether a remedial action uses a permanent solution and alternative or resource recovery technologies under OAR 340-122-090(1)(b):

(a) Remedial action options that use permanent solutions shall be preferred over other remedies;

(b) Remedial action options in which resource recovery or alternative technology is a principal element shall be preferred over remedial action options not involving such technology;

(c) Subject to OAR 340-122-090(7)(e), the offsite transport and secure disposition of hazardous substances or contaminated materials without treatment may be preferred where practicable alternative treatment technologies are not available;

(d) Subject to OAR 340-122-090(7)(e) and (f), and notwithstanding the availability of practicable alternative treatment technologies as provided in OAR 340-122-090(7)(c), offsite transport and secure disposition of hazardous substances or contaminated materials may be preferred when the disposal method would significantly expedite the cleanup or would achieve a total cleanup, especially at sites with hazardous substances of small quantity or low toxicity.

(e) The transport and secure disposition offsite of a hazardous waste under ORS 466.005 in a treatment, storage, or disposal facility shall meet the requirements of section 3004(c) to (g), (m), (o), (p), (u) and (v) and 3005(c) of the federal Solid Waste Disposal Act, as amended, P.L. 96-482 and P.L. 98-616.

(f) The transport and secure disposition of hazardous substances or contaminated materials, other than hazardous wastes, at an offsite facility may be allowed provided that the transport and secure disposition of such hazardous substances or contaminated materials, in the Director's determination, is adequate to protect the public health, safety, and welfare and the environment.

(8) Implementability

In determining whether a remedial action is implementable under OAR 340-122-090(1)(b), the Director may consider:

(a) Degree of difficulty associated with implementing the technology;

(b) Expected operational reliability of the technology;

(c) Need to coordinate with and obtain necessary approvals or permits from other agencies;

(d) Availability of necessary equipment and specialists;

(e) Available capacity and location of needed treatment, storage, and disposal services; and

(f) Any other criterion relevant to implementability of the remedial action.

(9) Effectiveness (of the Remedial Action)

In determining whether a remedial action is effective under OAR 340-122-090(1)(b), the Director may consider:

(a) Expected reduction in toxicity, mobility, and volume of the hazardous substances;

(b) Short-term risks that might be posed to community, workers, and the environment during implementation, including potential threats to human health and the environment associated with excavation, transport, and redisposal or containment;

(c) Length of time until full protection is achieved;

(d) Magnitude of residual risks in terms of amounts and concentrations of hazardous substances remaining following implementation of a remedial action, including consideration of the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous substances and their constituents;

(e) Type and degree of long-term management required, including monitoring and operation and maintenance;

(f) Long-term potential for exposure of human and environmental receptors to remaining contaminants;

(g) Long-term reliability of engineering and institutional controls, including long-term uncertainties associated with land disposal, treated or untreated waste, and residuals;

(h) Potential for failure of the remedial action or potential need for replacement of the remedy; and

(i) Any other criterion relevant to effectiveness of the remedial action.

(10) Any person responsible for undertaking the remedial action who proposes one remedial action option over another on the basis of one or more of the elements of OAR 340-122-090(1)(b) shall have the burden of demonstrating to the Director that such remedial action option fulfills the requirements of OAR 340-122-090(1)(a) and (b).

340-122-100 PUBLIC NOTICE AND PARTICIPATION

(1) Except for emergency remedial actions, the Department shall, prior to approval of a remedial action:

(a) Provide notice and opportunity for comment and a public meeting regarding the proposed remedial action, in accordance with ORS 466.575; and

(b) Make a reasonable effort to identify and notify interested community organizations.

(2) Any notice under OAR 340-122-100(1)(b) shall include but not be limited to a brief description of the Department's preferred remedial action option, if known, and information regarding where a copy of the full proposal may be inspected and copied.

(3) The Director shall consider any comments received during the public comment period and any public meeting before approving the remedial action.

(4) In the Director's discretion, the Department may provide public notice and opportunity for comment and a public meeting regarding the proposed removal, and shall consider any comments received during such public comment period or any public meeting.

(5) Agency records concerning removal or remedial actions and related investigations shall be made available to the public in accordance with ORS 192.410 to 192.505, subject to exemptions to public disclosure, if any, under ORS 192.501 and 192.502. The Department shall maintain and make available for public inspection and copying a record of pending and completed removals, remedial actions, and related investigations, to be located at the headquarters and regional offices of the Department.

340-122-110 ADMINISTRATIVE RECORD

(1) For purposes of the Director's selection of a removal or remedial action, and enforcement, cost recovery, or review, if any, related to the Director's action, the administrative record shall consist of the following types of documents generated for a facility up to the time of the Director's action:

(a) Factual information, data, and analyses that form a basis for the Director's action;

(b) The Preliminary Assessment and Remedial Investigation and Feasibility Study, as applicable;

(c) Orders, consent decrees, settlement agreements, work plans, and other decision documents;

(d) Guidance documents and technical literature that form a basis for the Director's action; and

(e) Public comments and other information received by the Department prior to the Director's action, and Department responses to significant comments.

(2) Unless expressly designated part of the administrative record by the Director, the administrative record shall not include:

(a) Draft documents and internal memoranda;

(b) Documents relating to the liability of persons potentially liable under ORS 466.567;

(c) Documents relating to state remedial action costs; and

(d) Documents privileged under law or confidential under ORS 192.501 or 192.502.

340-122-120 CORRECTIVE ACTION FOR PETROLEUM UST SYSTEMS

(1) Scope and Applicability

(a) This section establishes the standards and process to be used for the determination of corrective action necessary to protect the public health, safety, and welfare and the environment in the event of a release or threat of a release from a petroleum UST system.

(b) Except where otherwise noted in this section, this section applies to a release from a petroleum UST system performed by:

(A) An owner or permittee ordered or authorized to do so by the Director, or the Department, under ORS 466.705 to 466.895, or

(B) Any person ordered or authorized to do so by the Director, or the Department, under ORS 466.540 to 466.590.

(c) Notwithstanding OAR 340-122-120(1)(b), the Director, in the Director's discretion, may require that investigation and cleanup of a release from a petroleum UST system be governed by OAR 340-122-010 to 340-122-110, if, based on the magnitude or complexity of the release or other considerations, that the Director determines that application of OAR 340-122-010 through 340-122-100 is necessary to protect the public health, safety, or welfare or the environment.

(d) Corrective actions for releases of regulated substances under ORS 466.705 other than petroleum shall be governed by OAR 340-122-010 to 340-122-110.

(2) Definitions

For the purpose of this section, terms not defined in this subsection have the meanings set forth in ORS 466.540 and 466.705. Additional terms are defined as follows unless the context requires otherwise:

(a) "Above-ground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the above-ground portion of a petroleum UST system and releases associated with overfills and transfer operations during petroleum deliveries to or dispensing from a petroleum UST system.

(b) "Below-ground release" means any release to the subsurface of the land or to groundwater. This includes, but is not limited to, releases from the above-ground portion of a petroleum UST system and releases associated with overfills and transfer operations as the petroleum is delivered to or dispensed from a petroleum UST system.

(c) "Director" means the director of the Department of Environmental Quality or the Director's authorized representative.

(d) "Excavation area" means the area containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the petroleum UST system is placed at the time of installation.

(e) "Free product" means petroleum in the non-aqueous phase (e.g., liquid not dissolved in water) that is beneath the ground surface or otherwise covered with materials so that physical inspection is precluded.

(f) "Owner", as used in this section, has the meaning set forth in ORS 466.705(8).

(g) "Permittee", as used in this section, has the meaning set forth in ORS 466.705(9).

(h) "Petroleum" means gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge, oil refuse, and crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils, diesel fuels, and any other petroleum related product, or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(i) "Petroleum UST system" means any one or combination of tanks, including underground pipes connected to the tanks that is used to contain an accumulation of petroleum and the volume of which, including the volume of the underground pipes connected to the tank, is 10 percent or more beneath the surface of the ground; and

includes associated ancillary equipment and containment system.

(j) "Responsible person" means any person ordered or authorized to undertake corrective action and related measures under ORS 466.540 through 466.590.

(3) Initial reporting and abatement requirements and procedures

(a) The owner or permittee shall:

(A) Report the following releases to the Department within 24 hours:

(i) All below-ground releases from the petroleum UST system in any quantity;

(ii) All above-ground releases to land from the petroleum UST system in excess of 25 gallons, or less than 25 gallons if the owner, permittee or responsible person is unable to contain or clean up the release within 24 hours; and

(iii) All above-ground releases to water which result in a sheen on the water;

(b) The owner, permittee, or responsible person shall:

(A) Mitigate fire and safety hazards;

(B) Stop any further release from the petroleum UST system;

(C) Remove and properly dispose of visibly contaminated soil from the excavation zone;

(D) Report initial corrective action taken, including a verification of tank repair or closure if appropriate, to the Department within 15 days of confirmation or discovery of the release; and

(E) Conduct an investigation to determine the possible presence of free product and initiate free product removal as soon as practicable.

(c) The owner, permittee, or responsible person shall assemble from investigations of the site and the release, or from other sources, such information as deemed necessary by the Department for completing the corrective action measures required in OAR 340-122-120(3)(b). This information may include, but is not limited to, the following:

(A) Data on the nature and estimated quantity of the release;

(B) Data from surface and subsurface soil sampling and analyses;

(C) Data from groundwater and/or surface water sampling and analyses;

(D) Data from available sources and/or site investigations concerning surrounding populations, water quality and use, well locations, subsurface soil conditions, climatological conditions, and land usage; and

(E) Other information deemed appropriate by the Department.

(d) The information collected by the owner, permittee, or responsible person during the course of the investigation under OAR 340-122-120(3)(b)(E) shall be submitted to the Department according to a schedule established by the Department. The Department may request the collection and submission of additional information and/or the Director may request a corrective action plan for additional soil and/or groundwater cleanup.

(4) Free Product Removal

At sites where investigations under OAR 340-122-120(3)(b)(E) indicate the presence of free product, the owner, permittee, or responsible person shall remove free floating product to the maximum extent practicable while continuing, as necessary, any actions initiated under OAR 340-122-120(3) and while preparing for subsequent actions required under OAR 340-122-120(5). In meeting the requirements of this subsection, the owner, permittee, or responsible person shall:

(a) Conduct free product recovery in such a manner that contamination is not spread into previously uncontaminated areas through untreated discharge or improper disposal techniques;

(b) Handle any flammable products in a safe and competent manner to prevent fires or explosions;

(c) Unless directed to do otherwise by the Department, prepare and submit, within 15 days of confirmation or discovery of the free product, a free product removal report to the Department. Such report shall provide at least the following information:

(A) The name of the person(s) implementing the plan;

(B) The estimated quantity and type of product on site and the product thickness in wells, boreholes, and excavations;

(C) Details of the product recovery system;

(D) Whether any discharge will take place on or off-site during the recovery operation;

(E) The type of treatment and expected effluent quality from any discharge;

(F) The disposition of the recovered product; and

(G) Other matters deemed appropriate by the Department.

(5) Additional Site Investigation

(a) Whenever an investigation under OAR 340-122-120(3)(c) indicates that there might be additional remaining soil contamination from the release; or a removal in compliance with OAR 340-122-120(3)(b)(C) indicates that the released product or product from contaminated soil might have reached groundwater; or, as directed by the Department, the owner, permittee, or responsible person shall:

(A) Conduct additional investigations of the release, the release site, and the surrounding area possibly affected by the release, to determine the full extent and location of soils contaminated by the release; and

(B) Conduct additional investigations of the release, the release site, and the surrounding area possibly affected by the release to determine the presence of dissolved contamination due to the release in the groundwater.

(b) The information collected by the owner, permittee, or responsible person during the course of the investigations under OAR 340-122-120(5)(a) shall be submitted in accordance with a schedule established by the Department.

(c) The Director may request the submission of a corrective action plan for additional soil and/or groundwater cleanup.

(6) Numeric Soil Cleanup Levels for Motor Fuel and Heating Oil

(a) The Department shall develop and propose to the Environmental Quality Commission for rulemaking, matrices with numeric soil cleanup levels for motor fuel and heating oil, which may include but are not limited to specific constituents such as benzene, xylene, toluene, and ethylbenzene.

(b) The matrices shall establish numeric soil cleanup levels that provide a high degree of protection in accordance with OAR 340-122-040(1).

(c) Within 6 months after the effective date of these rules, the Department shall request the Environmental Quality Commission to commence rulemaking and authorize a public hearing on the proposed matrices, in accordance with ORS 466.745.

(d) Until adoption of such matrices by rule, cleanup levels shall be determined under OAR 340-122-120(7)(b), as applicable.

(e) The matrices may include, but not be limited to, the following factors:

(A) Distance to groundwater;

(B) Soil type;

(C) Geology of the site;

(D) Average annual precipitation; and

(E) Other factors deemed appropriate by the Department.

(f) The owner, permittee, or responsible person may either:

(A) Propose corrective action to clean up the

soils to the level specified in the matrices; or

(B) Develop a Corrective Action Plan for soils under OAR 340-122-120(7).

(g) The Director shall not approve corrective actions proposed under OAR 340-122-120(6)(f)(A) if the Director determines that the numeric soil cleanup levels are not appropriate or adequate to protect public health, safety and welfare or the environment. In such case, the Director shall require the owner, permittee, or responsible person, to develop a Corrective Action Plan, under OAR 340-122-120(7).

(7) Corrective Action Plan

(a) The owner, permittee, or responsible person required or authorized by the Director to develop and submit a corrective action plan for responding to any contaminated soils or groundwater shall submit such a plan according to a schedule established by the Department.

(b) The Director shall approve the corrective action plan only if the corrective action plan assures that public health, safety, and welfare and the environment will be protected. In making this determination, the Director may consider:

(A) The physical and chemical characteristics of the petroleum, including its toxicity, persistence, and potential for migration;

(B) The hydrogeologic characteristics of the contaminated area and the surrounding land;

(C) The proximity, quality, and current and future uses of the groundwater;

(D) An exposure assessment;

(E) The proximity, quality, and current and future uses of surface waters; and

(F) Other matters deemed appropriate by the Director.

(c) Upon approval of the corrective action plan, the owner, permittee, or responsible person, shall implement the plan and monitor, evaluate, and report the results of implementation as required by the Department.

(8) Additional Reporting

The owner, permittee, or responsible person shall provide any additional information on corrective action beyond that required notification required under OAR 340-122-120(3)(b)(D), as requested by the Department.

(9) Public Notice and Participation
The Department may provide public notice and opportunity for comment and public meeting regarding a corrective action under this section, in accordance with OAR 340-122-100(4).

REMOVAL OR REMEDIAL ACTION TO ABATE HEALTH HAZARDS

466.540 Definitions for ORS 466.540 to 466.590. As used in ORS 466.540 to 466.590 and 466.900:

(1) "Claim" means a demand in writing for a sum certain.

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

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

(4) "Director" means the Director of the Department of Environmental Quality.

(5) "Environment" includes the waters of the state, any drinking water supply, any land surface and subsurface strata and ambient air.

(6) "Facility" means any building, structure, installation, equipment, pipe or pipeline including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, above ground tank, underground storage tank, motor vehicle, rolling stock, aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located and where a release has occurred or where there is a threat of a release, but does not include any consumer product in consumer use or any vessel.

(7) "Fund" means the Hazardous Substance Remedial Action Fund established by ORS 466.590.

(8) "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under ORS 466.540 to 466.590 and 466.900.

(9) "Hazardous substance" means:

(a) Hazardous waste as defined in ORS 466.005.

(b) Any substance defined as a hazardous substance pursuant to section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, P.L. 96-510, as amended, P.L. 96-510 and P.L. 99-499.

(c) Oil.

(d) Any substance designated by the commission under ORS 466.553.

(10) "Natural resources" includes but is not limited to land, fish, wildlife, biota, air, surface water, groundwater, drinking water supplies and any other resource owned, managed, held in trust or otherwise controlled by the State of Oregon or a political subdivision of the state.

(11) "Oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, oil sludge or refuse and any other petroleum-related product, or waste or fraction thereof that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute.

(12) "Owner or operator" means any person who owned, leased, operated, controlled or exercised significant control over the operation of a facility. "Owner or operator" does not include a person, who, without participating in the management of a facility, holds indicia of ownership primarily to protect a security interest in the facility.

(13) "Person" means an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, partnership, association, corporation, commission, state and any agency thereof, political subdivision of the state, interstate body or the Federal Government including any agency thereof.

(14) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment including the abandonment or discarding of barrels, containers and other closed receptacles containing any hazardous substance, or threat thereof, but excludes:

(a) Any release which results in exposure to a person solely within a workplace, with respect to a claim that the person may assert against the person's employer under ORS chapter 656;

(b) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel or pipeline pumping station engine;

(c) Any release of source, by-product or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, as amended, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of the Atomic Energy Act of 1954, as amended, or, for the purposes of ORS 466.570 or any other removal or remedial action, any release of source by-product or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978; and

(d) The normal application of fertilizer.

(15) "Remedial action" means those actions consistent with a permanent remedial action taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of a hazardous substance so that they do not migrate to cause substantial danger to present or future public health, safety, welfare or the environment. "Remedial action" includes, but is not limited to:

(a) Such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released hazardous substances and associated contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative drinking and household water supplies, and any monitoring reasonably required to assure that such actions protect the public health, safety, welfare and the environment.

(b) Offsite transport and offsite storage, treatment, destruction or secure disposition of hazardous substances and associated, contaminated materials.

(c) Such actions as may be necessary to monitor, assess, evaluate or investigate a release or threat of release.

(16) "Remedial action costs" means reasonable costs which are attributable to or associated with a removal or remedial action at a facility, including but not limited to the costs of administration, investigation, legal or enforcement activities, contracts and health studies.

(17) "Removal" means the cleanup or removal of a released hazardous substance from the environment, such actions as may be necessary taken in the event of the threat of release of a hazardous substance into the environment, such actions as may be necessary to monitor, assess and evaluate the release or threat of release of a hazardous substance, the disposal of removed

material, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health, safety, welfare or to the environment, which may otherwise result from a release or threat of release. "Removal" also includes but is not limited to security fencing or other measures to limit access, provision of alternative drinking and household water supplies, temporary evacuation and housing of threatened individuals and action taken under ORS 466.570.

(18) "Transport" means the movement of a hazardous substance by any mode, including pipeline and in the case of a hazardous substance which has been accepted for transportation by a common or contract carrier, the term "transport" shall include any stoppage in transit which is temporary, incidental to the transportation movement, and at the ordinary operating convenience of a common or contract carrier, and any such stoppage shall be considered as a continuity of movement and not as the storage of a hazardous substance.

(19) "Underground storage tank" has the meaning given that term in ORS 466.705.

(20) "Waters of the state" has the meaning given that term in ORS 468.700. [1987 c.539 §52; 1987 c.735 §1]

466.547 Legislative findings. (1) The Legislative Assembly finds that:

(a) The release of a hazardous substance into the environment may present an imminent and substantial threat to the public health, safety, welfare and the environment; and

(b) The threats posed by the release of a hazardous substance can be minimized by prompt identification of facilities and implementation of removal or remedial action.

(2) Therefore, the Legislative Assembly declares that:

(a) It is in the interest of the public health, safety, welfare and the environment to provide the means to minimize the hazards of and damages from facilities.

(b) It is the purpose of ORS 466.540 to 466.590 and 466.900 to:

(A) Protect the public health, safety, welfare and the environment; and

(B) Provide sufficient and reliable funding for the department to expediently and effectively authorize, require or undertake removal or remedial action to abate hazards to the public health, safety, welfare and the environment. [1987 c.735 §2]

466.550 Authority of department for removal or remedial action. (1) In addition to any other authority granted by law, the department may:

(a) Undertake independently, in cooperation with others or by contract, investigations, studies, sampling, monitoring, assessments, surveying, testing, analyzing, planning, inspecting, training, engineering, design, construction, operation, maintenance and any other activity necessary to conduct removal or remedial action and to carry out the provisions of ORS 466.540 to 466.590 and 466.900; and

(b) Recover the state's remedial action costs.

(2) The commission and the department may participate in or conduct activities pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, P.L. 96-510 and P.L. 99-499, and the corrective action provisions of Subtitle I of the federal Solid Waste Disposal Act, as amended, P.L. 96-482 and P.L. 98-616. Such participation may include, but need not be limited to, entering into a cooperative agreement with the United States Environmental Protection Agency.

(3) Nothing in ORS 466.540 to 466.590 and 466.900 shall restrict the State of Oregon from participating in or conducting activities pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, P.L. 96-510 and P.L. 99-499. [1987 c.735 §3]

466.553 Rules; designation of hazardous substance. (1) In accordance with the applicable provisions of ORS 183.310 to 183.550, the commission may adopt rules necessary to carry out the provisions of ORS 466.540 to 466.590 and 466.900.

(2)(a) Within one year after the effective date of this Act, the commission shall adopt rules establishing the levels, factors, criteria or other provisions for the degree of cleanup including the control of further releases of a hazardous substance, and the selection of remedial actions necessary to assure protection of the public health, safety, welfare and the environment.

(b) In developing rules pertaining to the degree of cleanup and the selection of remedial actions under paragraph (a) of this subsection, the commission may, as appropriate, take into account:

(A) The long-term uncertainties associated with land disposal;

(B) The goals, objectives and requirements of ORS 466.005 to 466.385;

(C) The persistence, toxicity, mobility and propensity to bioaccumulate of such hazardous substances and their constituents;

(D) The short-term and long-term potential for adverse health effects from human exposure to the hazardous substance;

(E) Long-term maintenance costs;

(F) The potential for future remedial action costs if the alternative remedial action in question were to fail;

(G) The potential threat to human health and the environment associated with excavation, transport and redisposal or containment; and

(H) The cost effectiveness.

(3)(a) By rule, the commission may designate as a hazardous substance any element, compound, mixture, solution or substance or any class of substances that, should a release occur, may present a substantial danger to the public health, safety, welfare or the environment.

(b) Before designating a substance or class of substances as a hazardous substance, the commission must find that the substance, because of its quantity, concentration, or physical, chemical or toxic characteristics, may pose a present or future hazard to human health, safety, welfare or the environment should a release occur. [1987 c.735 §4]

466.555 Remedial Action Advisory Committee. The director shall appoint a Remedial Action Advisory Committee in order to advise the department in the development of rules for the implementation of ORS 466.540 to 466.590 and 466.900. The committee shall be comprised of members representing at least the following interests:

(1) Citizens;

(2) Local governments;

(3) Environmental organizations; and

(4) Industry. [1987 c.735 §5]

466.557 Inventory of facilities where release confirmed. (1) For the purposes of providing public information, the director shall develop and maintain an inventory of all facilities where a release is confirmed by the department.

(2) The director shall make the inventory available for the public at the department's offices.

(3) The inventory shall include but need not be limited to the following items, if known:

(a) A general description of the facility;

(b) Address or location;

(c) Time period during which a release occurred;

(d) Name of the current owner and operator and names of any past owners and operators during the time period of a release of a hazardous substance;

(e) Type and quantity of a hazardous substance released at the facility;

(f) Manner of release of the hazardous substance;

(g) Levels of a hazardous substance, if any, in ground water, surface water, air and soils at the facility;

(h) Status of removal or remedial actions at the facility; and

(i) Other items the director determines necessary.

(4) Thirty days before a facility is added to the inventory the director shall notify by certified mail the owner of all or any part of the facility that is to be included in the inventory. The decision of the director to add a facility may be appealed in writing to the commission within 15 days after the owner receives notice. The appeal shall be conducted in accordance with provisions of ORS 183.310 to 183.550 governing contested cases.

(5) The department shall, on or before January 15, 1989, and annually thereafter, submit the inventory and a report to the Governor, the Legislative Assembly and the Environmental Quality Commission.

(6) Nothing in this section, including listing of a facility in the inventory or commission review of the listing shall be construed to be a prerequisite to or otherwise affect the authority of the director to undertake, order or authorize a removal or remedial action under ORS 466.540 to 466.590 and 466.900. [1987 c.735 §6]

466.560 Comprehensive state-wide identification program; notice. (1) The department shall develop and implement a comprehensive state-wide program to identify any release or threat of release from a facility that may require remedial action.

(2) The department shall notify all daily and weekly newspapers of general circulation in the state and all broadcast media of the program developed under subsection (1) of this section. The notice shall include information about how the public may provide information on a release or threat of release from a facility.

(3) In developing the program under subsection (1) of this section, the department shall

examine, at a minimum, any industrial or commercial activity that historically has been a major source in this state of releases of hazardous substances.

(4) The department shall include information about the implementation and progress of the program developed under subsection (1) of this section in the report required under ORS 466.557 (5). [1987 c.735 §7]

466.563 Preliminary assessment of potential facility. (1) If the department receives information about a release or a threat of release from a potential facility, the department shall conduct a preliminary assessment of the potential facility. The preliminary assessment shall be conducted as expeditiously as possible within the budgetary constraints of the department.

(2) A preliminary assessment conducted under subsection (1) of this section shall include a review of existing data, a good faith effort to discover additional data and a site inspection to determine whether there is a need for further investigation. [1987 c.735 §8]

466.565 Accessibility of information about hazardous substances. (1) Any person who has or may have information, documents or records relevant to the identification, nature and volume of a hazardous substance generated, treated, stored, transported to, disposed of or released at a facility and the dates thereof, or to the identity or financial resources of a potentially responsible person, shall, upon request by the department or its authorized representative, disclose or make available for inspection and copying such information, documents or records.

(2) Upon reasonable basis to believe that there may be a release of a hazardous substance at or upon any property or facility, the department or its authorized representative may enter any property or facility at any reasonable time to:

(a) Sample, inspect, examine and investigate;

(b) Examine and copy records and other information; or

(c) Carry out removal or remedial action or any other action authorized by ORS 466.540 to 466.590 and 466.900.

(3) If any person refuses to provide information, documents, records or to allow entry under subsections (1) and (2) of this section, the department may request the Attorney General to seek from a court of competent jurisdiction an order requiring the person to provide such information, documents, records or to allow entry.

(4)(a) Except as provided in paragraphs (b) and (c) of this subsection, the department or its authorized representative shall, upon request by the current owner or operator of the facility or property, provide a portion of any sample obtained from the property or facility to the owner or operator.

(b) The department may decline to give a portion of any sample to the owner or operator if, in the judgment of the department or its authorized representative, apportioning a sample:

(A) May alter the physical or chemical properties of the sample such that the portion of the sample retained by the department would not be representative of the material sampled; or

(B) Would not provide adequate volume to perform the laboratory analysis.

(c) Nothing in this subsection shall prevent or unreasonably hinder or delay the department or its authorized representative in obtaining a sample at any facility or property.

(5) Persons subject to the requirements of this section may make a claim of confidentiality regarding any information, documents or records, in accordance with ORS 466.090. [1987 c.735 §9]

466.567 Strict liability for remedial action costs for injury or destruction of natural resource; limited exclusions. (1) The following persons shall be strictly liable for those remedial action costs incurred by the state or any other person that are attributable to or associated with a facility and for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator at or during the time of the acts or omissions that resulted in the release.

(b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the release, and who knew or reasonably should have known of the release when the person first became the owner or operator.

(c) Any owner or operator who obtained actual knowledge of the release at the facility during the time the person was the owner or operator of the facility and then subsequently transferred ownership or operation of the facility to another person without disclosing such knowledge.

(d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the release, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(e) Any person who unlawfully hinders or delays entry to, investigation of or removal or remedial action at a facility.

(2) Except as provided in paragraphs (b) to (e) of subsection (1) of this section and subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a release, and who did not know and reasonably should not have known of the release when the person first became the owner or operator.

(b) Any owner or operator if the facility was contaminated by the migration of a hazardous substance from real property not owned or operated by the person.

(c) Any owner or operator at or during the time of the acts or omissions that resulted in the release, if the release at the facility was caused solely by one or a combination of the following:

(A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employe or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in paragraphs (c) to (e) of subsection (1) of this section or subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) A unit of state or local government that acquired ownership or control of a facility in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a facility by inheritance or bequest.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section such persons shall be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, and for damages for injury to or destruction of any natural resources caused by a release, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the release and then failed to promptly notify the department and exercise due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under ORS 466.540 to 466.590 and 466.900.

(c) Nothing in ORS 466.540 to 466.590 and 466.900 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover remedial action costs or to seek any other relief related to a release.

(6) To establish, for purposes of paragraph (b) of subsection (1) of this section or paragraph (a) of subsection (2) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 466.540 to 466.590 and 466.900 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted under ORS 466.553 or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any release of a hazardous substance. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under ORS 466.540 to 466.590 and 466.900 for costs or damages as a result of actions taken in response to an emergency created by the release of a hazardous substance generated by or from a facility owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, wilful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section. [1987 c.735 §10]

466.570 Removal or remedial action; reimbursement of costs. (1) The director may undertake any removal or remedial action necessary to protect the public health, safety, welfare and the environment.

(2) The director may authorize any person to carry out any removal or remedial action in accordance with any requirements of or directions from the director, if the director determines that the person will commence and complete removal or remedial action properly and in a timely manner.

(3) Nothing in ORS 466.540 to 466.590 and 466.900 shall prevent the director from taking any emergency removal or remedial action necessary to protect public health, safety, welfare or the environment.

(4) The director may require a person liable under ORS 466.567 to conduct any removal or remedial action or related actions necessary to protect the public health, safety, welfare and the environment. The director's action under this subsection may include but need not be limited to issuing an order specifying the removal or remedial action the person must take.

(5) The director may request the Attorney General to bring an action or proceeding for legal or equitable relief, in the circuit court of the county in which the facility is located or in Marion County, as may be necessary:

(a) To enforce an order issued under subsection (4) of this section; or

(b) To abate any imminent and substantial danger to the public health, safety, welfare or the environment related to a release.

(6) Notwithstanding any provision of ORS 183.310 to 183.550, and except as provided in subsection (7) of this section, any order issued by the director under subsection (4) of this section shall not be appealable to the commission or subject to judicial review.

(7)(a) Any person who receives and complies with the terms of an order issued under subsection (4) of this section may, within 60 days after completion of the required action, petition the director for reimbursement from the fund for the reasonable costs of such action.

(b) If the director refuses to grant all or part of the reimbursement, the petitioner may, within 30 days of receipt of the director's refusal, file an action against the director seeking reimbursement from the fund in the circuit court of the county in which the facility is located or in the Circuit Court of Marion County. To obtain reimbursement, the petitioner must establish by a preponderance of the evidence that the petitioner is not liable under ORS 466.567 and that costs for which the petitioner seeks reimbursement are reasonable in light of the action required by the relevant order. A petitioner who is liable under ORS 466.567 may also recover reasonable remedial action costs to the extent that the petitioner can demonstrate that the director's decision in selecting the removal or remedial action ordered was arbitrary and capricious or otherwise not in accordance with law.

(8) If any person who is liable under ORS 466.567 fails without sufficient cause to conduct a removal or remedial action as required by an order of the director, the person shall be liable to the department for the state's remedial action costs and for punitive damages not to exceed three times the amount of the state's remedial action costs.

(9) Nothing in this section is intended to interfere with, limit or abridge the authority of the State Fire Marshal or any other state agency or local unit of government relating to an emergency that presents a combustion or explosion hazard. [1987 c.735 §11]

466.573 Standards for degree of cleanup required; exemption. (1)(a) Any

removal or remedial action performed under the provisions of ORS 466.540 to 466.590 and 466.900 shall attain a degree of cleanup of the hazardous substance and control of further release of the hazardous substance that assure protection of present and future public health, safety, welfare and of the environment.

(b) To the maximum extent practicable, the director shall select a remedial action that is protective of human health and the environment, that is cost effective, and that uses permanent solutions and alternative treatment technologies or resource recovery technologies.

(2) Except as provided in subsection (3) of this section, the director may exempt the onsite portion of any removal or remedial action conducted under ORS 466.540 to 466.590 and 466.900 from any requirement of ORS 466.005 to 466.385 and ORS chapter 459 or 468.

(3) Notwithstanding any provision of subsection (2) of this section, any onsite treatment, storage or disposal of a hazardous substance shall comply with the standard established under subsection (1) of this section. [1987 c.735 §12]

466.575 Notice of cleanup action; receipt and consideration of comment; notice of approval. Except as provided in ORS 466.570 (3), before approval of any remedial action to be undertaken by the department or any other person, or adoption of a certification decision under ORS 466.577, the department shall:

(1) Publish a notice and brief description of the proposed action in a local paper of general circulation and in the Secretary of State's Bulletin, and make copies of the proposal available to the public.

(2) Provide at least 30 days for submission of written comments regarding the proposed action, and, upon written request by 10 or more persons or by a group having 10 or more members, conduct a public meeting at or near the facility for the purpose of receiving verbal comment regarding the proposed action.

(3) Consider any written or verbal comments before approving the removal or remedial action.

(4) Upon final approval of the remedial action, publish notice, as provided under subsection (1) of this section, and make copies of the approved action available to the public. [1987 c.735 §13]

Attachment III
Agenda Item H
June 10, 1988
EQC Meeting

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Nancy Nesewich
2373 NW Johnson
Portland, OR 97210
274-9874

James Rapp
Sherwood City Manager
PO Box 167
Sherwood, OR 97140
625-5522

Randy Rees
Crosby & Overton
5420 North Lagoon
Portland, OR 97217
283-1150

Larry Rice
Deschutes County Public Works
61150 SE 27th Street
Bend, OR 97702
388-6581

Connie Taylor
Riedel Environmental Services Inc
PO Box 5007
Portland, OR 97208-5007
286-4656

Jack Weathersbee
10802 SE Mill Court
Portland, OR 97216
253-0174

Attachment IV
Agenda Item H
June 10, 1988
EQC Meeting

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Public Hearing

Hearing Dates: 7/15/88
7/18/88
Comments Due: 7/18/88

WHAT IS PROPOSED:

The Department of Environmental Quality (DEQ) proposes that the Environmental Quality Commission (EQC) adopt rules to implement the state superfund law passed by the 1987 Oregon Legislature, codified as ORS 466.540 to 466.590. The proposed rules (OAR Chapter 340, Division 122) establish methods for determining the degree of cleanup of hazardous substances and the selection of the remedial action in order to assure protection of the public health, safety, welfare and the environment.

WHO IS AFFECTED:

The proposed rules will affect persons who currently own or operate, or have previously owned or operated, a site where hazardous substances have been released, or any other potentially responsible person, as specified in ORS 466.567. Also affected may be citizens who live near sites contaminated with hazardous substances.

WHAT ARE THE HIGHLIGHTS:

The proposed rules address the problem of cleaning up sites contaminated by hazardous substances in Oregon. These sites range from abandoned industrial areas with on-site contamination to areas affected by hazardous substances migrating from these abandoned sites. They can be as small as an unmarked drum improperly discarded or as large as an abandoned industrial facility leaking thousands of gallons of contaminants into the groundwater.

The proposed rules establish procedures for investigating potentially contaminated sites in order to determine whether hazardous substances have been released. If a release has occurred, the site will be further investigated and, if necessary, a remedial action, i.e., a cleanup method, will be selected.

Remedial actions selected for sites must meet the two following requirements, (which are referred to as being "protective" and "practicable", respectively):

1) Protect present and future public health, safety, welfare and the environment; and

2) To the maximum extent practicable: be cost effective, be implementable, be efficacious, and use permanent solutions and alternative technologies or resource recovery technologies.

811 S.W. 6th Avenue
Portland, OR 97204

FOR FURTHER INFORMATION: (over)

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.

11/1/86

Sites must be cleaned up to the Background Level of the hazardous substance, unless it is demonstrated by the responsible party that this is not practicable. Background Level is the natural concentration of hazardous substances, if any, that existed at the site before any and all past or present releases. If the Director finds that Background Level is not practicable, then the Director must select a remedial action which attains the lowest concentration level that is both protective and practicable. The proposed rules provide criteria, factors and preferences that guide the Director's determination of whether a remedial action is protective and practicable.

The proposed rules also identify when Other Measures, which include engineering and institutional controls, that may be used to supplement a cleanup, or, in extreme cases, to substitute for a cleanup.

Public notice and comment is required prior to approval of a remedial action, except for emergency remedial actions or removals.

Cleanup levels for releases of petroleum from leaking underground storage tanks will be determined through consideration of several factors. The proposed rules also require the Department to develop, and propose to the EQC for adoption, a matrix of numeric cleanup levels for soil contamination due to leaks of motor fuel and heating oil from underground storage tanks. The matrix would take into account a variety of factors such as distance to groundwater and soil type.

HOW TO COMMENT:

Public Hearings are scheduled for:

10:00 a.m. - 2:00 p.m.
Friday, July 15, 1988
DEQ's Pendleton Office
700 S.E. Emigrant Street
Pendleton, OR 97801

9:00 a.m.
Monday, July 18, 1988
Fourth Floor Conference Room
DEQ's Portland Office
811 S.W. Sixth Avenue
Portland, OR 97204

1:00 p.m.
Monday, July 18, 1988
Springfield City Hall
225 N. 5th
Springfield, OR 97477

Written comments should be received by July 18, 1988. Send to:

DEQ
Allan Solares
Remedial Action Section
811 S.W. Sixth Avenue
Portland, OR 97204

WHAT IS THE NEXT STEP:

After public hearings and the comment period, DEQ will evaluate and prepare a response to the comments. The DEQ will then recommend to the EQC that the Commission adopt the proposed rules at the August 19, 1988 EQC meeting. The EQC may either adopt the rules as proposed, or adopt a modified version of the proposed rules.

For more information, or to receive a copy of the proposed rules, call Allan Solares at (503) 229-5071, or toll-free in Oregon, 1-800-452-4011.

ZB7571

Attachment V
Agenda Item H.
June 10, 1988
EQC meeting

STATEMENT OF NEED FOR RULEMAKING

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

(1) Legal Authority

ORS 466.553(1) authorizes the Environmental Quality Commission to adopt rules, in accordance with the applicable provisions of ORS 183.310 to 183.550, necessary to carry out the provisions of ORS 466.540 to 466.590. In addition, ORS 468.020 authorizes the Commission to adopt such rules and standards as it considers necessary and proper in performing the functions vested by law in the Commission.

(2) Need for the Rule

ORS 446.553(2)(a) requires the Commission to adopt rules establishing the levels, factors, criteria or other provisions for the degree of cleanup including the control of further releases of a hazardous substance, and the selection of the remedial actions necessary to assure protection of the public health, safety, welfare and the environment. Although the law requires protection of public health, safety, welfare and the environment, it does not define or specify the level of protection or the degree of cleanup. Rules are needed to implement the statute and to guide the decision making process for degree of cleanup and selection of the remedial action.

(3) Principal Documents Relied Upon in this Rulemaking

-- ORS 466.540 to 466.575
-- ORS 466.705 to 466.835
-- OAR Chapter 340, Divisions 41, 47, 50, 61 and 108
-- Proposed Federal Underground Storage Tank Regulations, April 17, 1987, Federal Register, Subpart F.

-- Comprehensive Environmental Response, Compensation, and Liability Act, P.L. 96-510, as amended by PL 99-499.

LAND USE CONSISTENCY

The proposal appears to affect land use and to be consistent with the Statewide Planning Goals. Specifically, the proposed rules comply with Goal 6 by improving the quality of the air, water and land resources of the state through the cleanup of sites contaminated by releases of hazardous substances. The remedial actions performed pursuant to the proposed rules will identify the extent of hazardous substance contamination and protect public health, safety, welfare and the environment.

These proposed rules do not appear to conflict with other land use goals.

Public comment on any land use issues involved is welcome and may be submitted in the same fashion as indicated for testimony in this notice.

It is requested that local, state and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

FISCAL AND ECONOMIC IMPACT

These proposed rules will have a significant but indeterminable impact on state agencies[1], local government[1], and small and large businesses that are liable for contamination due to releases of hazardous substances into the environment.

The costs are indeterminable because information is not available on the number of sites, the nature and extent of contamination, the potential public health or environmental hazards, the degree of cleanup, the technologies available, or the need for long term operation and maintenance. This information and useful cost estimates will not be available for many years.

However, we can make an estimate of the order of magnitude. The cost of federal Superfund sites have ranged from $5 million to $25 million and up. The costs of state superfund sites will generally range from $50,000 to $2 million, and a few sites up to $20 million. The average cost may be approximately $500,000. If there are 200 sites cleaned up over the next 5 years, total

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[1] A unit of state or local government is generally not liable if it acquired ownership or control of a facility through either exercise of eminent domain or involuntarily by virtue of its function as sovereign, e.g., bankruptcy, abandonment, or tax delinquency proceedings.

costs, based on this average, would be approximately $100 million. Leaking petroleum underground storage tanks will cost an additional amount, which is discussed below.

The major fiscal and economic impact of cleanup is actually imposed by ORS 466.540 to 466.590 (Senate Bill 122 -- the Oregon superfund law) and ORS 466.705 to 466.790 (Senate Bill 115 -- the underground storage tank law) which both authorize the cleanup of contaminated sites to protect the public health, safety, welfare and the environment. SB 122 and SB 115 did not address the issue of how much protection is enough, except SB 122 required the Department to develop rules on the degree of cleanup and SB 115 authorized rules for corrective action.

Even if aggregate information were available, determining the cost of cleanup at even one specific site is very difficult and depends on a large number of factors. These proposed rules, by establishing the process for determining the level of cleanup, affect the level of these costs. It is not possible to segregate the incremental costs that might be associated with various levels of cleanup resulting from these or alternative rules.

Generally speaking, as protection increases, costs increase. For example, a cleanup level of 10 parts per million (ppm) of a hazardous substance will generally cost more than a cleanup to 100 ppm. How much more it will cost, will depend on the circumstances at the site and the technologies available.

These proposed rules identify the activities that will identify the characteristics of the site and the technologies available to achieve a range of cleanup levels. Based on the resulting information, the Director will weigh the options against an array of criteria and select the appropriate site-specific cleanup level. Only after completing this complex process is it possible to estimate costs at a specific site.

These proposed rules do not impose standardized requirements, like those found under some other environmental laws, where various types of equipment can be identified and costs estimated. Rather each site poses a unique risk management problem. Consequently, these proposed rules do not require cleanup to a predetermined numeric standard. Rather they specifically state that the remedial action, in addition to being protective, shall, to the maximum extent practicable, be cost effective, implementable and effective. Each remedial action must encompass the best equilibrium among these concerns. If the costs of cleaning up to Background Level are disproportionate to the degree of protection achieved, then the lowest concentration level, which is also practicable, will be selected.

This balance between varying degrees of protection and practicability can best be determined by a process of investigation and analysis that considers the unique circumstances

of each site and arrives at a site-specific decision. Thus it is not possible to identify whether these proposed rules would require more or less cleanup compared to another set of rules because each site is unique and the cleanup level is flexible.

Any governmental agency or business that has owned property or operated an activity, which involved the disposal, treatment, storage, generation or handling of hazardous wastes, petroleum and other hazardous substances, may be subject to the provisions of these rules. It is not possible to predict how much of the economic impact will be borne by small business and other business, and by state agencies and local agencies. A small percentage of these sites' cleanup costs will be paid by state or federal cleanup funds, but only when a potentially responsible party is recalcitrant, bankrupt, or not identifiable. Otherwise they will be paid by the liable person(s).

Petroleum Underground Storage Tank Releases

These proposed rules also include a section on the cleanup of releases of petroleum from underground storage tanks. Section E requires the Department to develop a matrices of soil cleanup levels for motor fuel and heating oil and then propose them to the EQC for rule adoption within six months of the effective date of these proposed rules. If the EQC adopts these soil cleanup levels, this will probably result in significant but unknown savings to owners, permittees, and potentially responsible parties.

Providing a predetermined cleanup level would result in significant but unknown savings because the owner, permittee or potential responsible party would not have to perform the remedial investigation or feasibility study under proposed rule 340-122-080 (to investigate the site and identify cleanup options) or justify a site-specific cleanup level above Background Level using the criteria and preferences under proposed rule 340-122-090.

This approach was adopted, in part, because a very large number of the sites that will be cleaned up, and most of the underground storage tank sites, will be for releases of motor fuel and heating oil. Many of these tanks are owned by small businesses, which cannot afford the economic burden of closing down operations and conducting extensive investigation and cleanup.

The costs of cleanups for leaking underground storage tanks have ranged from $25,000 to $1 million nationally and from $5000 to $200,000 in Oregon. Average costs in Oregon may be approximately $50,000. If there are 2000 sites with leaking petroleum USTs over the next 10 years, the total costs will be approximately $100 million.

A small portion of these costs will be paid by the Federal Leaking Underground Storage Tank Trust Fund for releases with no viable

potentially responsible party. The balance will be paid by the liable person(s). Close to a majority of these costs may be borne by small businesses that own gas stations. Local and state agencies, which operate gasoline stations for fleets or otherwise own underground storage tanks, will bear some of these costs.

Allan Solares:cc
(503) 229-5071
5/23/88

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

Proposed Rules Related to Providing the Opportunity to Recycle Source Separated Yard Debris

Date Prepared: 5/12/88
Hearing Date : 7/13/88
Comments Due : 7/14/88

WHO IS AFFECTED: Owners and operators of solid waste collection and disposal businesses and their customers. Operators of yard maintenance services. Operators of yard debris processing facilities. Local governments. The public who generate yard debris. Individuals involved in the implementation of the Oregon Recycling Opportunity Act (ORS 459.005 to 459.285).

WHAT IS PROPOSED The Department proposes to amend Oregon Administrative Rules, Division 340, Section 60 to set standards for yard debris recycling programs, initiating a process for the collection of source separated yard debris from generators. Implementation would begin January 1, 1989.

WHAT ARE THE HIGHLIGHTS: These rules assign the responsibility for yard debris recycling to local government. They set criteria for determining when an alternative method of providing the opportunity to recycle is acceptable. They also outline a planning and implementation process for yard debris recycling programs. The rules contain an enforcement procedure for jurisdictions which fail to provide the opportunity to recycle yard debris.

HOW TO COMMENT: Public hearings will be held before a hearings officer at:

2:00 p.m. and 7:00 p.m.
Wednesday July 13, 1988
Hearing Room - 2nd Floor
Portland Building
1120 S.W. 5th Avenue
Portland, Oregon

Written or oral comments can be presented at the hearing. Written comments can also be sent to the Department of Environmental Quality, Hazardous and Solid Waste Division, 811 S.W. 6th Avenue, Portland, Oregon 97204, but must be received no later than 5:00 p.m., Thursday. July 14, 1988.

(OVER)

811 S.W. 6th Avenue
Portland, OR 97204

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.

Copies of the complete proposed rule package may be obtained from the DEQ Hazardous and Solid Waste Division in Portland (811 S.W. 6th Avenue). For further information contact Dave Rozell at 229-6165.

WHAT IS THE NEXT STEP: The Environmental Quality Commission may adopt the amendments and new rules identical to the ones proposed, adopt modified amendments and rules as a result of testimony received or may decline to adopt any changes to the existing rules. The Commission may consider the proposed amendments and new rules at its meeting on August 19, 1988.

YF3027.D

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

To: Environmental Quality Commission

From: Director

Subject: Agenda Item I, June 10, 1988, EQC Meeting

Executive Summary of Staff Report Proposing Revisions to OAR Chapter 340, Division 61, Solid Waste Permit Fees.

Background

Solid Waste Permit fees were authorized by the Legislature in 1983. A fee schedule was adopted and fees collected beginning with fiscal year 1985. The 1987 Legislature authorized a 20% increase in fees to maintain current program level. A fee schedule was developed and reviewed by both the Executive Department and Legislative staff. The schedule was also recommended for approval by the Department's Solid Waste Advisory Committee.

Summary of Staff Report Key Issues

1. The 1987 Legislature authorized a 20% increase in solid waste permit fees.

2. The fee schedule is based on the amount of time spent on sites in the various fee categories.

3. Without the fee increase, one FTE (10% of program) would be lost, affecting compliance assurance activities.

4. Processing facilities should remain in the transfer station category.

SF3137

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item I, June 10, 1988, EQC Meeting

Proposed Adoption of Amendments to the Solid Waste Fee Rules, OAR 340, Division 61

Background

When the solid waste program began in 1971 it was funded entirely from the State General Fund. With the passage of the federal Resource Conservation and Recovery Act (RCRA) in 1976, federal funding was added to the program. Federal funds were eliminated from the program in 1981 when RCRA emphasis transferred to hazardous waste.

Because of the loss of RCRA funds the 1983 Legislature granted the Department authority to collect fees from permittees of solid waste disposal sites. Fees were implemented in July 1984 (Oregon Administrative Rules (OAR) 340-61-115 and 120). The Department's 1987-89 legislatively approved budget projects a 20% increase in fees for both solid waste permits and recycling. The fee increase was granted by the Legislature to maintain the current program, not to fund an increased effort in solid waste. The existing program consists of permit processing, plan review, compliance inspections and technical assistance and laboratory work including ground and surface sample collection and analysis. Without the increase in fees, one FTE would be lost to the program. Based on current staffing levels, the position would come from compliance inspections.

A draft fee schedule was presented during the 1987 Legislative Session to both the Executive Department and the Legislative Committee to comply with ORS 459.235. The fee schedule would produce the revenue necessary to continue operation of the solid waste and recycling program as follows:

	1985-87	1987-89
Solid Waste Permit Fees	$428,180	$520,800
Recycling Fees	$100,000	$123,134

This will be the first increase since fees were implemented in 1984.

Statement of Need for Rulemaking, is attached (Attachment I). The Commission is authorized to adopt rules pertaining to solid waste fees by ORS 459.235 and ORS 468.065 and recycling fees by ORS 459.170.

Alternatives and Evaluation

Two alternatives were considered to obtain the additional revenue; approved by the Legislature, both of which increased fees. The first option was an across-the-board 20% fee increase on each category. The second was a targeted increase on certain categories and a change in method of charging for monitoring. This targeted increase is the option recommended.

The fee schedule as proposed to the Executive Department and the legislative committee does not alter the highest existing fees (top 7 categories under the domestic waste category). It was the feeling of the Department that those facilities were already paying an equitable amount, but that the lower categories were not. This was based on an analysis of time spent on each category of sites by regional and headquarters staff.

The proposed fee increases include a change in fees for monitoring wells. As complexity of sample analysis increases and the number of monitoring wells at the major landfills increase, a new more equitable method of charging for monitoring is necessary. It is proposed that the monitoring fee be changed to $250 per sampling point (groundwater well or surface site) per year.

The proposed fee schedule was reviewed by the Solid Waste Advisory Committee and approved subject to two modifications. These modifications were:

1. Formalization of the number of sampling points the Department would charge for annually. This could be done by permit condition, operational plan approval or a letter from the Department.

2. Creation of a new fee category for facilities such as waste to energy facilities, incinerator and composting facilities.

Both modifications were acceptable to the Department. The number of sampling points will be negotiated with permittees prior to billing for FY 89 (July 1, 1988).

At the four public hearings concerning the proposed amendments, four people submitted oral testimony and one submitted written testimony. One of the oral presenters and the written testimony addressed the increase in fees at the lower categories and no increase in the highest seven categories. The objection was that the smaller landfills would have an increase in from 25% to 50% while the larger landfills would have no increase. Similarly, recycling fees would only increase approximately 5% for the largest landfills while smaller landfills would have from 150% to 233% increase. Two others, permittees of processing facilities, objected to a change in category from transfer station ($500) to resource recovery facility

($8,000). One person agreed with the increase in fees to support solid waste staff.

The attached hearing officer's reports and response to public comment provide a complete listing of all comments received and the Department's response.

As was stated before, fees on the lower volume sites were raised while the seven highest domestic waste categories were not raised. It is the Department's position that this raise is justified based on the amount of work needed at these lower volume sites and recommends the fee structure remain in place. Similar increases were felt justified in recycling fees. While a 233% increase in fees seems excessive, the actual fee is small. The smallest category site increased from $15 to $50. Recycling staff has determined that time spent in areas with small landfills (mostly the eastern part of the state) justifies the fee increase.

The Department agrees with the presenters that processing facilities should not be included in the resource recovery category. These facilities are basically transfer stations, receiving waste, mechanically and hand sorting from a belt recyclables and transferring the remainder for disposal. They are not a compliance problem and require little staff time. The proposed rules have been changed to place these facilities in the same category as transfer stations.

The Department is currently in the process of adopting new rules regulating storage of waste tires (OAR 340-62). Anyone having a Department permit for storage of waste tires would be required to pay an annual compliance fee of $250. In at least one case, the Department has a Solid Waste Disposal Permit on a waste tire storage site. This site will pay only $100 under the proposed fee schedule. To maintain equality between Solid Waste Permit fees and Waste Tire Storage Permit fees, a new category is proposed to be added to the Solid Waste Permit Fee Schedule which requires that a landfill having permit provisions for storage of over 100 waste tires will pay the fee associated with their population served (fee category) or $250, whichever is the highest (340-61-120(3)(a)(Q).

Summation

1. The 1987 Legislature authorized a 20% increase in permit fees by approval of the Department's budget request.

2. The Commission is authorized to adopt fees for solid waste disposal sites (ORS 459.235 and ORS 468.065) and for recycling implementation fees (ORS 459.170).

3. A draft fee schedule was presented to the Executive Department and the Legislature during the Legislative Session to comply with ORS 459.235.

4. Without the fee schedule increase, one position would be lost to the program affecting compliance activities at disposal sites.

5. The proposed fee schedule is based on amount of time spent on facilities by the Department.

6. Processing facilities are similar to transfer stations and should not be assessed a higher fee than transfer stations.

7. To maintain equity between Department programs, a solid waste disposal site with permit provisions to store waste tires should be charged a minimum fee of $250.

Director's Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed amendments to the solid wastes and recycling implementation fee rules in OAR Chapter 340, Division 61.

Fred Hansen

Attachments:
I. Statement of Need for Rulemaking
II. Hearing Officer's Reports (4)
III. Department Response to Public Comment
IV. Draft Rules OAR Chapter 340, Division 61

Robert L. Brown:f
SF2894
229-6237
May 26, 1988

Attachment I
Agenda Item __
6/10/88 EQC Meeting

Before the Environmental Quality Commission
of the State of Oregon

In the Matter of Amending OAR 340-61-120	)	Statement of Need for Rule Amendment and Fiscal and Economic Impact

1. Statutory Authority

ORS 459.235 and ORS 468.065 provide that fees may be charged for solid waste disposal facilities. ORS 459.170 provides that fees may be charged for implementation of a recycling program under ORS 459.165 through ORS 459.200.

2. Statement of Need

The Department's 1987-89 legislatively approved budget anticipates a 20% increase in permit fees to continue the solid waste program at present levels. This amounts to a biennium increase of $92,620.

Failure to increase fees would result in a reduction of solid waste program staff.

3. Principal Documents Relied Upon

A. Oregon Revised Statutes, Chapter 459 and 468.
B. Oregon Administrative Rules, Chapter 340, Division 61.
C. The Department of Environmental Quality's Legislatively Approved Budget 1987-89.

4. Fiscal and Economic Impact

The proposal would amend the existing permit processing fee and annual compliance fee for certain categories of solid waste disposal facilities. These categories now range from $50 to $1200 per site based on population served. The lowest fee of $50 for small transfer stations and closed disposal sites would remain unchanged. Landfills would be raised $50 to $300 again based on population served, to make the schedule from $100 to $1500. Monitoring well charges would be changed from $1000 (5 or under) and $2000 (6 or more) to $250/sampling point. This will be an increase for some facilities and a decrease for others. The fee increases may cause users of these facilities to experience a small increase in user fees. Other than this small increase to users, there will be no fiscal impact on small businesses.

SF2894.1

Attachment II

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: Environmental Quality Commission DATE: April 26, 1988

FROM: Robert L. Brown, Hearing Officer

SUBJECT: Public Hearing, Solid Waste Permit Fee Increase
Baker, 1:00 p.m., 4-18-88

On April 18, 1988 a Public Hearing regarding Solid Waste Rule Amendment (OAR 340-61-120) to increase certain categories of permit fees was held in Baker, Oregon. One person attended. No testimony was given.

Written testimony from this area of the state is attached. A summary of that testimony follows:

Susan McHenry, Pendleton Sanitary Service, operator of the Pendleton Landfill indicated that a flat fee increase to raise the necessary money should have been used rather than selecting the smaller sites to bear the total increase.

SF3080
Attachments

Pendleton Sanitary Service, Inc.

P.O. Box 1405
Pendleton, Oregon 97801
(503) 276-1271

April 6, 1988

Mr. Robert L. Brown
Hazardous & Solid Waste Division
DEPARTMENT OF ENVIRONMENTAL QUALITY
811 SW Sixth Avenue
Portland, OR 97204-1390

Dear Mr. Brown:

In response to your notice of proposed permit fee increases, we wish to register the following comments and objections.

We feel that changes proposed to the filing fee and application processing fees are equitable, as they impact all applications in the same manner. There is a point to be made, however, that rate increases for regulated landfill operations are not easy to come by, and cannot just be passed along to the consumer. In our current economy, we, in Pendleton, are required to provide additional services or equipment or some tangible item to justify a rate increase.

Our primary objection to the proposed increases, however, lies with the annual compliance fees and recycling compliance fees. These do not appear to be assessed equitably. There is no change to the application fees for domestic waste facilities handling 25,000 tons per year or more; the entire impact of your proposed increase is borne by the small landfill operator, who would incur increases of 25% to 50% in his annual compliance fee. It seems that a more equitable method would be to apply a very SMALL percentage increase to all annual compliance fees to generate additional money, if, in fact, that is proven necessary.

Similar appropriation is apparent in the recycling fees; landfills of 500,000 tons per year or more incur an increase of 5%. Landfills which handle less than 5,000 tons per year face an increase of 150%, and under 1,000 tons per year 233%. Again, we suggest that if, indeed, it is necessary to generate additional money for these compliance programs, it be generated by more equitable fee increases to ALL landfills than those proposed at this time, which place the burden of the expense on the small operator. Please bear in mind that the small operators can not only least afford increases in operating costs, but also frequently present the least significant compliance problems.

Thank you for your consideration; we will appreciate any additional information on this issue as it becomes available.

Sincerely,

PENDLETON SANITARY SERVICE, INC.

Susan E McHenry

Susan E. McHenry, Vice President

Sign Up Sheet
SW Fees Public Hearing
Baker, Or 4-18-88

Loren Henery Baker Dickfood Inc.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: Environmental Quality Commission DATE: April 26, 1988

FROM: Robert Brown, Hearing Officer

SUBJECT: Public Hearing, Solid Waste Permit Fee Increase
Bend, 1:00 p.m., 4-19-88

On April 19, 1988, a Public Hearing regarding Solid Waste Rule Amendment (OAR 340-61-120) to increase certain categories of permit fees was held in Bend, Oregon. Two persons attended, one testified.

Gary Goodman, Prineville Disposal, operator of the Crook County Landfill, was concerned regarding the increase. His fees will increase 50% for solid waste compliance, and 30% for recycling. He was also concerned that as operator of the site he had not been notified of the hearing.

SF3079

SIGN UP

SW FEES PUBLIC HEARING

BEND 4-19-88

Gary Goodman
Dick Johnson

Prineville Disposal Inc
~~Bend~~ Deschutes County P.W.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMO

TO: Environmental Quality Commission DATE: April 26, 1988

FROM: Robert Brown, Hearing Officer

SUBJECT: Public Hearing, Solid Waste Permit Fee Increase
Medford, 1:30 p.m., 4-20-88

On April 20, 1988, a Public Hearing regarding Solid Waste Rule Amendment (OAR-340-61-120) to increase certain categories of permit fees was held in Medford, Oregon.

Eight persons attended, none testified.

SF3078

SW FEE INCREASE
MEDFORD OR 4-20-88

NAME	ADDRESS
Patrick D Fahey	PO Box 6000, Grants Pass 97527
Harold P Fahey	" "
Robert L Wenther	170 oak Ash Or
Dick Bell	Refuse Co
Henry W. York	G.P. Sanitation - TRICO Disp. Inc #159
Leonard Griggs	City Sanitary Medford Ore
Danny Morrow	" " " "
Larry Eigotti	Ashland San. Service

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission Date: May 4, 1988

From: Robert Brown, Hearing Officer

Subject: Public Hearing, Solid Waste Permit Fee Increase, Portland, 1:00 p.m., April 22, 1988

On April 22, 1988, a public hearing regarding Solid Waste Rule Amendments (OAR 340-61-120) to increase certain categories of permit fees was held in Portland, Oregon. Three persons attended and testified.

Ralph Gilbert, East County Recycling Co., Portland, was concerned that their business had been changed from a transfer station ($500) to a resource recovery facility ($8,000). He asked consideration of remaining in the same category.

David Luneke, Oregon Waste Systems, testified in favor of the increase, citing need for consistent enforcement activities.

Merle Irvine, Wastech Inc., Portland, stated that their firm received and processed mixed waste for recycling. He indicated that they should remain in the transfer station category. Their activity is higher on the state hierarchy of disposal priorities than landfill or energy recovery. They use rate incentives to generate business. The change in category is inconsistent with both state and Metro waste reduction goals and penalizes recycling. Metro has exempted their facility from any fees. The Department should reconsider the change in fees from $500 to $8,000 and leave the facility in the transfer station category.

Robert L. Brown

R.L. Brown:b
229-6237
SB7493

PORTLA...

SW FEES
PUBLIC HEARING 4-22-88

NAME	ADDRESS
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DAVE LUNEKE	5330 N.E. SKYPORT WAY 97218
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NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission Date: May 4, 1988

From: Robert Brown, Hazardous and Solid Waste Division

Subject: Response to Public Comment
Public Hearings
Solid Waste Fee Increases (OAR 340-61-120)

Comment: Fees should have been assessed equally on all categories, not placed on the smaller disposal sites.

Response: A 20% fee increase on all fees was considered. However, at the time of fee adoption in 1984, it was known that the fees were higher than average on the larger disposal sites (therefore, lower on small sites). This fee schedule more adequately addresses the amount of staff time allocated to each category of site. It is the Department's opinion that the fee schedule should be adopted as proposed.

Comment: Site operators were not adequately notified of the public hearings.

Response: The Department maintains a mailing list of Solid Waste Disposal Site Permittees. All permittees were supplied a notice of public hearing and a copy of the proposed fee increases. It is the Department's opinion that permittees should be responsible to their operators to relay the information; however, every effort has been made to add operators, who are responsible for operation, permit fees, etc., to the permittee mailing list.

Comment: The two processing facilities now classified as transfer stations should remain in that category. An increase in fees from $500 to $8,000 is not warranted. The facilities receive waste, separate out recyclables and transfer the remainder to the landfill.

Response: Staff agrees that these facilities are unique and should remain in the transfer station category. The proposed rules have been changed to leave processing facilities in the transfer station category.

Robert Brown

RLB:b
229-6237
SB7492
April 26, 1988

Attachment IV
Agenda Item I
6/10/88 EQC Meeting

Proposed Amendments to OAR 340-61-120

Permit Fee Schedule

340-61-120 (1) Filing Fee. A filing fee of $50 shall accompany each application for issuance, renewal, modification, or transfer of a Solid Waste Disposal Permit. This fee is non-refundable and is in addition to any application processing fee or annual compliance determination fee which might be imposed.

(2) Application Processing Fee. An application processing fee varying between [$25]$50 and [$1,000]$2,000 shall be submitted with each application. The amount of the fee shall depend on the type of facility and the required action as follows:

(a) A new facility (including substantial expansion of an existing facility):

(A) Major facility[1] .....[$1,000]$2,000
(B) Intermediate facility[2] .....[$ 500]$1,000
(C) Minor facility[3] .....[$ 175]$ 300

---

[1]**Major Facility Qualifying Factors:**

-a- Received more than 25,000 tons of solid waste per year; or
-b- Has a collection/treatment system which,, if not properly constructed, operated and maintained, could have a significant adverse impact on the environment as determined by the Department.

[2]**Intermediate Facility Qualifying Factors:**

-a- Received at least 5,000 but not more than 25,000 tons of solid waste per year; or
-b- Received less than 5,000 tons of solid waste and more than 25,000 gallons of sludge per month.

[3]**Minor Facility Qualifying Factors:**

-a- Received less than 5,000 tons of solid waste per year; and
-b- Received less than 25,000 gallons of sludge per month.

All tonnages based on amount received in the immediately preceding fiscal year, or in a new facility the amount to be received the first fiscal year of operation.

(b) Preliminary feasibility only (Note: the amount of this fee may be deducted from the complete application fee listed above):

(A) Major facility .....[$ 600]$1,200
(B) Intermediate facility .....[$ 300]$ 600
(C) Minor facility .....[$ 100]$ 200
(c) Permit renewal (including new operational plan, closure plan or improvements):
(A) Major facility ..... $ 500
(B) Intermediate facility .....$ 250
(C) Minor facility .....[$ 75]$ 125
(d) Permit renewal (without significant change):
(A) Major facility .....[$ 200]$ 250
(B) Intermediate facility .....[$ 100]$ 150
(C) Minor facility .....[$ 50]$ 100
(e) Permit modification (including new operational plan, closure plan or improvements):
(A) Major facility .....$ 500
(B) Intermediate facility .....$ 250
(C) Minor facility .....[$ 75]$100
(f) Permit modification (without significant change in facility design or operation): All categories .....[$ 25]$ 50
(g) Permit modification (Department initiated) All categories .....No fee
(h) Letter authorizations, new or renewal:.....$ 100
(3) Annual Compliance Determination Fee (In any case where a facility fits into more than one category, the permittee shall pay only the highest fee):
(a) Domestic Waste Facility:
(A) A landfill which received 500,000 tons or more of solid waste per year: $60,000
(B) A landfill which received at least 400,000 but less than 500,000 tons of solid waste per year: $48,000
(C) A landfill which received at least 300,000 but less than 400,000 tons of solid waste per year: $36,000
(D) A landfill which received at least 200,000 but less than 300,000 tons of solid waste per year: $24,000
(E) A landfill which received at least 100,000 but less than 200,000 tons of solid waste per year: $12,000
(F) A landfill which received at least 50,000 but less than 100,000 tons of solid waste per year: .....$ 6,000
(G) A landfill which received at least 25,000 but less than 50,000 tons of solid waste per year: .....$ 3,000
(H) A landfill which received at least 10,000 but less than 25,000 tons of solid waste per year: .....[$ 1,200]$1,500
(I) A landfill which received at least 5,000 but not more than 10,000 tons of solid waste per year: .....[$ 500]$ 750
(J) A landfill which received at least 1,000 but not more than 5,000 tons of solid waste per year: .....[$ 100]$ 200
(K) A landfill which received less than 1,000 tons of solid waste per year: .....[$ 50]$ 100

(L) A transfer station or processing facility [incinerator, resource recovery facility and each other facility not specifically classified above] which received more than 10,000 tons of solid waste per year: .....$ 500

(M) A transfer station or processing facility [incinerator, resource recovery facility and each other facility not specifically classified above] which received less than 10,000 tons of solid waste per year: .....$ 50

(N) An incinerator, resource recovery facility other than processing facility, composting facility and each other facility not specifically classified above which receives 100,000 tons or more of solid waste per year:.....$8,000

(O) An incinerator, resource recovery facility other than processing facility, composting facility and each other facility not specifically classified above which receives at least 50,000 tons but less than 100,000 tons of solid waste per year:.....$4,000

(P) An incinerator, resource recovery facility other than processing facility, composting facility and each other facility not specifically classified above which receives less than 50,000 tons of solid waste per year:.....$2,000

(Q) A landfill which has permit provisions to store over 100 waste tires--the above fee or $250 whichever is highest.

(b) Industrial Waste Facility:

(A) A facility which received 10,000 tons or more of solid waste per year: .....[$1,000]$1,500

(B) A facility which received at least 5,000 tons but less than 10,000 tons of solid waste per year: .....[$ 500]$ 750

(C) A facility which received less than 5,000 tons of solid waste per year: .....[$ 100]$ 150

(c) Sludge Disposal Facility:

(A) A facility which received 25,000 gallons or more of sludge per month: .....[$ 100]$ 150

(B) A facility which received less than 25,000 gallons of sludge per month: .....[$ 50]$ 100

(d) Closed Disposal Site: Each landfill which closes after July 1, 1984:.....10% of fee which would be required, in accordance with subsections (3)(a), (3)(b), and (3)(c) above, if the facility was still in operation or $50 whichever is greater.

(e) [Facility With Monitoring Well: In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane, surface water sampling points, or any other structures or locations requiring the collection and analysis of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:]

[(A) A facility with six or less monitoring wells or sampling points: .....$1,000]

[(B) A facility with more than six monitoring wells or sampling points:

.....[$2,000]
Facility with Monitoring Wells:

In addition to the fees described above, each facility with one or more wells for monitoring groundwater or methane, surface water sampling points, or any other structures or locations requiring the collection and analysis of samples by the Department, shall be assessed a fee. The amount of the fee shall depend on the number of wells (each well in a multiple completion well is considered to be a separate well) or sampling points as follows:
For each well or sampling point.....$250

(4) Annual Recycling Program Implementation Fee. An annual recycling program implementation fee shall be submitted by each domestic waste disposal site, except transfer stations and closed landfills. This fee is in addition to any other permit fee which may be assessed by the Department. The amount of the fee shall depend on the amount of solid waste received as follows:

(a) A disposal site which received 500,000 tons or more of solid waste per year .....[$19,000]$20,000

(b) A disposal site which received at least 400,000 but less than 500,000 tons of solid waste per year:.....[$15,200]$18,000

(c) A disposal site which received at least 300,000 but less than 400,000 tons of solid waste per year:.....[$11,400]$14,000

(d) A disposal site which received at least 200,000 but less than 300,000 tons of solid waste per year:.....[$ 7,600]$ 9,000

(e) A disposal site which received at least 100,000 but less than 200,000 tons of solid waste per year: .....[$ 3,800]$ 4,600

(f) A disposal site which received at least 50,000 but less than 100,000 tons of solid waste per year: .....[$ 1,900]$ 2,300

(g) A disposal site which received at least 25,000 but less than 50,000 tons of solid waste per year: .....[$ 950]$ 1,200

(h) A disposal site which received at least 10,000 but less than 25,000 tons of solid waste per year: .....[$ 375]$ 450

(i) A disposal site which received at least 5,000 but less than 10,000 tons of solid waste per year:.....[$ 175]$ 225

(j) A disposal site which received at least 1,000 but less than 5,000 tons of solid waste per year: .....[$ 30]$ 75

(k) A disposal site which received less than 1,000 tons of solid waste per year: .....[$ 15]$ 50

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item J, June 10, 1988, EQC Meeting. Proposed Adoption of Amendments to Procedures for Issuance, Denial, Modification, and Revocation of Permits (OAR 340-14-005 through 050), Air Contaminant Discharge Permit Notice Policy (OAR 340-20-150), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035 and 055).

The Department issues, modifies, and denies various permits according to general regulations set forth in Division 14 of the Oregon Administrative Rules. Although the Department follows both written and unwritten procedures for holding public hearings on proposed permit actions, the general rules in Division 14 contain no public hearing requirements or guidance. The Department identified the need to promulgate uniform public hearing rules while involved in the settlement of a law suit (Sierra Club et al. v Department of Environmental Quality) in which plaintiffs contended that the Department should have held a public hearing before issuing an Air Contaminant Discharge Permit to Entek Mfg. Co.

Although the Entek suit involved only air contaminant discharge permits, the Department offered in the Entek settlement agreement to amend its general permitting regulations to require a public hearing upon receipt of written requests from ten or more persons, or an organization representing ten or more persons.

In response to comments received during the hearings period, the Department proposes to further amend its air contaminant permit procedures to require additional information regarding new or increased emissions on the public notice of a proposed permit.

AK583 (5/88)

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item J, June 10, 1988, EQC Meeting

Proposed Adoption of Amendments to Procedures for Issuance, Denial, Modification, and Revocation of Permits (OAR 340-14-005 through 050), Air Contaminant Discharge Permit Notice Policy (OAR 340-20-150), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035, and 055).

Background and Problem Statement

The Department proposed to amend its general permitting regulations to require a public hearing upon receipt of written requests from ten or more persons, or an organization representing ten or more persons. It also proposed to amend Air Contaminant Discharge, and NPDES procedures by defining the hearing-triggering event of significant public interest as written requests from ten or more persons or an organization representing ten or more persons. These amendments were proposed to bring consistency to the Department's permitting procedures, and to fulfill the requirements of the settlement agreement in Sierra Club et al. v Department of Environmental Quality (Multnomah Co. Circuit Ct. No.A8704-02706), otherwise known as the Entek case.

The settlement agreement in the Entek case was proposed by the Department, with the assistance of the Attorney General. The Entek case focused upon issuance of air contaminant discharge permits. However, in developing and implementing the settlement agreement, the Department decided to take a much broader approach and to bring consistency, clarity and fairness to all of its general procedures for public participation in air, water, and solid waste permits. A brief description of the Entek case is contained on page 1 of the Staff Report requesting authorization for hearing on these rules (Attachment 2). The Entek settlement agreement and statement of need for rulemaking are also attached (Attachments 3 and 4).

The EQC authorized hearing on the permit procedure amendments on March 11, 1988. Public notice of the hearings was published in the Oregon Administrative Rules Bulletin on April 1, 1988, and notices were mailed to lists of interested persons. The Department held a public hearing on May 3 in Portland, and received written and oral comments.

Alternatives and Evaluation

1. Alternatives

The Commission could adopt the rules as proposed, adopt a revised set of rules, or take no action on the proposed rules. The Entek settlement agreement required the Department to propose and recommend adoption of a new administrative rule expanding citizen participation in the permitting process. In conformity with this agreement, and from a desire to promulgate rules consistent with its existing policy on public participation in permitting, the Department proposed changes to its permitting procedures. In general, these changes reflect current Department practices, and if adopted, would provide the public with clear rules on when and how they could participate in permitting decisions. No breach of the Entek settlement agreement would result if the Commission chose not to adopt these amendments, because the settlement agreement binds only the Department. However, failure to adopt these amendments could result in continued controversy regarding existing vague public hearing standards. Adoption of the proposed amendments would assure some degree of consistency in Department decisions regarding public hearings.

2. Public Comments

All persons commenting on the proposed rules approved of the amendments. A Hearings Officer's Report and Response to Comment Summary are attached (Attachments 6 and 7). In addition, there were three recommendations made regarding permitting procedures. First, commentors recommended that the Department amend its rules to require in its public notices inclusion of the type and quantity of emissions permitted. Some commentors also requested inclusion of amounts of increase of pollutants, possible health effects, the type of facility involved, location of the facility, and how to obtain more information. Commentors believe that informed comment or request for a public hearing is not possible without, at a minimum, information regarding type and quantity of permitted pollutants.

These concerns apply mainly to Air Contaminant Discharge Permit notices, which are issued frequently, often contain multiple sources, and do not state emissions to be permitted.

After evaluation, the Department concurred that public notices for Air Contaminant Discharge Permits should include the type and quantity of new or increased pollutants for which it has by rule identified a significant emission rate. Because of the quantity of permits and public notices the Department processes, it is necessary to keep additional information to a minimum. Publishing the type and quantity of significant new or increased pollutants will alert interested persons to emissions of potential concern, and those persons can contact the Department for more information. Current public notices state the type of facility, its location, and how the public can obtain more information.

To implement this change, the Department proposes an amendment to OAR 340-20-150, the Air Contaminant Discharge Permit Notice Policy. The amendment would require public notices to state the name and quantity of new or increased emissions that exceed significant emission rates established by the Department. (See Attachment 1 - Proposed Rules) Significant emission rates are developed using conservative models, and indicate levels at which the Department will engage in further review. The Department has established significant emission rates for criteria pollutants and NESHAPS pollutants, and is in the process of developing significant emission rates for toxic air pollutants.

The Department anticipates that inclusion of certain emission rates in public notices will result in an increased workload for the Air Quality Program Operations Section, both in the addition to public notice forms and the increased number of calls and requests from the public.

Second, the Department received a comment in opposition to the 45 day temporary or conditional permit provision in Division 14. This provision was seen as potentially allowing issuance of a permit without sufficient Department review, and causing increased likelihood of final permit issuance through applicant reliance.

Under OAR 340-14-020(4)(a) and (b), the Department has the opportunity at an early stage to request that an applicant submit more information and/or to notify the applicant that additional fact-finding measures are necessary. No time limit applies to this fact-finding period, which allows the Department to assimilate information necessary to the permitting decision. These provisions render unlikely the possibility that a temporary or conditional permit would be issued without adequate Department consideration of an application.

Proposed amendments to Division 14 would cause the 45 day temporary permit provision to commence after the closing of the public comment or hearing period. The Department believes that the combination of these amendments and the fact finding period provides sufficient time for complete action on an application. Issuance of a temporary permit is a very unlikely event, and should not influence the final permitting decision. The Department cannot identify any instances, within the past 5 to 10 years, in which an applicant has commenced activities based on a 45 day temporary permit. Finally, the 45 day temporary permit provision reflects a deadline requirement in ORS 459.245, the statute governing solid waste permits.

Third, one commentor requested that the Department promulgate a new rule stating that the granting of a permit constitutes final agency action for the purposes of the Administrative Procedures Act (ORS 183 et seq.). The existing regulations in OAR 340-14-023 (3) and (4) refer to issuance, modification or denial of a permit as "final action". Therefore, the Department believes that its rules adequately define permit actions as final agency action.

3. The Proposed Rule

Under the proposed rule changes, the following permit application process under Division 14 would result:

a) An applicant submits an application for a permit.

b) Within 15 days after filing the Department will preliminarily review the application for adequacy of information. If needed, the Department will request more information, without which an application will be incomplete for processing.

c) If the Director determines that more facts regarding the application must be gathered, the applicant will be notified, and a time table and procedures will be established. When adequate information has been gathered, the Department will notify the applicant that the application is complete for processing.

d) The Department will review the complete application and propose permit provisions. Proposed provisions will be sent to the applicant and proposed provisions or public notice will be sent to interested persons (at the Department's discretion) for comment. To receive consideration, written comments must be received within 14 days after commencement of the public notice period. For Air Contaminant Discharge Permits, the Department must issue a notice and allow at least 30 days for public comment. These notices must state the name and quantity of permitted new or increased emissions which exceed significant emission rates established by the Department.

e) If, within 14 days after commencement of the public notice period, ten persons or an organization representing at least ten persons requests a public hearing in writing, then the Department shall provide such a hearing. The Department may also schedule a public hearing before receiving written requests, or if fewer than ten persons request a hearing.

f) Within 45 days after closing of the public comment period, or after closing of the public hearing record if a hearing was held, the Department shall take final action on a permit application, and promptly notify the applicant.

g) If the Department fails to take final action on an application within 45 days after closing of the public comment and hearing record period, the applicant will receive a temporary permit which will expire upon final agency action upon the application.

h) If an application for a renewal of a permit is filed with the Department in a timely manner prior to the expiration date of the existing permit, the existing permit will not expire until the Department has taken final action on the renewal application.

i) An applicant may request a hearing before the Commission within 20 days of the mailing date of the notification of permit issuance.

The only substantive changes made to these rules since the request for hearing authorization appear in paragraphs (d) and (e), above. Paragraph (d) describes the change to the Air Contaminant Discharge Permit public notice rules (OAR 340-20-150). Paragraph (e) describes a change to the new rules governing the procedures for requesting a public hearing (OAR 340-14-025). Under this change, the rules reflect the intent of the Entek settlement agreement by stating that the public may request a hearing 14 days after the commencement of the public notice period. When an Air Contaminant Discharge Permit is proposed, the public is not generally notified through mailing of proposed provisions, but instead by a public notice that is published and mailed to persons on lists. Permit provisions may be mailed later, as requested.

The Department also proposes to add the definition of "significant public interest" to 340-45-055, the regulations on Department Initiated Modification of a NPDES Permit. Again, "significant public interest" that merits a public hearing will be defined as "written requests for a hearing from ten persons, or from an organization representing at least ten persons". This change was initiated by the Department, and is consistent with all of the other previously proposed amendments.

Summation

1. The Department recognizes the need, and is also required by the Entek settlement agreement to propose and recommend adoption of amendments to bring consistency and clarity to procedures for public participation in permitting. The proposed amendments go beyond the scope of the Entek case by amending general procedures for air, water, and solid waste permits. Proposed amendments will require the Department to conduct a public hearing on a proposed permit if it receives written hearing requests from ten persons or an organization representing ten persons within 14 days of the commencement of the public notice period.

2. The Department was granted authorization to hold public hearings on the proposed rule changes at the March 11, 1988, EQC Meeting.

3. Announcement of the public hearings was published in the Secretary of State's bulletin on April 1, 1988.

4. A public hearing was conducted in Portland on May 3, 1988.

5. Several comments were received that resulted in a change to the rule requiring the Department to issue public notice of proposed Air Contaminant Discharge Permits. This change would require the Department to include additional information regarding new or increased emissions on the public notice. The Department also proposes minor changes to the amended rules. One change would allow the public to request a public hearing within 14 days of the beginning of the public comment period, instead of the mailing of proposed

provisions, because the Department does not generally send out proposed provisions unless they are requested. The other change adds a definition of significant public interest to a second section in the NPDES permit procedures.

Director's Recommendation

Based on the Summation, it is recommended that the EQC adopt the proposed amendments to the Department's general permitting procedures.

Fred Hansen

Attachments:
1. Proposed Rule Revisions
2. Staff Report Requesting Hearing Authorization
3. Entek Settlement Agreement
4. Statement of Need for Rulemaking
5. DEQ Guidelines on Public Participation in the Permitting Process
6. Hearings Officer's Report
7. Response to Comment Summary

Sarah Armitage:sva:k
229-5581
May 27, 1988
AK582

ATTACHMENT 1
Agenda Item J
June 10, 1988 EQC Meeting

PROPOSED RULE REVISIONS

See Attachment 1 of this Agenda Item for the full text and location of these revisions.

Revision 1

Exceptions
340-14-007

The procedures prescribed in this Division do not apply to the issuance, denial, modification and revocation of the following permits: National Pollutant Discharge Elimination System (NPDES) permits issued pursuant to the Federal Water Pollution Control Act Amendments of 1972 and acts amendatory thereof or supplemental thereto, [The procedures for processing and issuance of NPDES permits are] as prescribed in OAR [Chapter 340, rules] 340-45-005 through 340-45-065; Resource Conservation and Recovery Act (RCRA) permits as prescribed by OAR Chapter 340, Division 106; and the Underground Storage Tank (UST) permits as prescribed by OAR 340-150-010 through 340-150-067.

Revision 2

Definitions
340-14-010

As used in these regulations unless otherwise required by context:

(1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.

(2) "Commission" means Environmental Quality Commission.

(3) "Director" means Director of the Department of Environmental Quality or [his] the Director's authorized deputies or officers.

(4) "Permit" means a written permit issued by the Department, bearing the signature of the Director, which by its conditions may authorize the permittee to construct, install, modify or operate specified facilities, conduct specified activities or emit, discharge or dispose of wastes in accordance with specified limitations.

Revision 3

Application for a Permit
340-14-020

(1) Any person wishing to obtain a new, modified, or renewal permit form the Department shall submit a written application on a

form provided by the Department. Applications must be submitted at least 60 days before a permit is needed. All application forms must be completed in full, signed by the applicant or [his] the applicant's legally authorized representative, and accompanied by the specified number of copies of all required exhibits. The name of the applicant must be the legal name of the owner of the facilities or [his] the owner's agent or the lessee responsible for the operation and maintenance.

(2) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits (clearly identified) will not be accepted by the Department for filing, and will be returned to the applicant for completion.

(3) Applications which appear complete will be accepted by the Department for filing.

(4) Within 15 days after the filing, the Department will preliminarily review the application to determine the adequacy of the information submitted:

(a) If the Department determines that additional information is needed it will promptly request the needed information from the applicant. The application will not be considered complete for processing until the requested information is received. The application will be considered to be withdrawn if the applicant fails to submit the requested information within 90 days of the request;

(b) If in the opinion of the Director, additional measures are necessary to gather facts regarding the application, the Director will notify the applicant [of his intent to institute said measures] that said measures will be instituted, and the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate, the applicant will be notified that this application is complete for processing. [Processing will be completed within 45 days after such notification.]

(5) In the event the Department is unable to complete action on an application within 45 days [after notification that the application is complete for processing,] of closing of public comment or closing of the hearing record under OAR 340-14-025(2) and (3), the applicant shall be deemed to have received a temporary or conditional permit, such permit to expire upon final action by the Department to grant or deny the original application. Such temporary or conditional permit does not authorize any construction, activity, operation or discharge which will violate any of the laws, rules, or regulations of the State of Oregon or the Department of Environmental Quality.
340-14-025.

(6) If, upon review of an application, the Department determines that a permit is not required, the Department shall notify the applicant in writing of this determination. Such notification shall constitute final action by the Department on the application.

Revision 4

Issuance of a Permit
340-14-025 (1)

(1) Following determination that it is complete for processing, each application will be reviewed on its own merits. Recommendations will be developed in accordance with the provisions of all applicable statutes, rules and regulations of the State of Oregon and the Department of Environmental Quality.

(2) If the Department proposes to issue a permit, public notice or proposed provisions prepared by the Department will be forwarded to the applicant and other interested persons at the discretion of the Department for comment. All comments must be submitted in writing [within 14 days after mailing of the proposed provisions] 14 days from the commencement of the public notice period if such comments are to receive consideration prior to final action on the application.

(3) If, within 14 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Notice of such a hearing may be given, in the Department's discretion, either in the notice accompanying the proposed provisions or in such other manner as is reasonably calculated to inform interested persons.

(4) [(3) After 14 days have elapsed since the date of mailing of the proposed provisions, the Department may take final action on the application for a permit.] The Department shall take final action on the permit application within 45 days of the closing of public comment under OAR 340-14-025(2), or, if a public hearing is held under OAR 340-14-025(3), within 45 days of closing of such hearing's record. Regarding solid waste disposal permits under ORS 459.245, consideration of such public comment or record shall constitute good cause for extension of time to act on such applications. The Department may adopt or modify the proposed provisions or recommend denial of a permit. In taking such action, the Department shall consider the comments received regarding the proposed provisions and any other information obtained which may be pertinent to the application being considered.

(5) [4] The Department shall promptly notify the applicant in writing of the final action taken on [his] an application. If the Department recommends denial, notification shall be in accordance with the provisions of rule 340-14-035. If the conditions of the permit issued are different from the proposed provisions forwarded to the applicant for review, the notification shall include the reasons for the changes made. A copy of the permit issued shall be attached to the notification.

(6) [5] If the applicant is dissatisfied with the conditions or limitations of any permit issued by the Department, [he] the applicant may request a hearing before the Commission or its authorized representative. Such a request for hearing shall be made in writing to the Director within 20 days of the date of mailing of the notification of issuance of the permit. Any hearing held shall be conducted pursuant to the regulations of the Department.

Revision 5
New Source Review
Procedural Requirements
340-20-230 (3)(D)

Upon determination that significant interest exists, or upon written requests for a hearing from ten (10) persons or from an organization or organizations representing at least ten persons, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR Chapter 345, Division 15.

Revision 6
Issuance of NPDES Permits
340-45-035 (7)

The Director shall provide an opportunity for the applicant, any affected state, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to NPDES applications. If the Director determines that useful information may be produced thereby, or if there is significant public interest in holding a hearing, or there are written requests for a hearing from ten (10) persons or from an organization or organizations representing at least ten persons, a public hearing will be held prior to the Director's final determination. Instances of doubt shall be resolved in favor of holding the hearing. There shall be public notice of such hearing.

340-45-055

In the event that it becomes necessary for the Department to institute modification of a NPDES permit due to changing conditions or standards, receipt of additional information or any other reason pursuant to applicable statutes, the Department shall notify the permittee by registered or certified mail and shall at that time issue a public notice announcement in a manner approved by the Director of its intent to modify the NPDES permit. Such notification shall include the proposed modification and the reasons for modification. The modification shall become effective 20 days from the date of mailing of such notice unless within that

time the permittee requests a hearing before the Commission or its authorized representative or unless the Director determines that significant public interest merits a public hearing or a change in the proposed modification [.], or if there are written requests for a hearing from ten (10) persons or from an organization representing at least ten persons. Any request for hearing by the permittee or any person shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the regulations of the Department. A copy of the modified NPDES permit shall be forwarded to the permittee as soon as the modification becomes effective. The existing NPDES permit shall remain in effect until the modified NPDES permit is issued.

Revision 7
Air Contaminant Discharge Permit Notice Policy
340-20-150

It shall be the policy of the Department and the Regional Authority to issue public notice as to the intent to issue an Air Contaminant Discharge Permit allowing at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of permit. If the proposed Air Contaminant Discharge Permit authorizes discharge of new or increased emissions of pollutants which exceed significant emission rates established by the Department, then the public notice shall contain the name and quantity of the new or increased emissions.

ATTACHMENT 2
EQC Agenda Item J
June 10,1988 EQC Meeting

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item D March 11, 1988 EQC Meeting

Request for Authorization to Conduct a Public Hearing on Amendments to Procedures for Issuance, Denial, Modification and Revocation of Permits (OAR 340-14 005 through 050), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035)

Background and Problem Statement

The Procedures for Issuance, Denial, Modification and Revocation of Permits contained in OAR 340-14-005 through 050 (Division 14) prescribe uniform procedures for obtaining permits from the Department of Environmental Quality. These regulations require the Department to send proposed permit provisions to applicants and other interested persons for comment. Interested persons may submit comments until 14 days after the date the proposed provisions were mailed. In deciding whether to issue a permit, the Department must consider the submitted comments. Although the Department follows certain written and unwritten procedures for holding public hearings on various proposed permit provisions, DEQ's general procedures in Division 14 contain no public hearing requirements or guidance.

In the December 1987 settlement of a law suit filed by the Sierra Club and the Oregon Environmental Council, the Department agreed to propose and recommend adoption of an amendment that specifies when the Department would hold public hearings on proposed permits. (Sierra Club et al. v Department of Environmental Quality, Multnomah County Circuit Court Case No. A8704-02706) The Sierra Club and the Oregon Environmental Council contended that the Department should have held a public hearing before issuing to Entek Manufacturing Company a five year permit setting limits on discharges of trichloroethylene. Prior to issuing the Entek permit, the Department provided the public with a chance to comment by letter, placed a notice in the local newspaper, sent news releases to the local media, prepared and distributed a fact sheet and placed an information packet in the local library. The Department decided not to hold a public hearing on the Entek permit because of time constraints and the belief that the public had been provided with ample opportunity to comment on proposed permit provisions. Although the Air Quality Division acted within its customary permitting procedures, its failure to hold a public hearing resulted in considerable controversy and a legal action against the Department. These results may have been avoided by the existence of uniform regulations requiring, under certain conditions, public hearings on proposed permits.

This proposed rule change is necessary both to provide procedural consistency in Department regulations and to comply with the terms of the settlement agreement in the Entek lawsuit. The settlement agreement in the Entek permit lawsuit (Entek settlement agreement) contains mutually agreed language on hearings procedures to be inserted into Division 14. It is included as Attachment 3. The settlement agreement provides that the Department will "propose and recommend adoption and promulgation of a new administrative regulation expanding citizen participation in its permit process...promptly and in any case within 60 days of" the execution of the settlement agreement. In addition to providing the materials supporting the proposed rule change, this Staff Report will also describe and clarify Department procedures for public participation in the permitting process. New Source Review and NPDES permit procedures are being amended to make then consistent with the amendment to Division 14. Revisions to OAR 340-14-005 through 050 General Permit Procedures and OAR 340-20-230 New Source Review Permit Procedures will also be revisions to the State Clean Air Act Implementation Plan.

The Commission has the authority to adopt the necessary rule revisions under ORS 468.020.

Evaluation and Alternatives

The existing rules and proposed rule revisions are included as Attachments 1 and 2 respectively.

NATURE OF THE CHANGE

Procedures for Issuance, Denial, Modification and Revocation of Permits (340-14-005 through 050)

A. Addition of language contained in Settlement Agreement

The amendment to OAR 340-14-025 would require the Department to hold a public hearing on proposed permit provisions if, within 14 days after mailing the provisions to interested persons, ten (10) persons or organizations representing at least ten persons submit written requests for a hearing. The Department would then, before taking final action on the

permit, be required to hold a public hearing on the proposed provisions at a reasonable place and time and on reasonable notice.

This proposed change would apply to permitting procedures within all divisions of the DEQ, except those procedures that have been specifically exempted or are governed by separate federal regulations adopted by the Commission. National Pollution Discharge Elimination (NPDES) permits are specifically exempted from Division 14 permitting procedures. Division 14 states minimum procedural requirements for the permitting process. These amendments are not intended to hamper the Department's ability to designate or allow for longer deadlines or more extensive public participation in permit issuance.

Persons applying for permits may be concerned that the amendment requiring a public hearing would lengthen the time between permit application and issuance. The Department would attempt to minimize any additional applicant waiting time by anticipating controversial permits and scheduling a hearing ahead of time, before written requests are received.

B. Addition of RCRA and UST permits to the section on Exceptions

RCRA permits, are governed by federal requirements that have been adopted by the Department. Consequently, they could be included under Exceptions to Division 14 at 340-14-007. Underground Storage Tank (UST) permits are governed by separate procedures designed to meet unique UST circumstances. There are approximately 23,000 existing underground storage tanks in Oregon that must be permitted by February, 1989. The UST permit is similar to a registration or certification, and involves no standards for discharge of pollutants. To facilitate administration of the UST program, the UST permit should also be specifically exempted from the requirements of Division 14.

C. Amendments requiring the Department to complete action on an application within 45 days of the closing of public comment or hearing record

By triggering a public hearing process which could extend beyond the existing 45 day deadline for final action on a complete application in 340-14-020(4)(b) and (5), the new public hearing requirement inserted at 340-14-025(3) would cause a procedural conflict. Also, contrary to the intent of the new public hearing requirement, the existing 340-14-020(5) would, without regard to the hearings process, cause automatic issuance of a temporary or conditional permit if the Department failed to complete action on a permit within 45 days of notifying the applicant that the application

was complete. Because of these conflicts, it is necessary to amend 340-14-020(4)(b) and (5) and 340-14-025(3) (new subsection (4)) to require the Department to complete action on an application within 45 days of the closing of public comment referred to in 340-14-025(2) or the closing of the record of the public hearing required by the new 340-14-025(3). Under these amendments, the applicant will still be notified that an application is complete. However, the 45 day time for final agency action on an application will be triggered by the closing of the public hearing or comment record.

New Source Review Permit Procedures (340-20-230(3)(b)(E))

The rules contained in 340-20-230 state procedural requirements for New Source Air Contaminant Discharge Permit applications. This amendment elaborates upon the standard of "significant interest" which causes the Department to provide an opportunity for a public hearing. Under this amendment, the Department would provide a public hearing "[u]pon determination that significant public interest exists, or upon written requests from ten (10) persons, or from an organization or organizations representing "at least ten persons". Addition of this language would bring 340-20-230(3)(b)(E) into conformity with the new language in Division 14, and would make more definite a previously vague standard.

NPDES Permit Procedures (340-45-035(7))

The rules contained in 340-45-035 state procedural requirements for the issuance of National Pollution Discharge Elimination System (NPDES) Permits. This amendment would also further define "significant public interest", the trigger for public hearings on permit applications, as "written requests from (10) persons, or from an organization or organizations representing at least ten persons". Addition of this language would make the public hearings standard in the NPDES regulations consistent with the public hearings standard in the Department's general permitting procedures.

Elimination of gender-specific language in OAR 340-14-005 through 050

This amendment exchanges masculine pronouns used in Division 14 for gender-neutral references. The meaning of affected sections is unchanged.

Results of the Changes

Under the proposed rule changes, the following permit application process under Division 14 would result:

1. An applicant submits an application for a permit at least 60 days before a permit is needed.

2. Within 15 days after filing the Department will preliminarily review the application for adequacy of information. If needed, the Department will request more information, without which an application will be incomplete for processing.

3. If the Director determines that more facts regarding the application must be gathered, the applicant will be notified and a time table and procedures will be established. When adequate information has been gathered, the Department will notify the applicant that the application is complete for processing.

4. The Department will review the complete application and propose permit provisions. Proposed provisions will be sent to the applicant and interested persons for comment. To receive consideration, written comments must be received within 14 days after the proposed provisions were mailed.

5. If, within 14 days after mailing of the proposed provisions, ten persons or an organization or organizations representing at least ten persons requests in writing a public hearing, the Department shall provide such a hearing. The Department may also schedule a public hearing before receiving written requests, or if fewer than ten persons request a hearing.

6. Within 45 days after closing of the public comment period, or after closing of the public hearing record if a hearing was held, the Department shall take final action on a permit application, and promptly notify the applicant.

7. If the Department fails to take final action on an application within 45 days after closing of the public comment and hearing record, the applicant will receive a temporary or conditional permit which will expire upon final agency action upon the application.

8. If an application for a renewal of a permit is filed with the Department in a timely manner prior to the expiration date of the existing permit, the existing permit will not expire until the Department has taken final action on the renewal application.

9. An applicant may request a hearing before the Commission within 20 days of the mailing date of the otification of permit issuance.

ALTERNATIVES

The Commission could authorize a hearing on the proposed rules, authorize a hearing on a revised set of rules, or take no action.

The alternative of taking no action would constitute a breach of the Entek Settlement Agreement. The no-action alternative would fail to provide the Department, permit applicants and the public with uniform regulatory procedures for public hearings on permits and a consistent standard for measuring significant public interest.

As an alternative to placing the proposed amendment in the general permitting procedures, the Commission could consider adopting rules that would add the new public hearing requirement to each of the Department's permit regulations. This alternative would involve a more complex adoption of rules, and would not guarantee that the hearing requirement would be included in future permit regulations. This could arguably constitute a breach of the Entek Settlement Agreement.

The Commission could consider adopting the proposed public hearing amendment to Division 14 and take no action on any of the other proposed amendments. Under this alternative, the Commission would comply with the Entek Settlement Agreement, but not address resulting inconsistencies in other administrative rules.

As a final alternative, the Commission could consider adopting more extensive rules concerning public hearings on proposed permits. For example: Proposed rules could specify detailed procedures for maintenance of mailing lists, issuance of public notice, scheduling of hearings, and could provide longer time periods in which to complete specified acts. Adoption of more extensive rules may not be necessary as the proposed amendments would provide basic procedures designed to assure the public of an opportunity to participate in the permitting process. Internal guidelines could take the place of more extensive administrative rules.

Because of past inconsistency between Divisions in Department permitting procedures and the need for clear guidelines on facilitating public participation, the Department has drafted guidelines for public participation in the permitting process. These guidelines will serve as a reference for permit writers throughout the Department, and are appended to this report as Attachment 4.

Summary

1. The Department's General Permit Regulations do not contain language specifying procedures or requirements for public hearings.

2. The Settlement Agreement in Sierra Club et al. v Department of Environmental Quality requires the Department to propose and recommend adoption of a new administrative regulation expanding citizen participation in the permit process. Mutually agreed language provides that a public hearing will be held if, within 14 days after mailing of permit provisions, the Department receives written requests from ten (10) persons or organizations representing at least ten persons.

3. Additional amendments are necessary to maintain consistency between other Department permitting procedures affecting New Source Review, NPDES, UST and RCRA and the new public hearing rule, and to change gender specific references in Division 14.

Director's Recommendation

Based on the Summary, it is recommended that the Commission authorize a public hearing to take testimony on the proposed rule changes to procedures for issuance, denial, modification and revocation of permits (OAR 340-14-005 through 050) and related amendments to rules on issuance of New Source Air Contaminant Discharge Permits (OAR 340-20-230) and issuance of NPDES permits (OAR 340-45-035).

Fred Hansen

Attachments: 1. Existing Rules
2. Proposed Rule Revisions
3. Entek Settlement Agreement
4. Guidelines on Public Participation in Permitting
5. Draft Statement of Need for Rulemaking
6. Draft Public Notice

Sarah V. Armitage
229-5581
February 24, 1988

AD2135

ATTACHMENT 3
Agenda Item J
June 10, 1988 EQC Meeting

SETTLEMENT AGREEMENT

This agreement is between the Sierra Club, a non-profit corporation; the Oregon Environmental Council, a non-profit corporation (collectively "Petitioners"); and the Oregon Department of Environmental Quality, an agency of the State of Oregon ("Respondent"), all of whom are parties to a lawsuit entitled Sierra Club, et al. v. Oregon Department of Environmental Quality, No. A8704-02706 (Multnomah County) (hereinafter "the lawsuit"). In full settlement of the lawsuit, and without admission of any fault or wrongdoing by any party, Petitioners and Respondent agree as follows:

1. Respondent will propose and recommend adoption and promulgation of a new administrative regulation expanding citizen participation in its permit process, in a form substantially similar to the text appended as Exhibit A and incorporated by reference into this agreement. Respondent will commence this rulemaking process, in accord with OAR 340-11-010 through 340-11-035, promptly and in any case within sixty days of Petitioners' signing this agreement.

2. Respondent will conduct a public hearing in conformity with OAR 340-20-230(3)(b)(E) on the appropriateness of any modification to Air Contaminant Discharge Permit No.

22-6024 ("the Permit"), on or before September 10, 1988, as follows:

(a) The hearing will be in a convenient location in Lebanon, Oregon; and

(b) Respondent will notify the public and interested persons and/or organizations, as follows:

(i) Respondent will advertise the time and place of the hearing in at least two newspapers of general circulation in the Lebanon/Albany/Corvallis area at least 15 days before the hearing, describing the permit, identifying the potential for modification, and explaining the opportunity for the public to appear at the hearing and to submit written comments, in conformity with OAR 340-20-230(3)(b)(C); and

(ii) Respondent will mail notice at least 30 days before the hearing to the chief executives of Lebanon and Linn County, to the Environmental Protection Agency, to each of Petitioners, and to each person and/or organization that has submitted comments regarding issuance of the Permit or otherwise is known by Respondent to have expressed interest in the Permit.

3. Petitioners will dismiss the lawsuit, with prejudice and without costs to any party, promptly and in any case within

twenty (20) days from the date of signing this settlement agreement.

WHEREFORE, Petitioners and Respondent have caused this Settlement Agreement to be signed on their behalf by their attorneys as of this 31st day of December, 1987.

JOLLES, SOKOL & BERNSTEIN, P.C.

Larry N. Sokol
David Paul
Of Attorneys for Petitioners
Sierra Club and Oregon
Environmental Council

DAVE FROHNMAYER
Attorney General

Arden J. Olson
Assistant Attorney General
Of Attorneys for Respondent
Department of Environmental
Quality

5091T/bw

340-14-025(3) [new section]

If, within 14 days after mailing of the proposed provisions, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Notice of such a hearing may be given, in the Department's discretion, either in the notice accompanying the proposed provisions or in such other manner as is reasonably calculated to inform interested persons.

[Renumber Sections (3) - (5) to become (4) - (6).]

5091T/bw

EXHIBIT A

ATTACHMENT 4
Agenda Item J
June 10, 1988
EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

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

Legal Authority

This proposal amends OAR 340-14-005 through 050, OAR 340-20-230 and OAR 340-45-035. It is proposed under the authority of ORS 468, including section 020 which authorizes the Commission to adopt such rules and standards as it considers necessary and proper in performing its functions.

Need for the Rule

The proposed rule provides objective criteria for the Department to use in determining when to hold a public hearing on proposed permit actions. This adoption is necessary to establish consistent procedures for public participation in the permit process, and also to fulfill the requirements of the settlement agreement in Sierra Club et al. v Department of Environmental Quality, Multnomah County Circuit Court No. A8704-02706. The proposed rule also contains several changes necessary to bring consistency to related permit regulations.

Principal Documents Relied Upon

Settlement agreement in Sierra Club et al. v Department of Environmental Quality.

LAND USE CONSISTENCY STATEMENT

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

FISCAL AND ECONOMIC IMPACT STATEMENT

The proposed rule may affect businesses, including small businesses, by causing delays in the permit application process. The economic effects of possible delays in Department permit action are not quantifiable, and delays caused by public hearings could also occur under the existing rules. Permit applicants may accrue travel costs, depending upon the locations of public hearings. The fiscal and economic impact of the proposed rules is not projected to be significantly different than under past practices as the Department has usually held public hearings when there was significant public interest.

ATTACHMENT 5
Agenda Item J
June 10, 1988 EQC Meeting

DEQ GUIDELINES ON PUBLIC PARTICIPATION IN THE PERMITTING PROCESS

Permit writers should anticipate controversy and inform their division administrators when they think a permit is controversial. Permits involving hazardous waste, toxics, or solid wastes should always be analyzed for potential to generate controversy. When a permit is known to be controversial, a public hearing on proposed permit provisions should be scheduled as early as possible to avoid delays in action on the permit. Applicants of potentially controversial permits should be informed that the application process could take longer than they had expected.

When a permit is potentially controversial, permit writers must consult with Public Affairs to determine whether notice of the application and proposed action should be published in a local newspaper. Notices may be placed in the legal notice section of the newspaper or in a display ad in a newspaper. If a hearing is to be held, a news release should be sent to local news media. All efforts should be made to provide notice of public hearing 30 days prior to the hearing date. Public hearings should be conducted in accordance with Department procedures for all public informational hearings.

If the provisions of a controversial permit are complex or voluminous, the Department should prepare a fact sheet to supplement the standard "A Chance to Comment" notice. Where applicable, the fact sheets should contain a description of the location and type of facility or activity, the type and quantity of wastes or emission, and possible health effects, how the public can obtain more information, a description of the permit process, and standards and guidelines used as a basis for the permit action. When prepared, this fact sheet should be distributed along with the standard "A Chance to Comment" notice to interested parties and those on mailing lists. Mailing lists should be composed of addresses of those who have requested notice of intended actions on certain categories of permits. Efforts should also be made to identify other potentially affected or interested persons.

The Department's responsibility to provide information to the public may not be totally met by the notice and public hearing process. In very controversial situations, especially when public health is at issue, the Department should utilize additional information techniques, such as news releases, informational meetings, and information packets placed in public locations. All of the above should be accomplished with the assistance of a Department public affairs specialist.

ATTACHMENT 6
EQC Agenda Item J
June 10, 1988
EQC Meeting

MEMORANDUM

To: Environmental Quality Commission

From: Sarah Armitage

Subject: Agenda Item No.J , June 10, 1988 EQC Meeting
Hearings Officer's Report on Amendments to Procedures for Issuance, Denial, Modification and Revocation of Permits (OAR 340-14-005 through 050), Air Contaminant Discharge Permit Notice Policy (OAR 340-20-150), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035)

Summary of Procedure

As announced in the public notice, a public hearing was convened at 2:00 pm on Tuesday May 3 in Room 4 of DEQ Headquarters in Portland. The purpose of this hearing was to receive testimony on proposed amendments to procedures for issuance, denial, modification and revocation of permits; an amendment to the new source review air contaminant discharge permit procedural requirements, and an amendment to issuance of NPDES permits. Sarah Armitage of the Air Quality Division conducted the hearing.

Oral and written testimony were submitted by Karl G. Anuta, attorney for the Northwest Environmental Defense Center; David Paul, attorney for the Sierra Club and Oregon Environmental Council; and Jean Meddaugh, Associate Director of the Oregon Environmental Council.

Written testimony was submitted by Frances Weir, President of the League of Women Voters of Oregon; Lynn S. Coody, Programs Coordinator of the Northwest Coalition for Alternatives to Pesticides, Nancy Newton of Lebanon, and Dr. Paul Przybylowicz of Corvallis. Copies of all written comments are attached to this report.

Oral testimony was submitted by Carol Lieberman, Chair of the Oregon chapter of the Sierra Club.

Summary of Testimony

All commenters supported DEQ's proposed amendments to permitting procedures, providing for a public hearing upon written request from ten or more persons. Commenters favored clarification of the

standard for holding public hearings on proposed permits, and believed that the new procedural consistency would benefit citizens, regulated industry and interest groups by reducing uncertainty. The old standard of significant public interest was seen as too vague. Facilitating public participation in the permitting process could save affected parties the time and expense of legal actions arising from the lack of opportunity for consideration of all sides of an issue.

Nancy Newton commented that any attempts to limit information going to the public causes suspicion, distrust and damages the Department's reputation. The public should know when an industry will safely benefit an area, and when it may or will result in environmental harm.

Karl Anuta, David Paul, Carol Lieberman, Jean Meddaugh, Lynn Coody and Dr. Przybylowicz recommended that DEQ amend its general permitting regulations to require inclusion of more information in the public notice of intent to issue a permit. Commenters stated that the following information should be required on the "A Chance to Comment" forms: name, type and quantity of pollutant, amount of increase over previously permitted emissions, the type of facility involved, the location of the proposed emissions, possible health effects, and how the public could obtain more information. Commenters believed that without the additional information described above, interested persons cannot make informed comments, and have no way of knowing whether to seek more information,to request a hearing, or to take no action. Under existing rules, the public has only 14 days from the mailing of the proposed permit provisions in which to request a hearing. If interested persons are forced to spend time finding relevant permit information, they may not have adequate time in which to make a written request for a hearing. Inclusion of additional information in the "A Chance to Comment" notices could also save the Department time spent in answering inquiries regarding permit provisions and mailing out additional information.

David Paul opposed the 45 day automatic permit provision in Division 14 because it could cause the issuance of a temporary permit for a very complicated application that should receive more rather than less review. He stated that issuance of a temporary permit tips the scales in favor of the permittee, making it more likely that the final permit will be issued. In the absence of a complete review, no permit should be issued.

David Paul also commented that the Sierra Club and the Oregon Environmental Council want DEQ to promulgate a rule stating that the granting of a permit constitutes final agency action for the purposes of ORS 183, the Oregon Administrative Procedures Act. Courts have been reluctant to recognize that granting of a permit is final agency action. Mr. Paul expressed the belief that no adverse impact would result from this rule.

Attachments: A) Letter of Frances Weir, League of Women Voters
B) Letter of Lynn S. Coody, NCAP
C) Letter of Jean C. Meddaugh, OEC
D) Letter of Karl G. Anuta, NEDC
E) Letter of David Paul, Jolles, Sokol & Bernstein
F) Letter of Nancy Newton, Lebanon, OR
G) Letter of Dr. Paul Przybylowicz, Corvallis, OR

Sarah Armitage:sva
229-5581
5/16/1988

LEAGUE OF WOMEN VOTERS OF OREGON

Curry County

Post Office Box 6014
Brookings, Oregon 97415

April 12, 1988

Department of Environmental Quality
811 SW 6th Avenue
Portland, Oregon 97204

Dear Sir:

The League of Woman Voters of Curry County in conjunction with the League of Woman Voters of Oregon wish you to adopt the requirement that DEQ will hold a public hearing on permit actions if it receives written hearing requests from ten (10) persons or an organization representing at least ten persons.

We urge you to establish the same rules to hearings for water quality and solid waste permits as you are now considering for air quality. This would establish uniform standards on hearings for air quality, water quality and solid waste.

The League believes democratic government depends upon the active participation of its citizens, and governmental bodies must give adequate notice of proposed actions, hold open meetings and make public records accessible. Therefore, we encourage you to extend the rules and procedures to equally cover air quality, water quality and solid waste permits as soon as possible.

Sincerely,

Frances Weir

Frances Weir
President

Phyllis Cottingham

Phyllis Cottingham
Observer/Action Chair

NORTHWEST COALITION for
ALTERNATIVES to PESTICIDES
P.O. BOX 1393 EUGENE, OREGON 97440 (503) 344-5044

May 2, 1988

Sarah Armitage
Department of Environmental Quality
811 S. W. 6th Avenue
Portland, OR 97402

Dear Ms. Armitage,

I am writing in response to the DEQ's proposal to amend OAR 340-14-005 through 050 by adding the requirment that the DEQ hold a public hearing on proposed permit actions if it receives written hearing requests from 10 persons or an organization representing at least 10 persons.

NCAP agrees with the DEQ's position on this matter and supports the goal of standardizing the Agency's policies by clarifying the definition of "significant public interest". The old standard was overly vague on this point and clarification will benefit both interested citizens and industry by providing an increased measure of certainly in the DEQ's proceedings. An additional benefit of encouraging public participation during the early stages of planning is saving all participants the time and expense of legal action that may arise in response to the lack of opportunity for all sides of an issue to be considered.

In order to encourage public comment, the flyers entitled "A Chance to Comment..." should contain more complete information. A listing of the quantities and types of the pollutants for which permits are being requested is essential for the public and other interested parties to make informed comments. This would save time both for citizens and for the DEQ staff by eliminating the need to contact the DEQ office by phone to obtain information about hearings.

We appreciate the opportunity to comment on this rule change and thank you for your efforts to clarify the issue of what consitutes "significant public interest".

Sincerely,

Lynn S. Coody
Programs Coordinator

OREGON ENVIRONMENTAL COUNCIL

2637 S.W. Water Avenue, Portland, Oregon 97201
Phone: 503/222-1963

COMMENTS SUBMITTED TO
THE DEPARTMENT OF ENVIRONMENTAL QUALITY
RE: PROPOSED RULES AMENDING OAR 340-14-005 through 050

The Oregon Environmental Council (OEC) supports the adoption of the proposed amendments to OAR 340-14-005 through 050 which establish new public hearing requirements. These requirements, by specifying conditions which initiate a public hearing, will serve to standardize the Department's procedures and thus reduce uncertainty for the regulated community as well as the concerned public.

OEC would also like to emphasize its support for the Department's current guidelines which call for "Fact Sheets" to accompany "Chance to Comment" notices, giving additional information re:

> "a description of the location and type of facility or activity, the type and quantity of wastes or emissions, the possible health effects, how the public can obtain more information, a description of the permit process, and standards and guidelines used as a basis for the permit action." (Attachment 4, Agenda Item D, 3/11/88 EQC Meeting)

The Department's guidelines indicate that such a fact sheet should be prepared "if the provisions of a controversial permit are complex or voluminous..." Since this is similarly vague, as was the old public hearings rule, OEC suggests that the Department incorporate more specific language as part of the proposed rule amendments, requiring that all "Chance to Comment" notices incorporate a brief description of the location and type of facility/activity, the type and quantity of wastes or emissions, the possible health or environmental effects, and how the public can obtain more information.

Thank your for the opportunity to comment.

Sincerely,

Jean C. Meddaugh

Jean C. Meddaugh
Associate Director

D

Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
(503) 244-1181 ext.707

May 3, 1988

Sarah Armitage
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

RE: Proposed Amendments To OAR 340-140-025, OAR 340-20-230 & OAR 340-45-035. RULES FOR PUBLIC HEARINGS ON PERMITS.

Dear Sarah:

On behalf of the Northwest Environmental Defense Center I strongly support the proposed amendments to these rules. These amendments will provide necessary clarity on the issue of when a public hearing must be held on a permit issuance, denial or modification. The presence of the public participation rules may well reduce potential litigation over permit alterations or issuances. If litigation does subsequently occur, the amount of time and money spent by all sides should be reduced due to the existance of a hearing record.

I do recommend one additional amendment. The notices entitled "A Chance To Comment On..." should, at the very least, specify the name and type of pollutant involved and the quantity of the pollutant proposed to be discharged. Without this information informed and reasoned comments are virtually impossible. Valuable DEQ staff time is currently consumed in phone responses and mailings which basically provide only this same information. It would save even more staff time if a fact sheet with a more detailed outline of the proposed permit limits and conditions were attached to each notice of chance to comment.

The proposed rule should form an important link in the growing body of reasonable DEQ rules. NEDC fervently hopes that similarly rational and responsible rules will continue to be forthcoming from the Department, preferable without the necessity of prior legal prompting.

Thank you for your time and consideration.

Sincerely,

Karl G. Anuta
NEDC Cooperating Attorney

E

JOLLES, SOKOL & BERNSTEIN, P.C.

ATTORNEYS AT LAW

BERNARD JOLLES
LARRY N. SOKOL
HARLAN BERNSTEIN
ROBERT A. SACKS
MICHAEL T. GARONE
EVELYN SPARKS

721 SOUTHWEST OAK STREET
PORTLAND, OREGON 97205-3791
TELEPHONE (503) 228-3474

April 11, 1988

Department of Environmental Quality
Air Division
811 SW Sixth Ave.
Portland OR 97204

RE: Comments from hearing held May 3, 1988 on proposed amendments to rules regarding procedures for issuance, denial, modification and revocation of permits.

On behalf of the Sierra Club and Oregon Environmental Council, I would like to add support and a few additional comments regarding the proposed rule changes.

1. Initially, I want to mention that **we support the agency's (DEQ's) recommendation.** The staff report outlines the minimum changes necessary to comply with the settlement reached in Sierra Club, et al. v. DEQ. I also want to go on record with a few suggestions for improving the process beyond what is contemplated in the present proposal. Our hope is that we can improve the present status of the regulatory process in order to add consistency.

2. The proposal is the best answer to **standardizing** the Agency's policies and creating an atmosphere of **certainty.**

The **old standard of significant public interest was overly vague.** For example, in the Entek toxic air contaminant permit, over 60 people wrote comments, yet the agency still decided that no hearing was necessary. This type of problem would be rectified.

3. As the DEQ staff report states, there **should not be a large increase in the time and resources** committed to hearings, since the agency usually strives to have hearings in an effort to allow public participation. The proposed language merely creates a consistent approach. This consitency is what we seek to encourage.

4. This rulemaking proposal **benefits industry** because there will now be certainty in the proceedings. Allowing public participation in the early stages saves all participants the time and expense of subsequent litigation. DEQ and Entek both expended considerable legal fees in this case. The proposed language eliminates this risk. The proposed language will reduce litigation and delay. This rule does not send an antiindustry message. The proposed language originally came from the A.G.'s office.

5. The staff report also proposes certain changes which make the language gender neutral. I support this, and hope that gender neutral language becomes the standard as opposed to the exception.

6. In order to provide a more meaningful initial notice, the flyers entitled "A Chance to Comment..." should be made more informative, listing at the very least, the quantity and type of pollutant for which a permit is requested, the type of facility involved and the location of the proposed emissions.

Again, the DEQ "Guidelines on Public Participation in the Permitting Process" already recognize this. It is now time to codify requirements for a more informative notice. This will save staff time because under the present scheme a concerned citizen must call DEQ or request to see the file. The mailing of a fact sheet attached to the standard notice would not add appreciably to the cost of distribution. Fully detailed information could still be provided in public locations and at the DEQ offices.

7. We would like to see a rule that states that the granting of a permit constitutes final agency action for purposes of ORS 183. The courts seem hesitant to realize this fundamental concern, so legislation is an appropriate way to resolve this issue. No adverse impact would result from this fundamentally obvious conclusion.

I hope these comments ilustrate our chief concerns. We hope that DEQ will continue to provide the necessary leadership in scheduling hearings on its own when faced with permit requests. However, in the event that a hearing is not scheduled, oncerned citizens will not be denied the opportunity to comment. This rule is not designed to let DEQ abdicate its role to the concerned public, but rather allow citizen a voice in determining when a hearing is necessary. We are happy to be in a position to agree with the staff report and recommend its swift adoption.

Thank you for the oportunity to comment.

Sincerely,

David Paul

F

May 6, 1988

Dear DEQ Staff,

I agree that the DEQ should hold a public hearing before issuing an emissions permit if 10 or more people want a public hearing.

Holding a public hearing should be to everyones benefit.

If an industry is really a safe asset to our community, then they should have nothing to hide from local residents. It would be in the best interest of the industry for the public to know that they are a benefit to our area. We desperately need jobs for our people.

If an industry is not a safe addition to our area, then the local residents also have a right to know so that they can voice their concerns, and work toward either making the industry safe or keeping it out of our area.

Attempting to limit information and evade the issue in the way that the local government did with the Entek issue only makes the public suspicious, hostile and distrustful. Lots of people no longer have faith in the local officials.

Holding a public hearing would help the reputation of the DEQ also. It's good public relations.

Nancy Newton
36500 Airport Dr.
Lebanon, OR.
97355

G

May, 1988

Air Quality Division
Dept. of Environmental Quality
811 SW 6th
Portland, OR 97204

Dear Ms. Armitage,

I'm not sure if you are the person to direct this letter to, but I would like to comment on the proposed rule changes to obtaining permits, Agenda Item D, March 11, 1988, EQC meeting. If you're not the person to receive these comments, could you please see that they get on the right desk? Thank you.

After reviewing agenda item D, I agree with the DEQ staff and support their recommendation to adopt the proposed rule changes. The changes will standardize DEQ policies and create a consistent approach to all situations.

The old standard for determining if a hearing was needed by "significant public interest" was vague. e.g. the Entek case where over 60 people responded, but no hearing was held.

The proposed rule changes should benefit the industry by creating an atmosphere of certainty. Allowing public participation early in the process will reduce litigation and delay.

Finally, I would like to see the "A Chance to Comment.." flyers made more informative. They should list the quantity and type of pollutant that a permit is requested for, at the very least. Providing this information with the flyers will not cost much more and will save considerable money by reducing the time DEQ staff spends answering questions.

Please keep me informed on the progress of these rule changes and on the Entek case. Many thanks for your time and efforts on my behalf.

Sincerely,

Dr. Paul Przybylowicz
2151 NW Lewisburg Rd.
Corvallis OR
97330

ATTACHMENT 7
Agenda Item J
June 10, 1988 EQC Meeting

MEMORANDUM

To: Environmental Quality Commission

From: Sarah Armitage

Subject: Response to Comment Summary
Amendments to Procedures for Issuance, Denial, Modification and Revocation of Permits (OAR 340-14-005 through 050), Air Contaminant Discharge Permit Notice Policy (OAR 340-20-150), New Source Review Air Contaminant Discharge Permit Procedural Requirements (OAR 340-20-230), and Issuance of NPDES Permits (OAR 340-45-035)

COMMENT
Generally, the environmental/public interest community approved of the proposed changes, but thought that the Department should amend its regulations to include in the public notice of proposed permit a statement of type and quantity of emissions permitted. Commenters also requested that the Department include in the public notice the amount of increase of a pollutant over previous permits, the type of facility involved, the location of the proposed emissions, possible health effects, and how the public could obtain more information.

DEPARTMENT'S RESPONSE
After evaluation, the Department concurred that public notices should include the type and quantity of new or increased pollutants for which the Department has established an emissions standard or significant emission rate. Additional rules have been amended to reflect this change.

COMMENT
One commenter opposed the 45 day temporary or conditional permit provision in Division 14 because it could cause issuance of a permit that required extra processing time, and might increase the likelihood of final permit issuance through applicant reliance.

DEPARTMENT'S RESPONSE
Under 340-14-020 (4) (a) and (b), the Department has the opportunity at an early stage to request that an applicant submit more information and/or to notify the applicant that additional fact-finding measures are necessary. No time limit applies to this fact-finding period, which allows the Department to assimilate information necessary to the permitting decision. These provisions render unlikely the possibility that a temporary or conditional permit would issue without adequate Department consideration of an application. Amendments to Division 14 cause

the 45 day temporary permit provision to commence after the closing of the public comment or hearing period. The Department believes that the combination of these amendments and the fact-finding period provides sufficient time for complete action on an application. Issuance of a temporary permit is an unlikely event, and should not influence the final permitting decision. Finally, the 45 day temporary permit provision reflects the requirement in ORS 459.245 that the Department complete action on solid waste disposal permits within 60 days after receiving the application. (The Department has 15 days to review for adequacy of information.)

COMMENT

One commenter requested that the Department promulgate a rule stating that the granting of a permit constitutes final agency action for the purposes of the Administrative Procedures Act (ORS 183).

DEPARTMENT'S RESPONSE

The existing regulations in OAR 340-14-025 (3) and (4) refer to issuance, modification or denial of a permit as "final action". The Department believes that further definition of permit action is beyond the scope of the amendments at issue, and should be initiated by way of petition for rulemaking.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item K, June 10, 1988, EQC Meeting. Request for for Issuance of an Environmental Quality Commission Order for the City of Estacada, Oregon.

- The City of Estacada is unable to meet the July 1, 1988 EPA deadline for achieving secondary treatment standards, and has been unable to comply with the effluent limitations of its NPDES permit for discharge into the Clackamas River.
- The City has secured federal and local funding to pay for necessary repairs and improvements to its sewage collection and treatment systems, has completed design work, and is now advertizing for bids.
- This report outlines three alternatives for addressing Estacada's compliance problems. Each alternative involves setting interim and final effluent limitations and establishing a compliance schedule. The first alternative would accomplish this through the NPDES permit process; the second, through litigation and a court order; and the third, through an EQC order.
- The Department staff prefers the issuance of an EQC order since it would address EPA's concerns, and would act as a positive commitment by the City to adequately treat and dispose of its municipal sewage.

DSM:hs
WH2676

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item K, June 10, 1988, EQC Meeting

Request For Issuance Of An Environmental Quality Commission Compliance Order For The City Of Estacada, Oregon.

Background and Problem Statement

The Department is requesting that the Commission issue a compliance order to the City of Estacada. The compliance order would be used to resolve National Pollution Discharge Elimination System (NPDES) permit compliance problems and address other policy issues related to the Federal Water Pollution Control Act Amendments of 1972 (the Clean Water Act).

The City of Estacada operates a sewage treatment plant that is approximately 25 years old and lacks adequate capacity. It consists of a bar screen, Parshall flume, primary clarifier, trickling filter, secondary clarifier, chlorine contact basin, and anaerobic digesters. The City discharges its treated effluent to the Clackamas River under NPDES permit number 100296 (Attachment A). The existing permit was issued on March 17, 1987 and it expires on February 29, 1992.

The City of Estacada has had difficulty meeting its NPDES effluent discharge requirements due to the age and condition of the sewage treatment plant, and due to the occurrence of high inflow and infiltration into the sewage collection system. Because the city has been actively involved in planning for construction of new sewage treatment facilities, no enforcement action has been taken.

In lieu of enforcement action, and in recognition of the city's on-going efforts to rehabilitate its sewerage and treatment facilities since 1985, the Department solicited information from the City and established interim discharge limitations in Schedule A, Conditions 1 and 2 of the NPDES permit when it was renewed in March 1987. Interim limits were based on the best treatment then considered attainable by the existing treatment plant: an effluent containing 35 mg/l each of BOD and suspended solids, increasing to 45 mg/l during the wet-weather season (November 1 to May 30). Condition 2 was established in case the City did not pursue expansion of their treatment plant, to assure a 30 mg/l effluent in compliance with federal criteria and deadlines for secondary treatment. Condition 3 requires an effluent limitation of 10 mg/l, increasing to 20 mg/l during the wet-weather season upon treatment system expansion. These limitations are based on the special

policy which prohibits additional waste loadings to be discharged into the Clackamas River (OAR 340-41-470). The Department also stipulated several specific progress checkpoints in Schedule C of the NPDES permit based on a schedule proposed by the City to achieve a minimum of secondary treatment by July 1, 1988.

The City met Condition 1(a), by commencing Phase I infiltration and inflow control work prior to March 1, 1987. However, the City has notified the Department that the report on Phase I of the infiltration/inflow (I/I) control project, which was required to be submitted by February 1, 1988, would be delayed until June 1, 1988. The Department does not wish to enforce the original deadline because of evaluation difficulties posed by the comparatively dry 1987-1988 winter. There was inadequate rainfall to conduct a meaningful analysis of the control measures that were installed. For that reason, the Department raised no objection to submittal of the report on June 1, 1988.

The Department has also approved postponement of the Phase II I/I control project design until June 15, 1988, with construction to be completed by December 31, 1988. This was scheduled in Condition 1(c) for October 1, 1988, unless otherwise approved. The Department's approval was made in view of the City's persistent efforts to complete the analysis of Phase I upon which Phase II would be based.

The City submitted engineering plans for their treatment plant improvements on September 15, 1987. Since that time, the City has finalized the engineering plans, obtained Departmental and EPA approval, and advertized for bids. Bid opening is scheduled for June 9, 1988. Thus, construction completion will not meet the original targeted date of July 1, 1988. The treatment plant is currently unable to meet secondary treatment standards, and will be unable to do so until construction is completed. The plant is also unable to meet the interim limits established in Schedule A, Condition 1 in a reliable and consistent manner, despite diligent and knowledgeable efforts by the plant operators.

By exceeding secondary treatment limits, the City of Estacada is violating the provisions of the Clean Water Act. In order to address such violations and to achieve the water quality objectives of the Act, the Environmental Protection Agency (EPA) introduced the National Municipal Policy (NMP) in 1984. The NMP is designed to bring all noncomplying Publicly Owned Treatment Works (POTWs) into compliance with the Clean Water Act as soon as possible, but no later that July 1, 1988. If the July 1, 1988 deadline cannot be met, the EPA and the State are to work with the affected municipality to ensure that they are on enforceable schedules for achieving compliance. Additionally, interim measures are to be taken to abate water pollution while working towards achieving compliance.

The City has initiated work to achieve compliance with its NPDES permit as required by the Clean Water Act. They have prepared a wastewater facilities plan that reviews the problems of their existing facilities and outlines

various alternatives for adequately collecting, treating, and disposing of their sewage. They passed a bond issue on March 1, 1987 to finance the necessary improvements. They have completed the first phase of construction on a two-phase program of sewerage system rehabilitation to control infiltration and inflow. They have completed plans and specifications for expanding and upgrading their treatment plant, and have secured an EPA construction grant for this project. The project has been approved by the Department and is being advertized for bids. However, EPA has notified the Department that the city must be under a compliance order in order to retain grant funding eligibility, since construction activities would extend beyond the July 1, 1988 deadline listed in the National Municipal Policy.

The City of Estacada has agreed to a project implementation schedule which provides a reasonable timetable for completing construction. The schedule leads to the goal of obtaining operational level of acceptable sewage treatment and disposal facilities by December 1, 1989.

Alternatives and Evaluation

For the Commission's consideration, the Department has identified the following alternatives that would address the City of Estacada's noncompliance with the Clean Water Act:

1. Direct the Department to renew the NPDES permit and include interim and final effluent limits and a compliance schedule that identifies dates to complete specific tasks that would bring the City into compliance.

Alternative 1 would not involve an administrative order or further EQC action. The NPDES permit would be used as a compliance mechanism and the City would be expected to meet the compliance schedule and conditions outlined in the permit.

However, the Department has been advised by EPA that for minor municipal facilities, the compliance conditions, schedules, and interim limits for meeting requirements of the Clean Water Act should be contained in Administrative Orders. EPA also maintains that the National Municipal Policy prevents them from awarding construction grants to municipalities where construction of sewage treatment facilities would take place after July 1, 1988 unless the municipality is covered by an Administrative Order.

2. Direct the Department to litigate against the City of Estacada pursuant to ORS 468.035 and ORS 454.020 for noncompliance and have a federal or state court issue a court order that would include compliance conditions and a schedule that extends beyond July 1, 1988.

The Department staff do not recommend pursuing this alternative. It would not necessarily expedite compliance. Moreover, the City of Estacada has been conscientiously working towards a solution to its sewage treatment and disposal problems. They have completed an approved design for treatment plant expansion and upgrading which will bring their effluent into

compliance with the Clean Water Act and the more stringent state effluent treatment criteria. They have advertized this project for bids, while also initiating planning efforts on the second phase of their infiltration/inflow control program.

3. Issue a Stipulated and Final Order to the City of Estacada. The Order would contain interim effluent limitations, a schedule of milestones for bringing the City into compliance, and penalties for failure to meet milestones by the specified dates in the compliance schedule (Attachment B).

The Department staff recommends Alternative 3 for the following reasons: (a) it recognizes the Commission's authority to enforce water quality objectives of the State under ORS 468.090 et. seq., (b) this approach has been used in the past to address similar water quality violations by other municipalities, (c) the Commission Order recognizes that the terms of the existing NPDES permit cannot be met, (d) Commission Orders have been acceptable to EPA in the past with regard to the National Municipal Policy and compliance with the Clean Water Act, (e) the City of Estacada is agreeable to the Order, (f) the Order would be a positive reinforcement to the City's ongoing sewer system planning and construction efforts, and (g) the order would commit the City to completing the necessary improvements to its sewage collection and treatment system in a timely manner.

Summation

1. Due to the age and condition of its sewage treatment plant and due to the occurrence of large quantities of inflow and infiltration into the sewage collection system, the City of Estacada frequently violates provisions of the Clean Water Act by failing to meet its NPDES permitted discharge limits.

2. The City is unable to meet the July 1, 1988 deadline for achieving secondary treatment standards as required by the National Municipal Policy.

3. The City of Estacada has secured federal and local funding to pay for necessary improvements to its sewerage and treatment systems, and is in the process of awarding a bid for treatment plant construction.

4. Each alternative outlined in this report for addressing Estacada's compliance problems involves setting interim and final effluent limits and establishing a compliance schedule. The first alternative would do this through the NPDES permit process; the second alternative, through litigation and a court order; and the third alternative, through an EQC order.

5. The Department staff prefers the issuance of an EQC order since it would address EPA's concerns with regard to noncompliance and the

National Municipal Policy, and act as a positive commitment by the City to adequately treat and dispose of its municipal sewage.

Directors Recommendation

Based on the Summation, the Director recommends that the Commission issue the Compliance Order as discussed in Alternative 3 by signing the document prepared as Attachment B.

Fred Hansen

Attachments

A. NPDES permit number 100296
B. Proposed Environmental Quality Commission Compliance Order

David Mann:ch
WC3286
229-6890
May 4, 1988

Permit Number: 100296
Expiration Date: 2-29-92
File Number: 27866
Page 1 of 6 Pages

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT

Department of Environmental Quality
811 Southwest Sixth Avenue, Portland, OR 90204
Telephone: (503) 229-5696

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

City of Estacada
P.O. Box 958
Estacada, OR 97023-0958

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Treated Domestic Sewage	001	R.M. 23.6

PLANT TYPE AND LOCATION:

Trickling filter STP
Tulip Road off Lake Shore Drive

RECEIVING SYSTEM INFORMATION:

Major Basin: Willamette
Minor Basin: Clackamas
Receiving Stream: Clackamas
County: Clackamas
Applicable Standards: OAR 340-41-445

EPA REFERENCE NO: OR-002057

Issued in response to Application No. OR 202057-5 received 11/25/83.

This permit is issued based on the land use findings in the permit record.

Fred Hansen, Director

MAR 17 1987
Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

Each other direct and indirect discharge to public waters is prohibited.

This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

SCHEDULE A

1. Interim Waste Discharge Limitations not to be Exceeded After Permit Issuance.

Outfall Number 001.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily Maximum lbs
May 1 - October 31:					
BOD	35 mg/l	53 mg/l	109	166	219
TSS	35 mg/l	53 mg/l	109	166	219
FC per 100 ml	200	400			
November 1 - April 30:					
BOD	45 mg/l	68 mg/l	141	211	281
TSS	45 mg/l	68 mg/l	141	211	281
FC per 100 ml	200	400			

Other Parameters (year-round)	Limitations
pH	Shall be within the range 6.0-9.0
Average dry weather flow to the treatment facility	0.375 MGD

When, because of excessive storm water inflow and/or infiltration, the monthly average flows entering the treatment facility exceeds 0.75 mgd, the average loadings may exceed the above limits. During those periods the amount of BOD-5 and suspended solids shall not exceed a monthly average of 200 lbs/day each.

2. Waste Discharge Limitations not to be Exceeded After Attainment of Operational Level as Required by Schedule C, Condition 2 of this Permit.

Outfall Number 001.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily Maximum lbs
May 1 - October 31:					
BOD	30 mg/l	45 mg/l	94	140	188
TSS	30 mg/l	45 mg/l	94	140	188
FC per 100 ml	200	400			
November 1 - April 30:					
BOD	30 mg/l	45 mg/l	94	140	188
TSS	30 mg/l	45 mg/l	94	140	188
FC per 100 ml	200	400			

Other Parameters (year-round)	Limitations
pH	Shall be within the range 6.0-9.0
Average dry weather flow to the treatment facility	0.375 MGD

3. Waste Discharge Limitations Not To Be Exceeded Upon Expansion Of The Treatment Plant.

Parameter	Average Effluent Concentrations Monthly	Weekly	Monthly Average lb/day	Weekly Average lb/day	Daily Maximum lbs
May 1 - October 31:					
BOD	10 mg/1	20 mg/1	45	68	90
TSS	10 mg/1	20 mg/1	45	68	90
FC per 100 ml	200	400			
November 1 - April 30:					
BOD	20 mg/1	30 mg/1	90	135	180
TSS	20 mg/1	30 mg/1	90	135	180
FC per 100 ml	200	400			

Other Parameters (year-round)	Limitations
pH	Shall be within the range 6.0-9.0
Average dry weather flow to the treatment facility	0.54 MGD

4. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-445 except in the following defined mixing zone:

The mixing zone shall not exceed a 75 foot radius from the point of discharge.

SCHEDULE B

Minimum Monitoring and Reporting Requirements
(unless otherwise approved in writing by the Department)

Outfall Number 001 (sewage treatment plant outfall)

Item or Parameter	Minimum Frequency	Type of Sample
Total Flow (MGD)	Daily	Measurement
Quantity Chlorine Used	Daily	Weight
Effluent Chlorine Residual	Daily	Grab
BOD-5 (influent)	2 times per week	Composite
BOD-5 (effluent)	2 times per week	Composite
TSS (influent)	2 times per week	Composite
TSS (effluent)	2 times per week	Composite
pH (influent and effluent)	3 times per week	Grab
Fecal Coliform (effluent)	1 time per week	Grab
Average Percent Removed (BOD & TSS)	Monthly	Calculations based on monitoring data

Sludge Applied to Land

Annual sampling and analysis of a representative sample of digested sludge for the following parameters, unless otherwise approved in writing by the Department.

Total Nitrogen	% Dry Weight
Nitrate-Nitrogen	% Dry Weight
Ammonia Nitrogen	% Dry Weight
Phosphorus	% Dry Weight
Total Solids	%
Volatile Solids	%
pH	Standard Units

Monitoring reports shall include a record of the location and method of disposal of all sludge and a record of all applicable equipment breakdowns and bypassing.

Reporting Procedures

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month.

SCHEDULE C

Compliance Conditions and Schedules

1. The permittee shall cost-effectively reduce inflow and infiltration from the sewerage system to achieve compliance with the limitations specified in Condition 2 or 3 of Schedule A as follows:

   a. By no later than March 1, 1987, the permittee shall initiate Phase I inflow and infiltration control measures.

   b. By no later than February 1, 1988 the permittee shall submit a report detailing the effectiveness of Phase I inflow and infiltration correction measures.

   c. By no later than June 1, 1988, the permittee shall initiate Phase II inflow and infiltration correction measures, unless otherwise approved by the Department.

   d. By no later than October 1, 1988, the permittee shall complete Phase II, inflow and infiltration correction measures, unless otherwise approved by the Department.

2. The permittee shall achieve compliance with Condition 2 or Condition 3, Schedule A by no later than June 30, 1988 in accordance with the following schedule denoted for each:

Upgrade Treatment to Achieve Compliance with Schedule A, Condition 2.	or	Upgrade & Expand Treatment Facilities to Achieve Compliance with Schedule A, Condition 3.
a. By no later than June 15, 1987 submit engineering plans & specifications.		a. If the permittee intends to request federal grant assistance, final facilities plan, grant application and engineering plans and specifications must be submitted no later than June 15, 1987.
b. By no later than October 15, 1987 initiate construction.		b. By no later than October 15, 1987 initiate construction.
c. By no later than June 30, 1988 attain operational level with Condition 2, Schedules A.		c. By no later than June 30, 1988 complete construction and attain operational level with Condtion 3, Schedule A.

3. If any of the above required action dates are more than 9 months apart, a progress report shall be submitted at the 9 month interval and every 9 months after that until the next action date occurs.

4. In the event that compliance with either of the dates specified in Conditions 1 and 2 or 1 and 3 is not achieved, no additional sewer hook-ups will be permitted.

SCHEDULE D

Special Conditions

1. The permittee shall have a secondary source of power generation adequate to operate the facility in the event of a power outage.

2. The permittee shall manage all sludge in accordance with a sludge management plan developed to meet the requirements of OAR 340, Division 50.

3. Until the treatment plant is upgraded to achieve compliance with the minimum treatment criteria set forth in Condition 2, Schedule A, no septage shall be accepted for treatment.

P27866.W (c)

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: DIRECTOR

DATE: 10 JUNE 88

RE: CORRECTION TO AGENDA ITEM L, JUNE 10, 1988 MEETING

An error was made in the staff report for agenda item L, "Request for increase load allocation under OAR 340-41-026(2) from Portland General Electric for an expansion of the sewage treatment plant serving the Trojan Nuclear Power Plant".

The report erroneously indicates that the requested and recommended increase is a 12.5 pound increase. The requested and recommended increase is 8.3 pounds to a total of 12.5 pounds of both biochemical oxygen demand and total suspended solids.

The draft permit attached to the staff report is correct.

JAGillaspie
6/9/88
229-5292

FH CHRON

MEMORANDUM

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: DIRECTOR

DATE: 10 JUNE 88

RE: CORRECTION TO AGENDA ITEM L, JUNE 10, 1988 MEETING

An error was made in the staff report for agenda item L, "Request for increase load allocation under OAR 340-41-026(2) from Portland General Electric for an expansion of the sewage treatment plant serving the Trojan Nuclear Power Plant".

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The draft permit attached to the staff report is correct.

JAGillaspie
6/9/88
229-5292

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: DIRECTOR

RE: AGENDA ITEM L, June 10, 1988, EQC MEETING

REQUEST FOR INCREASE LOAD ALLOCATION UNDER OAR 340-41-026(2) FROM PORTLAND GENERAL ELECTRIC FOR AN EXPANSION OF THE SEWAGE TREATMENT PLANT SERVING THE TROJAN NUCLEAR POWER PLANT

EXECUTIVE SUMMARY

Portland General Electric operates a small sewage treatment facility to serve its Trojan Nuclear Power Plant. The sewage treatment plant is too small to adequately treat the increased wastewater loads from the plant. Wastewater loads have increased due to a larger work force at the plant.

The company has evaluated the options available to them for increasing their ability to treat sewage at the plant, and had requested approval be granted for increasing its allowable discharge limit by a monthly average of 12.5 pounds of biochemical oxygen demand and total suspended solids. The company's evaluation of other alternatives which would not increase loads discharged were more expensive or impractical.

Under the Commission's rules, additional load allocations must be specifically approved by the Commission.

The Department had concluded that the increased 12.5 pounds in BOD and suspended solids will have no affect on the Columbia River, and are recommending the Commission grant the requested increase and the National Pollutant Discharge Elimination System permit for the facility be so modified. Public comment has been solicited on this proposed request and a public hearing held. No comments were received.

RP1404A

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: DIRECTOR

RE: AGENDA ITEM L, June 10, 1988, EQC MEETING

REQUEST FOR INCREASE LOAD ALLOCATION UNDER OAR 340-41-026(2) FROM PORTLAND GENERAL ELECTRIC FOR AN EXPANSION OF THE SEWAGE TREATMENT PLANT SERVING THE TROJAN NUCLEAR POWER PLANT

BACKGROUND

The Trojan Nuclear Power Plant is located near Rainier, Oregon on the Columbia River. The facility, built in 1974, included a small sewage treatment plant to serve a planned permanent staff of 60 persons (20 people per shift, 3 shifts per day). The 25,000 gallon per day treatment plant includes two aeration basins, a final clarifier, and a chlorine contact chamber for disinfection. The National Pollutant Discharge Elimination System (NPDES) Permit for the facility allows 20 milligrams per liter (mg/l) of total suspended solids (TSS) and 20 milligrams per liter of biochemical oxygen demand (BOD) to be discharged during the summer; 30 mg/l is allowed in winter months. Total pounds of solids and BOD allowed to be discharged are 4.2 pounds each on a monthly average, with a peak daily concentration of 30 mg/l equaling a total of 6.3 pounds allowed. The treated effluent is discharged to the Columbia River at river mile 72.5.

Currently, the sewage plant serves a work force of 350 people. In addition, more than 1,000 additional workers are on-site during the annual refueling and maintenance shutdown.

PROBLEM

In addition to the seasonal influx, PGE plans to transfer additional permanent staff to the plant. The larger work force at the facility overloads the sewage treatment plant, and permit limits have been exceeded. Portland General Electric responded to a Regional Notice of Violation issued June 29, 1987 (NWR-WQ-87-88) with a plan to expand the plant to handle the current and anticipated work force.

After considering a variety of alternatives, Portland General is proposing to increase the treatment capacity of the sewage treatment system from its current 25,000 gallons per day to 75,000 gallons per day. This would increase the allowable discharge in the summer months from a total monthly average of 4.2 pounds to 12.5 pounds. Discharge limits would remain at 20 mg/l suspended solids and BOD as required in the applicable water quality basin standards (Oregon Administrative Rule (OAR) 340-41-215(1)).

The table below summarizes the company's request:

	Current Permitted 25,000 GPD[1]	Requested 75,000 GPD
Monthly average concentrations	20 mg/l BOD/TSS	20 mg/l BOD/TSS
Monthly average discharge	4.2 pounds BOD/TSS	12.5 pounds BOD/TSS
Daily Maximum	6.3 pounds BOD/TSS	25.0 pounds BOD/TSS

[1] Gallons Per Day

The Commission's policy is that growth is to be accommodated within existing load allocations, OAR 340-41-026(2). This policy states that, "In order to maintain the quality of waters in the State of Oregon, it is the policy of the EQC to require that growth and development be accommodated by increased efficiency and effectiveness of waste treatment and control such that future discharge loads from existing sources do not exceed presently allowed discharged loads unless otherwise specifically approved by the EQC."

This policy recognizes that the assimilative capacity of rivers is limited and maintenance of water quality, while accommodating growth will require more stringent controls.

ALTERNATIVES

1. HOLD COMPANY TO CURRENT DISCHARGE LIMITS

To ensure no additional violations of the permit limits due to the additional staff at the facility, the company would need to:

A. Provide a higher level of treatment;

B. Spray irrigate the wastewater on land; or

C. Use ponds or tanks to store the wastewater.

Portland General Electric explored each of these options. A summary of each of these alternatives is explored below.

A. TREAT THE LARGER SEWAGE LOAD TO HIGHER STANDARDS TO STAY WITHIN PERMIT POUNDAGE LOADINGS.

To serve a larger workforce and to meet current permit load limits, the sewage treatment plant would need to meet concentration limits of 6.7 mg/l for BOD and TSS. After analysis, consultants for the company concluded that a dual media filtration system would best meet these treatment standards. The company estimates that the additional construction costs would be $375,700 and an additional $20,000 per year in operational costs. This would amount to a 34% increase in cost and complexity of operation on a present-worth basis.

B. FLOW EQUALIZATION HOLDING POND.

This alternative would have the company expanding its treatment abilities, along with building a storage pond at the site to hold the increased load which occurs during power outages. This treated water would be held and added back into the effluent slowly at levels below the current permitted levels. The Company indicates that no area on site is suitable for building a pond.

The PGE estimates of this alternative exceed the costs of expanding the sewage treatment plant by $730,000 or 51%.

C. WINTER STORAGE, SUMMER IRRIGATION.

Effluent over the permitted discharge of 25,000 gallons per day (gpd) could be irrigated. The company indicates the nearest suitable land for irrigation is 2 miles from the plant. A pipeline and pump stations would be necessary for transporting the effluent. The company estimates this would cost an additional 72% over expanding the sewage treatment plant.

Attachment A summarizes the company's estimates of the costs of each of these alternatives.

2. ALLOW THE COMPANY AN INCREASE IN DISCHARGE LIMITS TO ACCOMMODATE 75,000 GPD OF TREATED EFFLUENT.

At the Trojan Plant, the Columbia River ranges from a low flow of 120,000 cubic feet per second (cfs) to peak flows of 450,000 cfs. At these flows the existing discharge is diluted by a low of over 9500:1 to over 19,000:1. The proposed increase would be diluted by a high of 6500:1 to a low of 3200:1. Dilution available is well above the needed factor of 20:1 for an effluent BOD of 20 mg/l.

The impacts of the current sewage treatment plant have been studied extensively. No impacts on the Columbia River or aquatic life have been documented from the current discharge.

ANALYSIS

Additional sewage treatment capability is necessary at the Trojan Plant to handle the current and planned work load. Treating the necessary increase in wastewater to the requirements in the basin standards (20/20) would produce an additional 12.8 pounds of BOD and suspended solids to be discharged to the Columbia River. The Department has concluded this increase will have no impact on the Columbia River or its beneficial uses.

PUBLIC COMMENT

The Department issued a public notice on the proposed increase (Attachment C) and held a public hearing on the proposed modification April 20, 1988 (Attachment D). No comments were received.

SUMMARY

1. The Trojan Nuclear Power Plant, near Rainier, has increased its work force beyond that originally planned for when the plant was built in 1974.

2. The increased number of workers overloads the existing sewage treatment plant, causing violations of the plant's NPDES permit.

3. The company has proposed to increase the size of its plant such that it can adequately treat the sewage loads.

4. Increases in permitted loads require action by the Environmental Quality Commission under OAR 340-41-026(2).

5. There are alternatives available to the company which would allow them to treat the additional wastewater and stay within the existing permit. The company has presented estimates showing that these alternatives range in cost from $375,000 to $730,000 in additional capital outlay costs. In addition, $20,000 to $60,000 additional annual operation and maintenance costs would be incurred.

6. The Department has concluded that the increase of 12.8 pounds of BOD and suspended solids will have no impact on Columbia River quality or its beneficial uses.

7. Public comments were solicited on the proposed permit. None were received.

RECOMMENDATION

The Director recommends that the Commission grant the requested increase for 12.8 pounds of additional loading to Portland General Electric for the Trojan Nuclear Power Plant, and that the Department modify the plants NPDES permit as appropriate.

Fred Hansen
Director

JA Gillaspie
229-5292
RP1404
Attachments

A. Portland General Electric estimates of treatment costs
B. Request from Portland General Electric
C. Public Notice
D. Hearing Officer's report
E. Proposed modified permit

WQ-10C
PGE
TROJAN

TABLE II
COST COMPARISON OF PROPOSED STP AND ALTERNATIVES

Costs	Proposed STP Expansion to 75,000 GPD	Alternative 1 Proposed STP + Dual Media Filters	Alternative 2 Proposed STP + Dual Media Filters + Granulated Act. Charcoal	Flow Equal Over 25,000 gpd (Holding Pond + Proposed STP)	Flow Equal Over 25,000 gpd (Holding Pond + Alternative 1)	Flow Equal Over 25,000 gpd (Holding Pond + Alternative 2)	Winter Storage Summer Irrigation Over 25,000 gpd + Proposed STP	Winter Storage Summer Irrigation Over 25,000 gpd + Alternative 1	Winter Storage Summer Irrigation Over 25,000 gpd + Alternative 2
Construction	$ 811,700	$1,187,400	$1,579,200	$1,541,700	$1,917,400	$2,309,200	$1,517,950	$1,893,650	$2,285,450
O&M/Year	78,000	98,000	159,400	101,600	121,600	183,000	137,855	157,855	219,255
Present Worth (O&M)	1,166,400	1,463,900	2,371,400	1,446,400	1,743,900	2,651,400	1,886,400	2,183,900	3,091,400
Total Present Worth	$1,978,100	$2,651,300	$3,950,600	$2,988,100	$3,661,300	$4,960,600	$3,404,350	$4,077,550	$5,376,850
Operational Complexity Rating*	10	3	2	8	2	2	7	2	1
Reliability Rating*	10	4	3	8	3	2	6	3	1
Energy Consumption Rating*	10	6	5	9	5	4	3	2	1

* 10 is best, 1 is worst.

SK/rn
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Portland General Electric
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Portland, Oregon 97204

PGE-Trojan.
WQ-Columbia

PROPOSED SEWAGE TREATMENT PLANT AT TROJAN

I. Introduction

The original sewage treatment plant (STP) at Trojan was designed for a permanent staff of approximately 60 persons (20 per shift for three shifts) plus visitors. That STP was designed to treat a monthly average flow of 15,000 gallons per day. Early on, it became apparent the plant was inadequate and the monthly average flow was increased to 25,000 gallons per day. Limits for suspended solids and BOD as given in the NPDES permit are 20 mg/l (loading of 4.2 pounds) for monthly averages and 30 mg/l (loading of 6.3 pounds) for daily maximums. Over the past several years the permanent plant staff has increased to approximately 350 persons. In addition, more than 1,000 additional workers are on site during the annual refueling/maintenance shutdown.

The increased usage has exceeded the capacity of the STP and discharge limits are frequently exceeded during periods of high usage. Heavier STP usage will be experienced in the future. The Trojan Engineering Staff will be relocated to the plant site from Portland and will approximately double the number of permanent employees. This increased load on the sanitary facilities at Trojan will actually be a shift from the Portland metropolitan area downstream to the Trojan area. Similarly, there will be a shift of loading during the annual refueling/maintenance shutdown if a significant number of temporary personnel and/or contractors are hired from the local area.

The water used in the domestic water system (and is discharged through the sewage treatment plant) is withdrawn from the Columbia River and treated in the water plant prior to use. Background levels of suspended solids and BOD have been removed prior to the additions from the sewage effluent. The additions are, therefore, lessened due to the background removals.

URS Corporation was retained to design a STP to adequately treat the increased amounts of sewage which are and will be discharged. A copy of the "Wastewater Treatment Predesign Study" dated August 1987 prepared by URS has been previously submitted to the Oregon DEQ. In addition, URS has submitted a letter summary dated January 20, 1988 (Attachment A) evaluating the chosen option, a sequencing batch reactor, with other alternatives.

PGE is requesting authorization to construct the STP as recommended by URS. The recommended monthly average flow limit of 75,000 gallons per day will result in the following discharge loadings for BOD and suspended solids:

TABLE 1

Loadings of Suspended Solids and BOD From Proposed STP

Summer (June through October) at 20 mg/l	Winter (November through May) at 30 mg/l
Average Month - 12.5 lb/day	Average Month - 18.8 lb/day
Maximum Week - 18.8 lb/day	Maximum week - 28.1 lb/day
Maximum day - 25.0 lb/day	Maximum day - 37.5 lb/day

The policy of the State of Oregon is to accommodate increases in discharge flows from sewage facilities within existing loading limits. The following information and appended material are presented to justify PGE's request to increase the discharge loadings from the STP to the Columbia River.

II. Present Conditions at Outfall and Mixing Zone

A. Dispersion Effects and Tidal Currents

The effluent from the existing STP is discharged to the Columbia River at River Mile (RM) 72.7 at -3.0 feet mean sea level (MSL) and the effluent from the proposed STP will be discharged at the same point. (See Figures 1 and 2). This effluent is mixed and dispersed within the Columbia River by river and tidal currents.

As described in the Trojan Final Environmental Impact Statement (USAEC Docket No. 50-344), low river flows, which occur in late summer and fall range from 120,000 cubic feet per second (cfs) to 170,000 cfs with average current velocities of 1.0 foot per second (fps) to 1.5 fps. High flows are during spring runoff (usually peaking in May or June) and can range from 450,000 cfs to 700,000 cfs with average current velocities of 2.0 fps to 3.0 fps. (This is the time of the year when the annual refueling shutdown is scheduled and the sewage treatment plant would likely incur highest usage).

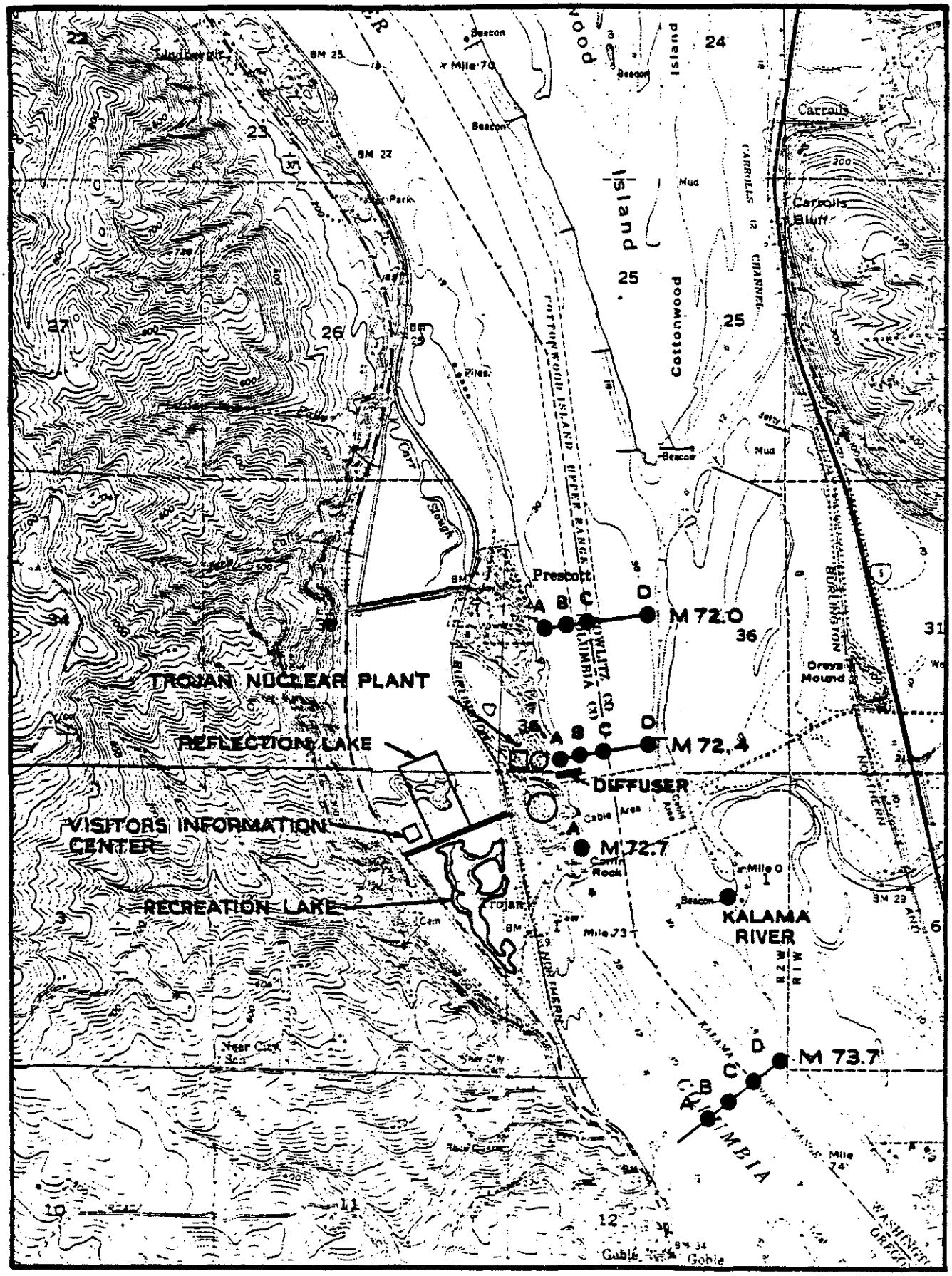
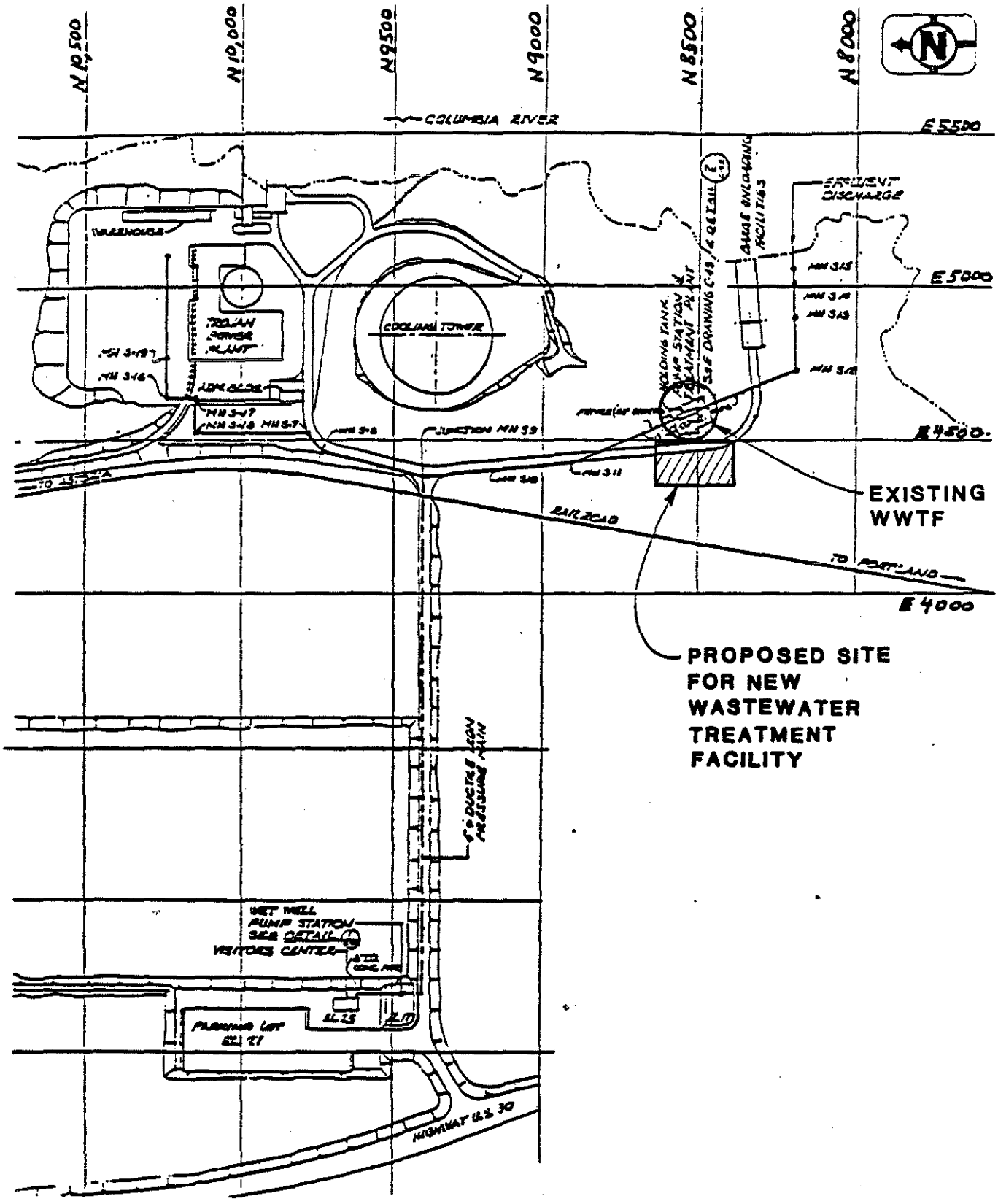


Figure 1 Sampling areas Columbia River Physical/Chemical Parameters, 1974 through 1980



URS CORPORATION	LOCATION MAP WASTE WATER TREATMENT FACILITY PGE-TROJAN WWTF PREDESIGN	FIGURE 1.1

Figure 2

The average current velocity of 1.9 fps occurs with the average flow of 230,000 cfs. The above stated current velocities are averages. Ebb tide velocities may be 20 percent to 30 percent greater and may be 40 percent less near shore (where the discharge is located). Tidal reversals do occur in the area and are caused by a combination of high tides and river flows of less than 190,000 cfs. Flow reversal occurs on about one-quarter of the tides during a normal year, meaning reversal occurs to some extent with every tide during the three months of low river flow (mid-August to mid-October). See Figures 3 to 11 (on the scale, 1 knot is equal to approximately 1.7 fps). These tidal reversals occur at planned non-peak periods of sewage plant usage. During a tidal reversal, the effluent plume would be directed upstream and be dispersed in that direction. On the ebbing tide when the river again flows downstream, the much diluted effluent would again be directed downstream and additionally diluted and dispersed.

B. Monitoring of Columbia River (1974 through 1980)

The STP outfall area was monitored from 1974 through 1980 as part of the Trojan Environmental Monitoring Program. Similar parameters were monitored upstream of the STP outfall at RM 73.7 and downstream at RM 72.4 and 72.0. Four sampling sites were visited monthly at RM 72.0, 72.4, and 73.7, Site A was nearest the Oregon Shore with Sites B and C being progressively farther offshore. Site D was near the Washington shore (see Figure 1). Comparison of data from the aforementioned sampling sites with monthly data from Site 72.7A was the basis to investigate the possibility of impacts on Columbia River water quality from the STP effluent. Since the "A" sampling sites are in closer proximity to the distance from the Oregon shore at which the STP effluent is discharged, the "A" station data were compared with data from Site 72.7A. Copies of data collected from 1974 through 1980 are appended for reference (Attachment B).

FIGURE 3

CURRENT MAP FOUR HOURS
BEFORE HIGH WATER AT ASTORIA

From
Environmental
Report
Amendment 2
(6/28/72)

FIGURE 4

CURRENT MAP THREE HOURS
BEFORE HIGH WATER AT ASTORIA

From
Environmental
Report

Amendment 2
(6/28/72)

FIGURE 5

CURRENT MAP TWO HOURS
BEFORE HIGH WATER AT ASTORIA

From
Environmental
Report

Amendment 2
(6/28/72)

FIGURE 6

CURRENT MAP ONE HOUR
BEFORE HIGH WATER AT ASTORIA

From
Environmental
Report
Amendment 2
(6/28/72)

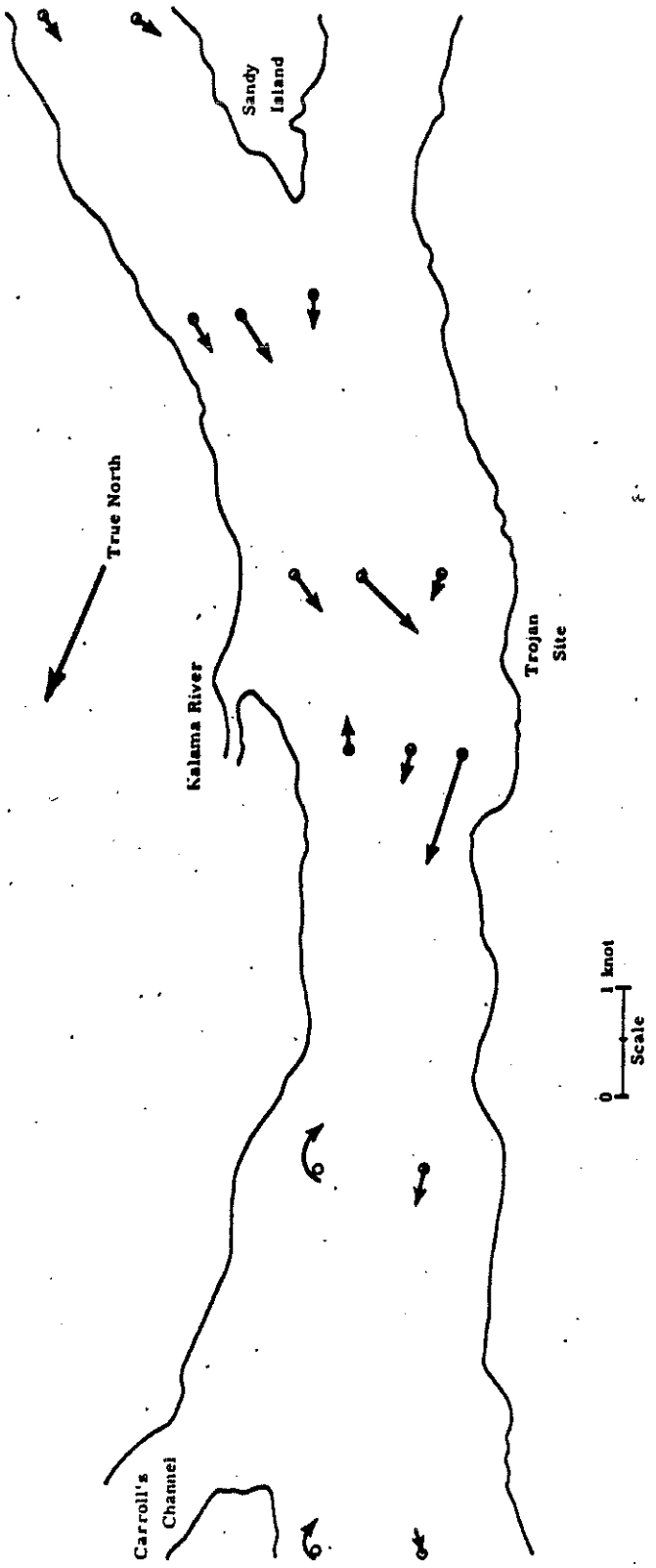


FIGURE 7

HIGH WATER AT ASTORIA

From Environmental Report Amendment 2 (6/28/72)

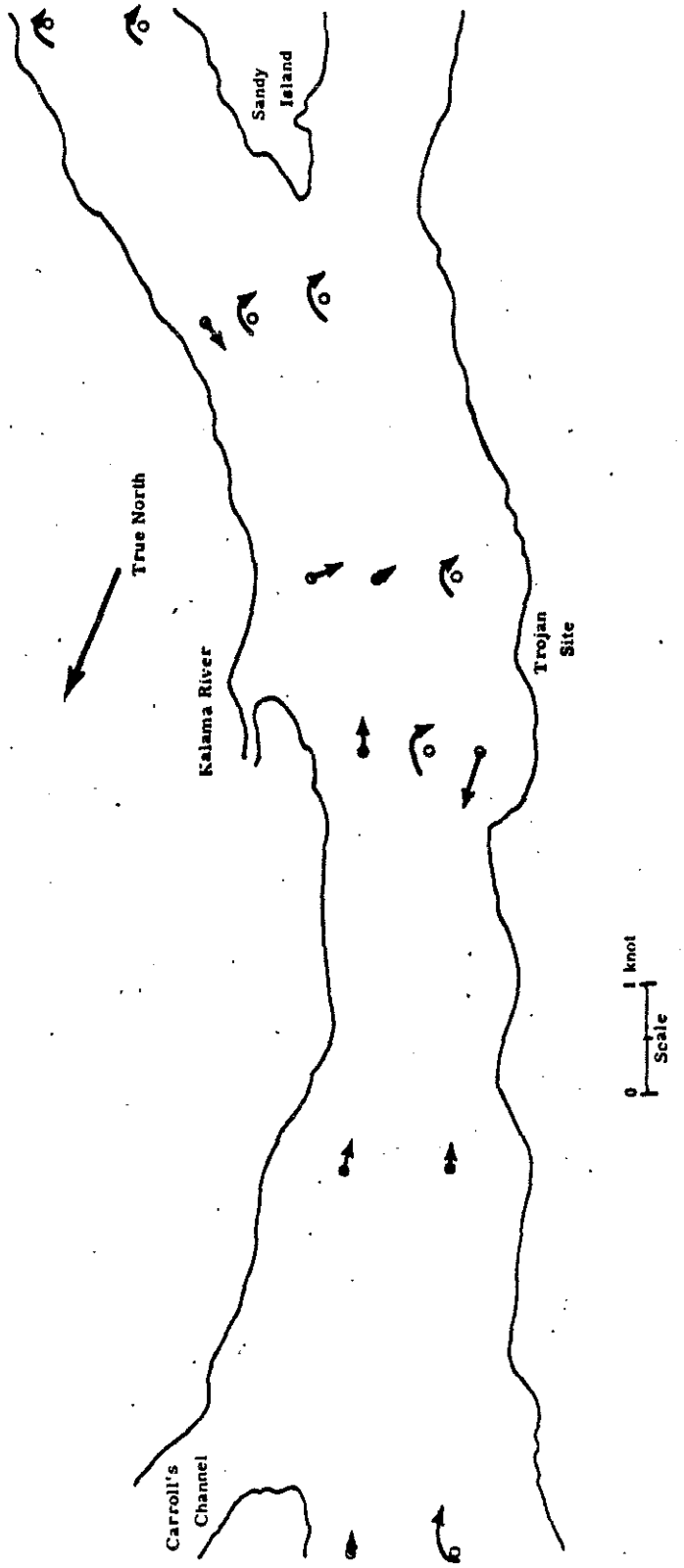


FIGURE 8

CURRENT MAP ONE HOUR AFTER HIGH WATER AT ASTORIA

From Environmental Report Amendment 2 (6/28/72)

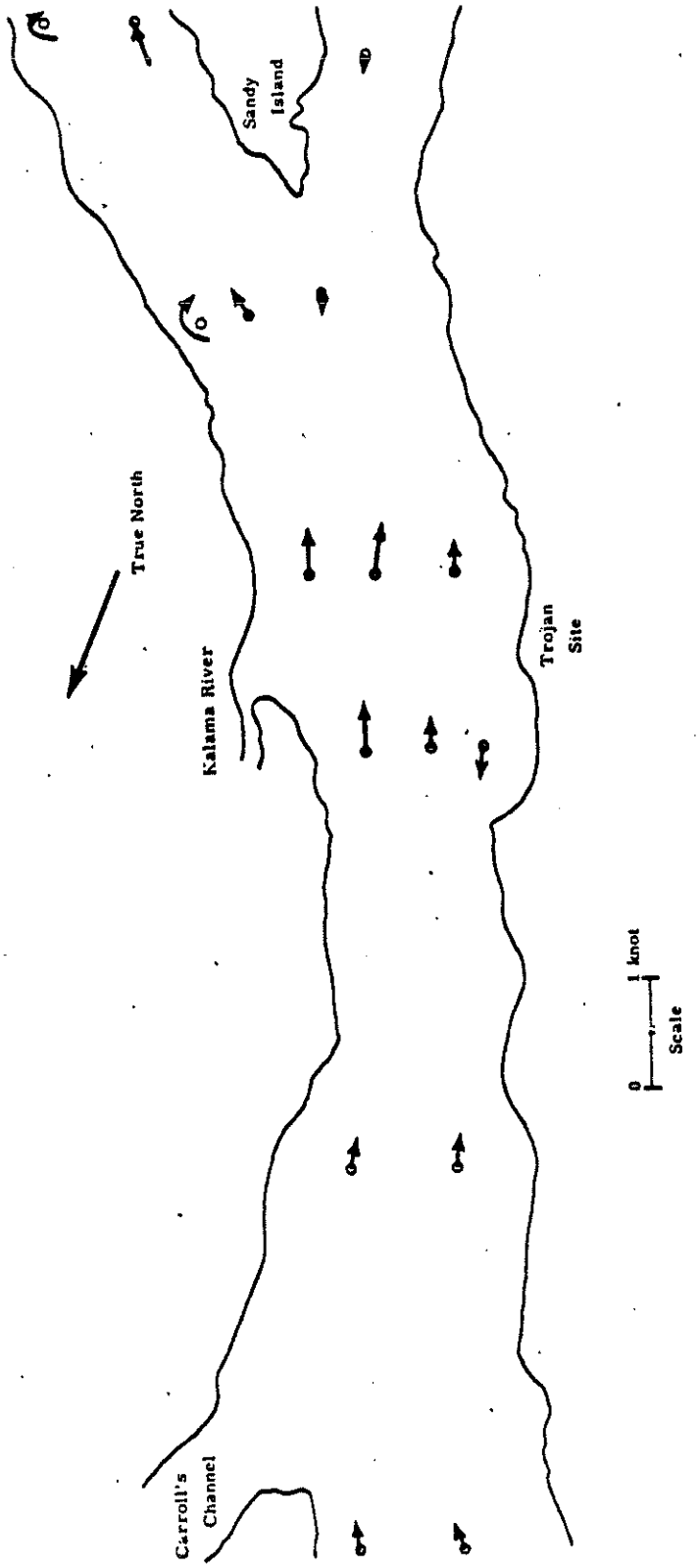


FIGURE 9

CURRENT MAP TWO HOURS AFTER HIGH WATER AT ASTORIA

From Environmental Report

FIGURE 10

CURRENT MAP THREE HOURS AFTER
HIGH WATER AT ASTORIA

From
Environmental
Report
Amendment 2
(6/28/72)

From
Environmental
Report
Amendment 2
(6/28/72)

FIGURE 11

CURRENT MAP FOUR HOURS AFTER
HIGH WATER AT ASTORIA

Since the parameters measured at the STP discharge (pH, total alkalinity, turbidity, residual chlorine, sulfate, total phosphate, secchi disk transparency, conductivity, dissolved oxygen, percent oxygen saturation, and temperature) were similar to comparable data from upstream and downstream stations (from Preoperation and Operational ecological Monitoring Program for the Trojan Nuclear Plant Annual Reports 1974 through 1980) this portion of the program was terminated after 1980 (program changes and agency concurrence documents as listed below are appended for reference as Attachment C).

1. Letter from Robert A. Clark, USNRC to Bart D. Withers, PGE dated May 14, 1981.

2. Letter from William H. Young, ODEQ to P.Y. Cree, PGE dated June 21, 1981.

3. Letter from Robert U. Mace, ODFW to P. Y. Cree, PGE dated July 9, 1981.

4. Letter from Donald J. Broehl, PGE to Lynn Frank, ODOE dated August 26, 1981.

5. Letter from Lynn Frank, ODOE to Donald J. Broehl, PGE dated September 16, 1981.

C. Monitoring of the Columbia River (1981 through 1986).

Monitoring of the sewage treatment outfall ceased after 1980 since no impacts were noted. Monitoring at the upstream and downstream stations was decreased in frequency at this time (see Figure 12). Parameters monitored from 1981 through 1986 are pH, total alkalinity, secchi disk transparency, conductivity, dissolved oxygen, temperature, and percent oxygen saturation. Chlorophyll pigments are measured as an indicator of biological productivity. Data collected from 1981 through 1986 are appended for reference (See Attachment B). As stated in the Operational Ecological Monitoring Program For the Trojan Nuclear Plant Annual Reports 1981 through

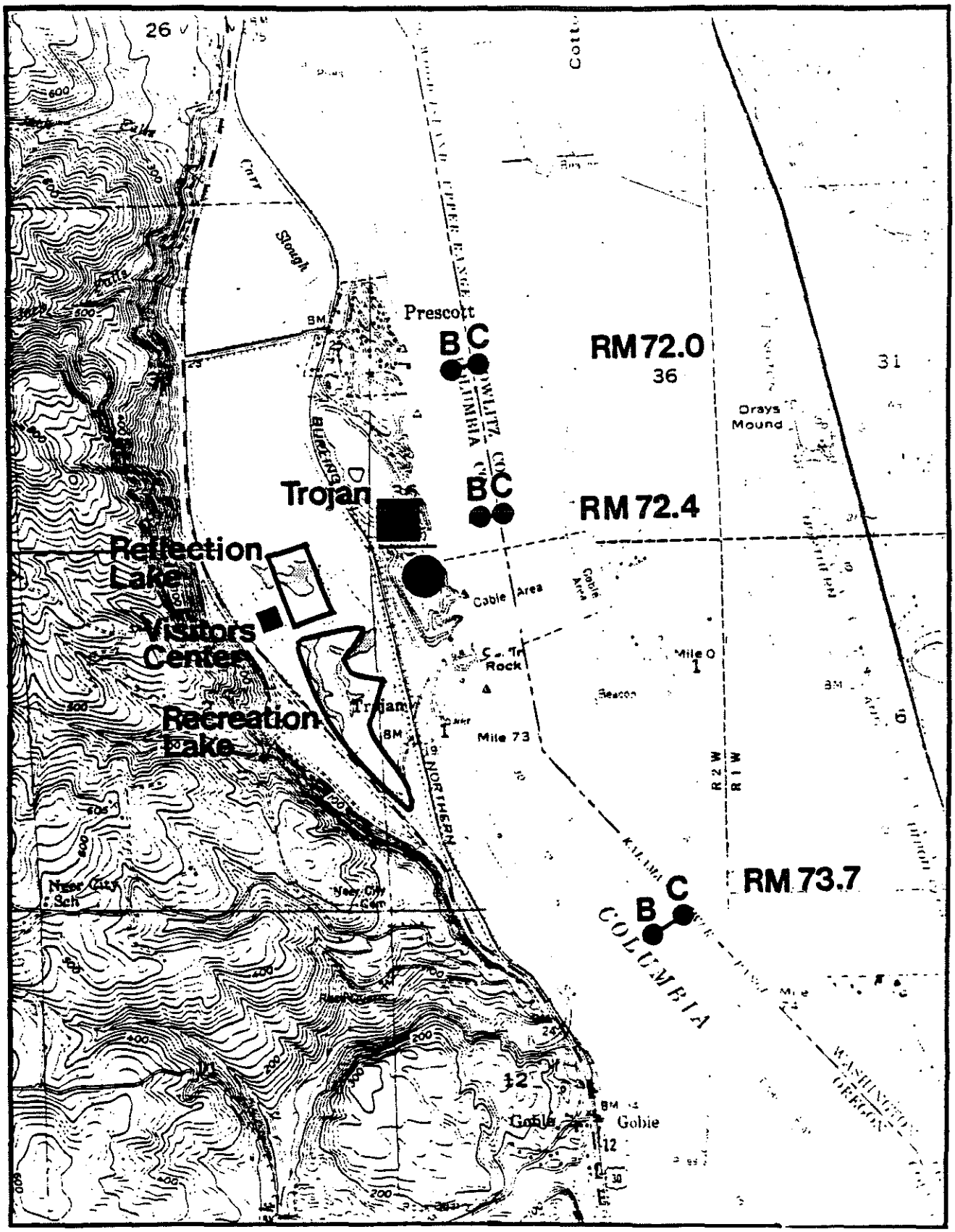


FIGURE 12 Sampling areas Columbia River Physical/Chemical Parameters, 1981 to the present

1986, variations between sampling sites were attributed to regional climatic and upstream influences. Cross stream variations were attributed to natural variations in water quality between the Willamette and Columbia Rivers. During periods of the year, water quality on the Oregon side of the river is influenced predominately by Willamette River flows and waterquality on the Washington Side of the river is influenced predominately by Columbia River water flows. In none of the years since routine monitoring was initiated have impacts on Columbia River water quality been caused by operations of the Trojan plant.

D. Available Assimilative Capacity

As indicated previously, no impact on the water quality of the Columbia River has been attributed to any operation of the Trojan Nuclear Plant. Samples taken above and below the STP outfall have not shown impacts of this discharge. It has been calculated the average concentration of BOD and suspended solids in the Columbia River will be increased by 0.000014 ppm. That value is well beyond detection limits and is overshadowed by natural variations. It is clear that additional loading will have no demonstrable impact on the river.

The existing average high flow limit for the sewage treatment plant is 25,000 gpd, and the proposed high flow limit is 75,000 gpd. The difference between 75,000 gpd and 25,000 gpd represents 0.00003% of the average flow of the Columbia River at Trojan. Utilizing an average of 35 ppm of total suspended solids and 2 ppm BOD already present in the Columbia River at Trojan, the increased loading proposed would increase the average concentration of suspended solids and BOD in the Columbia by 0.00004% and 0.0007% respectively. Such variations are beyond detection levels and are overshadowed by the normal fluctuations in the river. Since past impacts have not been noted, impacts from the proposed increased loadings are not anticipated.

Stream velocity for dispersal varies with river flow and tidal conditions. River velocity averages approximately 1.8 fps and ranges from 1.0 to 1.5 fps during yearly low flows to 2.0 to 3.0 fps during high flows in the spring (when the sewage treatment plant will normally receive its heaviest planned use). Tidal reversal occurs when river flow drops below approximately 190,000 cfs, this occurs roughly during the period of mid-August to mid-October (which is the planned non-peak period of operation for the sewage treatment plant). The current near the Oregon shore, where the effluent is discharged, continues downstream for a time after the flow in the main channel has reversed (see Figures 3 to 11). The above velocities are averages and may be less near shore as opposed to mid-channel and greater during ebb tide.

The increase in loadings from the proposed STP will be so small as to be unmeasurable. Since past monitoring has not shown impacts on Columbia River water quality from discharges from the existing plant, none should be expected from the small increases from the proposed plant.

E. Mixing Zone Configuration

The effluent from the STP is discharged at RM 72.7 through an 8-inch concrete pipe at -3.0 feet MSL as shown in figures 1 and 2 (also see Attachment D). The mixing zone specified in the current NPDES permit is the area within a 50-foot radius of the point of discharge. The adjacent upland area has an elevation of approximately 20 feet MSL. The vertical distance from the discharge to ground level is approximately 23 feet. The water level varies due to seasonal river flows (ie, spring runoff) and tidal fluctuations. To determine the volume of the mixing zone, a depth of 15 feet was chosen to represent minimum average conditions. Figure 13 illustrates the approximate configuration of the mixing zone. To simulate approximate worse case conditions an active mixing zone with 45° angle of dispersion was used. Given the above configuration of the mixing zone a 2-fps flow in the winter and a 1-fps flow in the summer, the volume of dilution water flowing from the point of discharge to the downstream edge of the mixing zone is 140,250 gallons in 25 seconds in the winter and 50 seconds in the summer. This provides the following dilution ratios:

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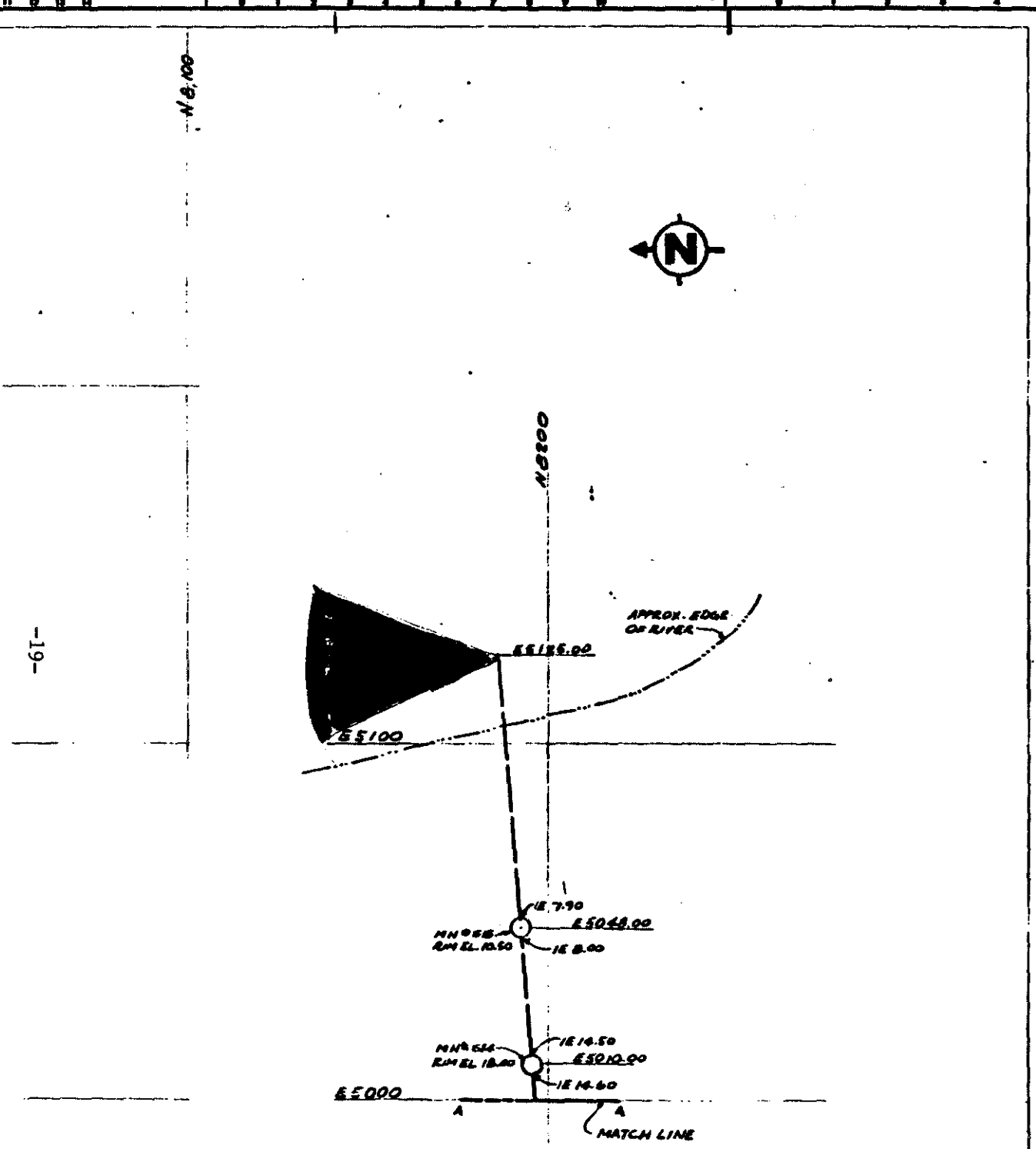
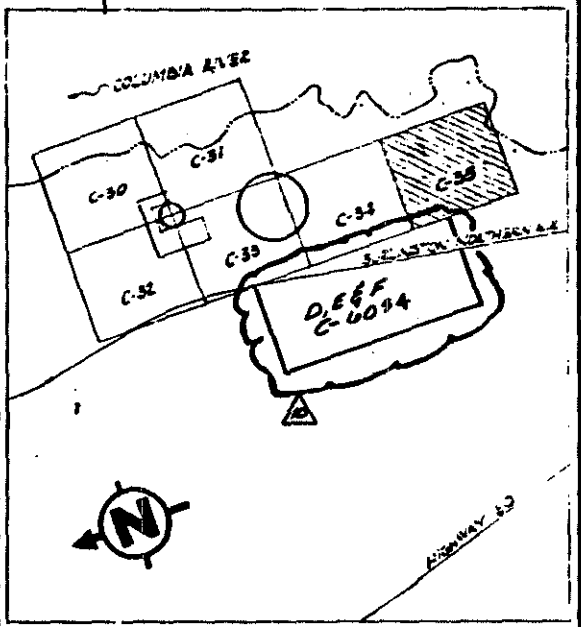




KEY PLAN
SCALE: 1" = 600'

NOTES:

1. FOR LIST OF REFERENCE DRAWINGS FORMING PART OF SECTION 20 OF DOCUMENT 6478-FO4, SEE DRAWING C-30
2. THIS DRAWING TO BE READ IN CONJUCTION WITH DRAWINGS C-30, C-31, C-32, C-33 AND C-35.
3. GRADING WORK NOT PART OF CONTRACT 6478-FO4.
4. SEE NOTES 3 THRU 6 ON DWG C-30 FOR MAJOR JOB # 7043.

Figure 13

TABLE 2

Dilution Ratios In STP Mixing Zone

	Existing STP	Proposed STP
Winter (November through May)	19,400:1	6,470:1
Summer (June Through October)	9,695:1	3,230:1

III. Impacts of Proposed Increased Discharge

Considering the dilution ratios given above the following increases of suspended solids and BOD have been calculated for the existing STP and proposed STP in the summer (June through October) and winter (November through May) seasons.

TABLE 3

Concentrations of BOD and Suspended Solids (mg/l)

Parameter	Season	Background[1]	Current STP[2]	Proposed STP[3]
Suspended Solids	Winter	30	30,000	30,000
BOD	Winter	2	2.0014	2.0043
Suspended Solids	Summer	10	10.0010	10.0031
BOD	Summer	2	2.0019	2.0056

Basis:

1. Columbia River Historically Accepted BOD and SS Data
2. 25,000 gpd @ 30/30 (Winter) and 20/20 (Summer) BOD and SS
3. 75,000 gpd @ 30/30 (Winter) and 20/20 (Summer) BOD and SS

Although not specified or limited in the NPDES permit phosphorus discharges are of interest in certain water sheds in Oregon. Since there are no historical data regarding phosphorus discharges from the existing STP, a value was chosen from facilities treating sewage similar to the existing Trojan STP (13 mg/l from the Hillsboro West and Hillsboro East facilities). A background level of 0.08 mg/l from the Columbia River was used. This is an average value calculated from monthly concentrations over a 3 1/2 year period as given in the Trojan Final Environmental Impact Statement (Docket No. 50-344). Using the dilution ratios given above the following increases in concentrations were calculated:

Table 4

Concentrations of Phosphorus (mg/l)

Season	Background	Existing STP	Proposed STP
Winter (Nov-May)	0.08	0.0807	0.0820
Summer (June-Oct)	0.08	0.0813	0.0840

The increases indicated for the parameters in Tables 3 and 4 are unmeasurable. Since these values are calculated to occur at the edge of the mixing zone they would be further diluted further downstream. Considering the insignificant increase in the concentrations of parameters calculated above and the available assimilative capacity of the Columbia River as described in above, no impact on Columbia River water quality can be expected from the proposed project.

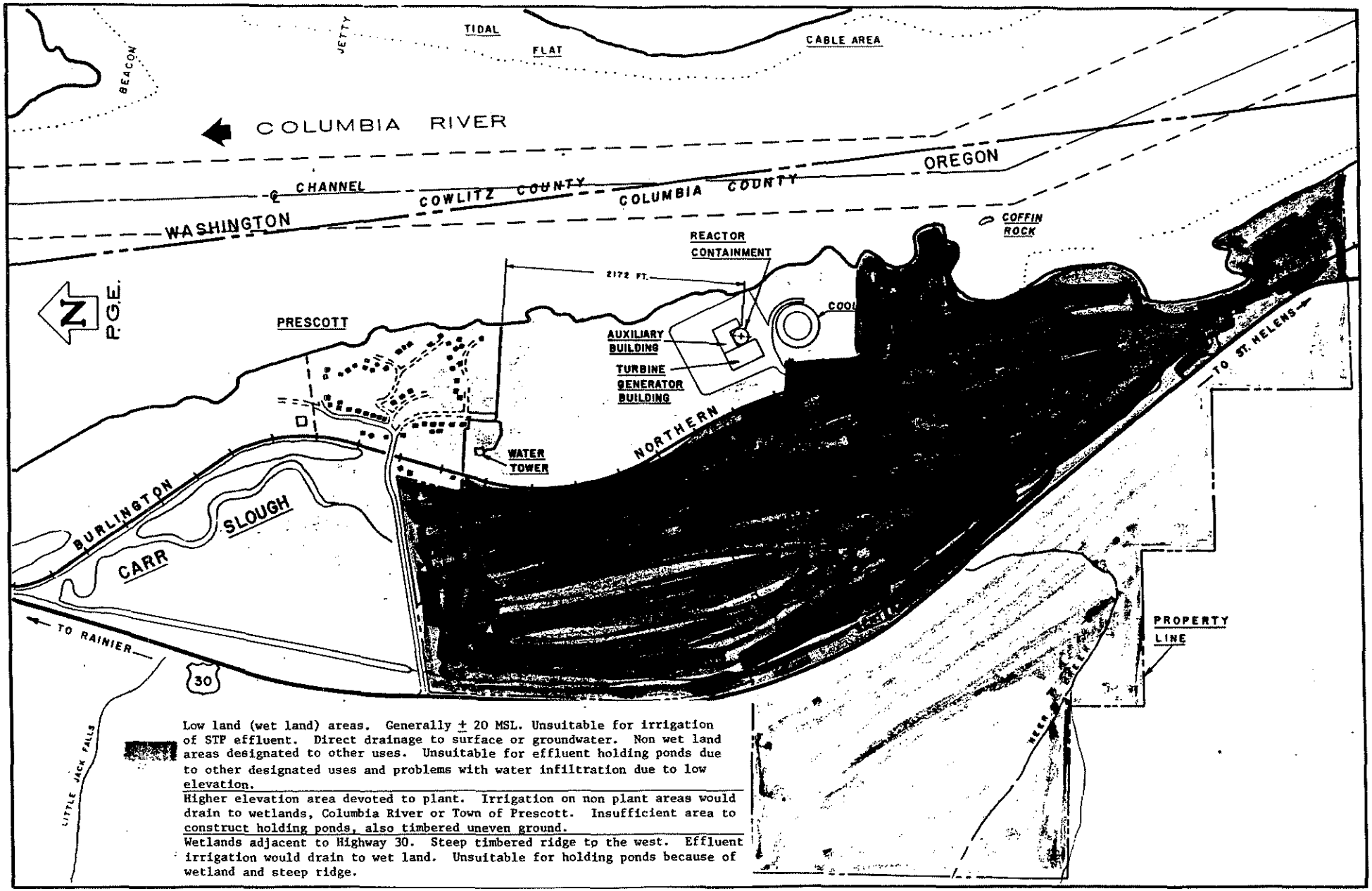
IV. Flow Equalization Alternative

Influent or effluent storage basins would not be practical in equalizing flow rates to the Columbia to approximately the current levels as these flows increase dramatically on a seasonal rather than daily basis. The peak influent flow periods to the STP would be from April until the end of an extended outage which may be as late as July. A 60,000 gpd flow would be a reasonable average for this period (122 days). The difference between the above 60,000 gpd flow and the existing 25,000 gpd permitted flow means that a pond seven feet deep and 325 feet in diameter would have to be constructed to store the 4.3 million gallons of effluent. An even larger pond would be required should the outage extend beyond the end of July (a circumstance which has occurred several times in the past). Space to

construct such a pond is limited by several physical and cultural factors (see Figure 14). Much of the land within the Trojan site boundaries are wetlands and therefore unavailable. Much of the rest of the site is taken up by buildings, work and recreation areas, and the fish rearing facility. Most of the land within the plant boundaries, with the exception of the ridge on which the plant is built is 20 MSL or less

Excavation of a pond of the depth required would be hampered by ground water infiltration, therefore a pond liner would be required. There is no area on site which is considered suitable to construct such a pond. To illustrate potential expenses involved were an acceptable site available, Tables 5, 6, and 7 present the calculated cost of construction and operation.

The stored effluent would eventually have to be discharged. This logically would occur after the outage where influent to the STP decreases. The effluent from the STP and storage pond would have to be discharged at the same time at a rate which would not exceed the currently permitted rate of 25,000 gpd to ensure compliance with current NPDES permit limitations. Depending on the amount of effluent stored and the flow from the STP, it may not be possible to completely discharge it prior to the next annual refueling outage.



Amendment 3
(7/24/73)

TROJAN PLANT LOCATION
Figure 14

ıge tion ›d ›	Winter Storage Summer Irrigation Over 25,000 gpd + Alternative 1	Winter Storage Summer Irrigation Over 25,000 gpd + Alternative 2
	$1,893,650	$2,285,450
	157,855	219,255
	2,183,900	3,091,400
	$4,077,550	$5,376,850
	2	1
	3	1
	2	1

Table 5

Calculated Cost of Sewage Effluent Holding Pond - Construction

Item	Cost
Excavation (22,000 cu yd) at $4.00/yd	$88,000
Piping (approximately 2,000 lin. ft) at $10.40/lin ft	21,000
Aeration Blowers. Piping with Controls	50,000
Electrical Service Installation	20,000
Pumps	5,000
Engineering	40,000
Pond Liner (90,000 sq ft) at $4.00/sq ft	360,000
Subtotal	$584,000
Contingency at 25%	146,000
Grand Total	$730,000

TABLE 6

Annual Operation and Maintenance Costs

Holding Pond

Item	Cost
Electrical Power (80,000 kwh at $0.045 per kwh)	$3,600
Operations (Personnel, etc.)	20,000
TOTAL	$23,600

TABLE 7

Summary of Holding Pond Costs

Capital Cost ($)	Annual O&M ($)	Present Worth O&M ($)	Total Present Worth ($)
730,000	23,600	280,000	1,010,000

*27 years @ 7%/year

V. Effluent Irrigation Alternative

Since storage of effluent and subsequent slow discharge to the river is not a viable alternative, effluent irrigation might be considered. Since the effluent over 25,000 gpd would be produced in the non-irrigation time of the year (ie spring and early summer). It would have to be stored until the dryer season. As discussed above there is not a suitable area on site to construct such a holding pond. There are no viable irrigation disposal areas on the plant site due to the direct drainage to wet lands and land dedicated to other purposes. Irrigation water will either flow to the Recreation Lake, to wetlands and then to the Columbia River or penetrate the soil to the shallow ground water below . The assimilative capacity of these small bodies of water is far less than the Columbia River and resultant water quality degradation could occur. Irrigation on the smaller amounts of higher ground which might be available would drain to wetlands, the Columbia River, or the town of Prescott.

In order to use irrigation to dispose of the STP effluent, property would have to be purchased away from the site and the effluent transported. If this were done by pipeline, the effluent would have to be pumped at least two miles with a vertical rise of about 800 feet. Pump stations with holding tanks and pressure main would be required in the very steep area above the plant. The expense would be prohibitive considering lack of impacts on Columbia River water quality from the relatively very small increase in loading from the proposed treatment facilities. Tables 8, 9, and 10 illustrate the calculated costs of effluent irrigation.

From the above, it is apparent there are no areas available to construct an effluent holding pond or to dispose of the effluent by irrigation. If there were, the costs of construction and operation and maintenance are extremely high (especially when considering the increase in loadings discharged will be unmeasurable in the river). The only viable alternative is direct discharge to the river.

Table 9

Calculated Costs for Pumping and Irrigating

Sewage Effluent - Construction

Item	Cost
Two Miles 4-Inch Asbestos Cement Pipe (at $5.40/lin ft)	$57,000
Excavation and Backfill (at $5.00/lin ft)	53,000
Jacking (Passage Under Railroad and Highway)	25,000
Pump Stations (Four at $40,000 each)	160,000
Electrical Service Installation	100,000
Property (20 Acres at $5,000/Acre)	100,000
Distribution System (Pumps and Sprinkler System)	30,000
Engineering	40,000
SUBTOTAL	$565,000
Contingency (at 25%)	141,250
GRAND TOTAL	$706,250

TABLE 9

Annual Operation and Maintenance Costs

Effluent Irrigation system

Item	Cost
Electrical Power (219,000 kwh at $0.045 kwh)	$9,855
Operations (Personnel, etc)	50,000
TOTAL	$59,855

TABLE 10

Summary of Effluent Irrigation Costs

Capital Costs ($)	Annual O&M ($)	Presentation Worth O&M ($)*	Total Present Worth ($)
706,250	59,855	720,000	1,426,250

*27 years @ 7% /year

VI. Advanced Treatment Alternative

Tertiary process facilities could be added to treat the secondary effluent to comply with the existing NPDES permit discharge limits during higher flow periods, but would increase the estimated treatment costs by at least 50%, and probably by 100%, over the estimated costs for secondary treatment alone. the extra cost for tertiary treatment would be about $0.7 million to $2.0 million over a twenty year life cycle period (based on present dollar values) for 100,000 gal/day flow. Project costs for flows of 75,000 to 86,000 gpd would be about 10% to 15% less. Tertiary treatment would substantially increase the complexity of the wastewater plant and the operating attention needed.

These discharge quantities are very low pollutant loadings relative to the assimilative capacity of the Columbia River. The increased cost and complexity of the treatment plant to implement tertiary treatment do not appear justified in view of the small improvement in environmental quality which would be gained.

VII. Other Concerns

There are no designed pathways for radioactivity to be discharged to the Columbia River via the sewage treatment system. A weekly 24-hour composite sample is analyzed for tritium and gross gamma. The sludge return is sampled if there is a primary to secondary system leak in the plant at the steam generator (with activity of at least 1 X 10^{-5}mcu/l. This sampling is not required but is carried out for in-house use.

Should PGE's request for increased loadings be denied, alternatives would be available. Since the existing plants designed capacity would continue to be exceeded during outage periods, violations of the NPDES permit would result and that is not acceptable or an alternative. The other alternatives include tertiary process facilities as described in the attached letter from From K. David Moss of URS to A. N. Roller of PGE, dated January 20, 1988. As described there, costs to provide a system with increased flows, but loadings equal to existing limitations would range from about $0.7 million to $2.0 million over a twenty year life cycle period. However, no detectable improvement in environmental quality would be gained.

VIII. Conclusions

The proposed STP would not increase loadings to the Columbia River which could be detected, therefore additions of tertiary treatment options to the proposed STP are not justified. Storage of effluent over 25,000 gpd is not a viable alternative since there is no location on site to build a holding pond. If there were, costs would be prohibitive. Effluent irrigation is not a viable alternative due to the lack of a site to construct a holding pond and expenses of pumping the effluent to an acceptable irrigation site. Table 11 summarizes the costs of the proposed STP and the alternatives.

The preceeding assessment indicates the only viable alternative is the STP as proposed.

SCK:slc

es 1455

ATTACHMENT "A"

URS

URS CORPORATION
500 NORTHEAST MULTNOMAH STREET
PORTLAND, OREGON 97232
TEL: (503) 238-7050

U.S. OFFICES

INTERNATIONA

HEADQUARTE

January 20, 1988

78571.11
UP-25R

Mr. A. N. Roller
Portland General Electric
121 S.W. Salmon Street
Portland, OR 97204

Attn: W. L. Peregoy, P.E.

Subject: **ESTIMATED FUTURE SEWAGE FLOWS (REVISED) and SUMMARY OF TERTIARY TREATMENT REQUIREMENTS**
Trojan Nuclear Power Plant
Wastewater Treatment Facility Design (P.O.# NQ-02594)

Dear Bill:

Attached are two documents for your review, use and files. [These documents have been updated from those submitted with letter UP-25 on January 19, 1988.]

The first is a revised version of Table 3.2 from the "Wastewater Treatment Predesign Study" which pertains to the Estimated Future Sewage Flows for the proposed wastewater treatment facility (WWTF). Based upon this data, we recommend that a monthly average flow of 75,000 gallons per day be used for NPDES permit loading calculations. This flow would then result in the following discharge loadings for BOD-5 and TSS:

DRY WEATHER (at 20 mg/L)	WET WEATHER (at 30 mg/L)
Average month - 12.5 lb/day	Average month - 18.8 lb/day
Maximum week - 18.8 lb/day	Maximum week - 28.1 lb/day
Maximum day - 25.0 lb/day	Maximum day - 37.5 lb/day

The second item deals with our preparation of a two-page summary of the Tertiary Treatment Facility analysis previously submitted to PGE on December 7, 1987. We have excerpted key portions of that document for your submittal to the Oregon DEQ per their request. If you need additional information, please contact me.

Yours truly,

K. David Moss, P.E.
Project Manager

cc: S. Katkansky, PGE

January 20, 1988

Revised
Table 3.2

Estimated Future Sewage Flows (gpd)
[Monthly Average]

Condition	Staff	GPCPD	Sewage	I/I	Total
Non-outage; low estimate	500	25	12,500	7,500	20,000
Non-outage; "average" [dry]	700	25	17,500	15,000	32,500
Non-outage; "average" [wet]	700	25	17,500	25,000	42,500
Non-outage; high estimate	700	30	21,000	30,000	51,000
Outage; low estimate	1,300	25	32,500	7,500	40,000
Outage; "average" [dry]	2,000	25	50,000	15,000	65,000
Outage; "average" [wet]	2,000	25	50,000	25,000	75,000
Outage; high estimate	2,000	30	60,000	30,000	90,000
Outage; peak (PF=2)	2,000	60	120,000	30,000	150,000

LEGEND:
- Non-outage: When Trojan plant is operational and is producing electricity
- Outage: When Trojan plant is shut-down for annual maintenance
- [dry]: Dry weather, not necessarily matching the dry weather month for the Columbia River flow (which is June 1 to October 31)
- [wet]: Wet weather (sometimes June can be a wet month)

Based upon the above calculations, and also the flow data in Appendix A, the future average daily Non-outage flow would likely be between 20,000 gpd and 50,000 gpd. The average daily Outage flow would likely be between 40,000 gpd and 90,000 gpd, with an ultimate peak flow of 150,000 gpd.

For NPDES permit loading calculations, it is recommended that a monthly average flow of 75,000 gallons per day be used.

REFERENCE: "Wastewater Treatment Predesign Study," for Portland General Electric Trojan Nuclear Power Plant, by URS Corporation, August 31, 1987, page 3-4.

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

REVISED PUBLIC HEARING

A PROPOSED NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT MODIFICATION FOR PORTLAND GENERAL ELECTRIC COMPANY

Notice Issued: March 21, 1988
Comments Due: April 29, 1988
Revised: April 1, 1988

REVISED PUBLIC NOTICE

WHO IS THE APPLICANT: Portland General Electric Company
Trojan Sewage Treatment Facility

WQ-Cof

WHAT IS PROPOSED: Water quality permit modification for PGE's facility at Trojan.

WHAT ARE THE HIGHLIGHTS: Portland General Electric has requested approval to increase the size of its sewage treatment facility at the Trojan nuclear power plant in Columbia County near Rainier, Oregon. This increase is necessary to accommodate the wastewater loads of a larger and growing work force at the plant. The increase in the sewage treatment plant size would increase PGE's permitted discharge to the Columbia River from 25,000 gallons per day to 75,000 gallons per day of treated wastewater with a loading increase from 4.2 to 12.5 pounds per day of biochemical oxygen demand and suspended solids on a monthly average.

WHO IS AFFECTED: Users of the Columbia River near the facility located at River Mile 72.5.

WHAT IS THE IMPACT: After reviewing the current discharges on the Columbia River and the possible impact of increasing the discharge by an additional 8.3 pounds, the Department has concluded the increased loading will have no measurable impact on the Columbia River.

HOW TO COMMENT:

R E V I S E D

DEQ originally scheduled the location of the hearing in Medford, during the EQC meeting. To make the location more convenient to users of the Columbia River, the hearing has been relocated to DEQ's Portland headquarters. A hearing will be held before a hearings officer on:

Friday, April 29, 1988
9:00 a.m.
DEQ Offices
811 SW Sixth Avenue, Room 4
Portland, Oregon

811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

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.

-OVER-

Written comments should be presented to DEQ by 5:00 pm on April 29, 1988, at the following address:

Department of Environmental Quality
Northwest Region Office
811 S.W. Sixth Avenue
Portland, OR 97204 Telephone: 229-5263

WHAT IS THE NEXT STEP: After evaluating the public comment, the Department will forward a recommendation to the Environmental Quality Commission at its earliest possible meeting for final action.

WJ349

MEMORANDUM

TO: ENVIRONMENTAL QUALITY COMMISSION

FROM: CKASHBAKER
HEARINGS OFFICER

DATE: 10 MAY 88

RE: HEARINGS OFFICERS REPORT
REQUEST FOR LOAD INCREASE
PORTLAND GENERAL ELECTRIC - TROJAN PLANT

Public notice was given and a public hearing was convened at 9:00 am on Friday, April 29, 1988 in room 4 of the DEQ's Portland offices, 811 SW Sixth Ave., in Portland to receive public comment on the proposed increase in load allocation for Portland General Electric's Trojan Plant.

No one appeared to testify at the hearing, and no written comments were received.

Northwest Region

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

May 26, 1988

RECEIVED
MAY 27 1988
NORTHWEST REGION

Portland General Electric Company
Attn: R.J. Hess, Manager, Environmental Sciences
121 S.W. Salmon Street
Portland, OR 97204

Final Date for Submission
of Written Comments: **June 9, 1988**

Re: NPDES Permit No. 100144
File No. 70825
Trojan Nuclear Power Plant
Columbia County

Enclosed is the draft modification of your National Pollutant Discharge Elimination System (NPDES) Permit for the Trojan Power Plant. The changes in the permit are as follows:

SCHEDULE A: Outfall 002 (Domestic Waste). Loadings for BOD and TSS are increased to 12.5 monthly average and 25 daily maximum. Dry weather flow is increased to .075 MGD.

SCHEDULE D: Condition 5 has been added which requires a sludge management plan by January 1, 1989.

You are invited to review the enclosed copy and submit any comments you may have in writing prior to the date indicated above.

The permit modification will go to the Environmental Quality Commission for concurrence on June 10, 1989. Provided they concur, it will be issued after that date.

If you have any questions, please contact this office.

Sincerely,

Charles K. Ashbaker, Manager
Industrial Waste Section
Water Quality Division

CKA:dh
Enclosures

cc: Northwest Region, DEQ

DEQ-1

MODIFICATION

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT
Department of Environmental Quality
811 Southwest Sixth Avenue, Portland, OR 97204
Telephone: (503) 229-5696

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

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

SOURCES COVERED BY THIS PERMIT:

Type of Waste	Outfall Number	Outfall Location
Cooling Water	001	R.M. 72.5
Domestic Waste	002	
Settling Basin Eff.	003	
Boiler Blowdown	004	
Neutralizing Tank Eff.	005	
Oil/Water Separator Eff.	006	

PLANT TYPE AND LOCATION:

Trojan Nuclear Plant
Prescott, OR

RECEIVING STREAM INFORMATION:

Major Basin: Lower Columbia Basin
Minor Basin: -
Receiving Stream: Columbia River
County: Columbia
Hydro Code: 10=-COLU 72.5D

EPA REFERENCE NO: OR-002345-1

Issued in response to Application No. 999019 received March 29, 1988.

This permit is issued based on the land use findings in the permit record.

Fred Hansen, Director — Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate a wastewater collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

Each other direct and indirect waste discharge to public waters is prohibited.

This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

SCHEDULE A

1. Waste Discharge Limitations not to be Exceeded After Permit Issuance Date

Outfall Number 001 (Discharge and Dilution Structure Outfall)

Parameters	Concentrations Monthly Ave. mg/l	Daily Max. mg/l
Sodium	25	100
Total Chlorine Residual		Nondetectable*
Sulfate	240	824
Boron	0.1	1.0
Aluminum	0.5	0.8

* Level of Detectability is defined as 0.1 mg/l.

Other Parameters	Limitations
pH	Shall not be outside the range 6.0 - 9.0
Flow	Shall not exceed 64.3 MGD
Temperature	Shall not exceed 33.9°C (93°F) and, shall not exceed a monthly average delta T of 5.6°C (10°F) and a daily maximum delta T of 8.9°C (16°F).
Heat	Shall not exceed a daily average of 79×10^6 BTU/hour.

(During Reactor Cooldown Operations when the Columbia River water temperatures adjacent to the plant site are less than or equal to 19°C (66°F), the following temperature and heat discharge limits shall apply):

Temperature	Shall not exceed a daily maximum delta T of 8.9°C (16°F)
Heat	Shall not exceed an instantaneous maximum of 240×10^6 BTU/hour

(During Reactor Cooldown Operations when the Columbia River water temperatures adjacent to the plant site exceed 19°C (66°F), the following temperature and heat discharge limits shall apply):

Temperature	Shall not exceed a daily maximum delta T of 4.4°C (8°F)
Heat	Shall not exceed an instantaneous maximum of 160×10^6 BTU/hour

Outfall Number 002 (Domestic Waste)

	Concentrations		Loadings	
	Monthly Ave. mg/l	Daily Max. mg/l	Monthly Ave. (lb/day)	Daily Max. (lb/day)
BOD-5	20	30	12.5	25.0
TSS	20	30	12.5	25.0
FC per 100 ml	200	400		

Other Parameters	Limitations
pH	Shall be within the range 6.0 - 9.0
Monthly average dry weather flow to the treatment facility (June 1 - October 31)	0.075 MGD

Outfall Number 003 (Settling Basin Effluent Prior to Mixing with Other Waste Streams)

	Loadings	
	Monthly Ave. (lb/day)	Daily Max. (lb/day)
TSS	15	50

Other Parameters	Limitations
Flow*	Shall not exceed 0.08 MGD

*If necessary, the neutralizing tank discharge may be diverted to the settling basin for treatment prior to discharge to the river. During those periods the flow limitation for discharge (003) shall be increased not to exceed 0.16 MGD.

Outfall Number 004 (Boiler Blowdown and Metal Cleaning Wastes Prior to Mixing with Other Waste Streams)

Parameters	Limitations
Total Copper	Shall not exceed 1.0 lb/day
Total Iron	Shall not exceed 1.0 lb/day

Outfall Number 005 (Neutralizing Tank Prior to Mixing with Other Waste Streams)

	Loadings	
	Monthly Ave. (lb/day)	Daily Max. (lb/day)
TSS	15	50

Other Parameters	Limitations
Flow	Shall not exceed 0.08 MGD

Outfall Number 006 (Oil/Water Separator Effluent, and Startup Broiler Blowdown and Drain Water Prior to Mixing with Other Waste Streams)

	Loadings	
	Monthly Ave. (lb/day)	Daily Max. (lb/day)
TSS	15	50
Oil and Grease	8	10

2. Miscellaneous drainage to Recreation Lake (storm runoff and pump seal water) shall not exceed the following limitations at the point of entry to the receiving pond:

Parameters	Limitations
Oil and grease	Shall not exceed 10 mg/l
pH	Shall not be outside the range 6.0 - 9.0

3. The permittee shall notify the Department prior to draining the circulating water system to Recreation Lake. This discharge shall only occur during periods of emergency or scheduled maintenance. The drainage water shall not exceed the following limitations at the point of entry to the receiving pond:

Parameters	Limitations
Total Chlorine Residual	Nondetectable*
pH	Shall not be outside the range 6.0 - 9.0
Sodium	Shall not exceed 100 mg/l
Sulfate	Shall not exceed 824 mg/l

* Level of detectability is defined as 0.1 mg/L.

4. No water treatment chemicals containing zinc, chromates or phosphates shall be added to any water or wastewater stream which is discharged to the public waters of the State of Oregon.

5. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-41-205 except in the following defined mixing zone:

(Discharge 001 - Main Plant Outfall) The allowable mixing zone shall consist of that portion of the Columbia River within 300 feet from the diffuser, excluding that portion within 1.0 feet from the surface of the river.

(Discharge 002 - Domestic Waste) The allowable mixing zone shall consist of that portion of the Columbia River within a 50 foot radius from the point of discharge.

(Miscellaneous Drainage and Circulating Water System Drainage to Recreation Lake) The allowable mixing zone shall consist of the receiving pond from the point of effluent discharge to the rock berm which separates it from Recreation Lake.

SCHEDULE B

Minimum Monitoring and Reporting Requirements (unless otherwise approved in writing by the Department)

Outfall Number 001

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Metered
pH[1]	Continuous	Recorded
Temperature[2] (Influent and Effluent)	Continuous	Recorded
Total Heat Discharged[3]	Continuous	Recorded
Total Chlorine Residual[4]	Continuous	Recorded
Sodium, Sulfate, Boron and Aluminum	Monthly	24-hr Composite
Total Dissolved Solids	Weekly	24-hr Composite

1. A summary of each day's pH data shall be submitted. This data shall include the maximum and minimum pH value for that day.
2. A summary of each day's temperature data (in addition to the standard NPDES form) shall be submitted. This data shall include temperature maximums for both influent and effluent streams and the average and instantaneous maximum temperature difference of the two streams.
3. The data required for total heat discharged shall be the daily average heat discharge rate (BTU/hr) for each operating day or operating hours if operated less than 24 hours per day. Heat discharges associated with cooldown operations shall also be clearly marked. False BTU spikes caused by dilution flow spikes shall not be recorded as thermal discharges.
4. Residual chlorine at or above the level of detectability will be reported to the Department monthly.

Outfall Number 002 (Domestic Waste)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Continuous	Metered
BOD-5	Weekly	24-hr Composite
TSS	Weekly	24-hr Composite
pH	Daily	Grab
Fecal Coliform	Monthly	Grab
Chlorine Residual	Daily	Grab

Outfall Number 003 (Settling basin effluent prior to mixing with other waste streams)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Metered
TSS	Monthly	24-hr Composite

Outfall Number 004 (Boiler blowdown prior to mixing with other waste streams)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Estimate
Total Copper	Monthly	Grab
Total Iron	Monthly	Grab

Outfall Number 005 (Neutralizing tank discharge prior to mixing with other waste streams)

Item or Parameter	Minimum Frequency	Type of Sample
Flow	Daily	Estimate
TSS	Weekly	Grab

Outfall Number 006 (Oil/Water Separator Effluent, and Startup Boiler Blowdown and Drain Water prior to mixing with other waste streams)

Item or Parameter	Minimum Frequency	Type of Sample
TSS	2 per month	Grab
Oil and Grease	2 per month	Grab

Miscellaneous drainage to Recreation Lake (Storm runoff, pump seal water, etc., prior to mixing with the waters of the receiving pond).

Item or Parameter	Minimum Frequency	Type of Sample
pH	Monthly	Grab
Oil and Grease (During periods of drainage from circulating water system)	Monthly	Grab
pH	Each Discharge	Grab
Total Chlorine Residual	Each Discharge	Grab
Sodium	Each Discharge	Grab
Sulfate	Each Discharge	Grab

If continuous recording instrumentation or sample compositers required to monitor parameters limited by this permit become non-functional, (such that the specified minimum sampling frequency cannot be complied with) grab samples shall be taken to verify compliance. A list noting each occurrence shall be submitted to the Department with the monthly monitoring report.

Reporting Procedures

Monitoring results shall be reported on approved forms. The reporting period is the calendar month. Reports must be submitted to the Department by the 15th day of the following month.

SCHEDULE D

Special Conditions

1. Unless approved otherwise in writing by the Department the permittee shall observe and inspect all waste handling, treatment and disposal facilities and the receiving stream above and below each point of discharge at least daily to insure compliance with the conditions of this permit. A written record of all such observations shall be maintained at the plant and shall be made available to the Department staff for inspection and review upon request.

2. Use of the sodium bisulfite scavenger system for reducing the chlorine residual in the Main Plant Outfall Discharge (001) shall be controlled such that dissolved oxygen concentrations in the Columbia River are not depressed outside the specified mixing zone.

3. Trash and debris collected at the water intake structure shall not be discharged back into the river, but shall be removed to an approved landfill.

4. Chemicals added for cooling tower maintenance shall not contain any of the 129 priority pollutants (as defined in Table III-2 of the Draft Technical Report for Revision of Steam Electric effluent Limitations Guidelines, September 1978).

5. The permittee shall submit by January 1, 1989, a sludge management plan which meets the requirements of OAR 340, Division 50.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item M, June 10, 1988, EQC Meeting. Informational Report: Implementation Status of the Total Suspended Particulate Air Pollution Control Strategy in the Medford-Ashland Air Quality Maintenance Area.

At the EQC meeting in Medford on April 29, 1988, the Commission directed the Department to prepare a report on what occurred in the implementation of the Medford-Ashland 1983 particulate control strategy, what can be done to correct any implementation problems, and what can be done to prevent similar problems in the future.

Total Suspended Particulate (or TSP) levels in the Medford area did not improve as much as expected during 1984-87 principally because of lack of follow-through by local governments on key woodburning ordinance requirements.

The staff report discusses a number of options available to individual citizens or units of government to motivate or force implementation of woodheat control measures in the Medford-Ashland area:

(a) Citizen suits against EPA to implement the approved State Implementation Plan or develop a Federal Implementation Plan;
(b) State-imposed industrial growth moratorium;
(c) State Legislature authorization of a ban on new woodstove or fireplace installations, or removal of woodstoves and fireplaces upon home sale or rental;
(d) Federal sanctions such as an industrial growth moratorium or restrictions on sewage treatment, highway, or air planning grants;
(e) Federal enforcement action, which could include orders, injunctions or civil penalties, against local governments for failure to implement ordinances in the State Implementation Plan.

The Department believes that locally shaped and enforced strategies to deal with residential woodsmoke pollution problems are still highly preferable over state or federal actions. Potential financial incentive programs may help achieve the necessary pollution reductions. However, in order to prevent similar implementation problems in the future, either EPA may need to pursue its legal remedies or state authority may be needed from the Oregon Legislature to impose automatic restrictions that would effectively reduce future residential woodsmoke emissions in areas that failed to develop or implement the necessary control strategy.

AD2829

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

TO: Environmental Quality Commission DATE: May 27, 1988

FROM: Director

SUBJECT: Agenda Item M, June 10, 1988, EQC Meeting

Informational Report: Implementation Status of the Total Suspended Particulate Air Pollution Control Strategy in the Medford-Ashland Air Quality Maintenance Area.

BACKGROUND

In January 1980, the Medford-Ashland Air Quality Maintenance Area (AQMA) was designated as an area in nonattainment with the federal primary (or health-related) and secondary (or welfare-related) ambient air quality standards for Total Suspended Particulate (TSP). This designation was based on TSP levels measured during 1976-79.

A special airshed study was conducted in 1979-80 to better identify the particulate sources contributing to the problem. In 1981, a local air quality advisory committee worked with the Department and local governments to identify the most appropriate and acceptable control strategy to meet air quality standards. The overall State Implementation Plan (SIP), including the necessary local ordinances, state rules, and interagency agreements, was adopted by the Commission in 1983 and approved by the U.S. Environmental Protection Agency (EPA) in 1984.

TSP levels during 1984-87 have not improved as much as projected in the 1983 strategy principally because of local governments not following through on key woodburning ordinance requirements. If the TSP strategy had been implemented as designed, the Medford area should not only meet the primary TSP standards but also be very close to meeting the new air quality standards for inhalable particulate matter (PM_{10}) adopted by EPA in July 1987 (0-10 PM_{10} violation days per year instead of the current 20-25 violation days per year).

At the EQC meeting in Medford on April 29, 1988, the Commission directed the Department to prepare a report on what occurred in the implementation of the Medford-Ashland 1983 particulate control strategy, what can be done to correct any implementation problems, and what can be done to prevent similar problems in the future.

EVALUATION

Responsibilities and Implementation

The major elements of the Medford-Ashland particulate control strategy adopted in 1983 were:

1. Industrial emission control requirements, including controls on:
   (a) Veneer driers,
   (b) Fiber driers,
   (c) Particle driers,
   (d) Wood-fired boilers,
   (e) Charcoal furnace,
   (f) Air conveying systems,
   (g) Fugitive dust,
   (h) Operation and maintenance;

2. Residential woodsmoke control requirements, including:
   (a) Mandatory weatherization before new woodstove installation,
   (b) Mandatory weatherization of homes with woodstoves prior to sale,
   (c) Mandatory woodstove and fireplace curtailment during pollution episodes,
   (d) Woodstove certification program for new woodstoves and inserts; and

3. Additional industrial or non-industrial control requirements to be determined in 1988.

A number of other control measures were also included in the strategy but these other measures were less critical to the success of the strategy than those listed here.

The Department was responsible for enforcement of the industrial control requirements outlined in 1a through 1h. The Commission adopted the necessary state rules in March 1978 and February 1983. These requirements have all been implemented. The industrial controls resulted in about 40% of the annual TSP reduction and 30% of the peak-day TSP reduction needed to meet the primary TSP standards.

Local governments (Jackson County and the cities in the Rogue Valley) were responsible for the residential requirements outlined in 2a through 2c. These residential requirements were expected to provide about 50% of the annual TSP reduction and 70% of the peak-day TSP reduction needed to meet the primary TSP standards. Local ordinances were adopted in 1982 by Jackson County, the City of Medford, and the City of Ashland. The history of these ordinances is outlined in Attachment 1.

The City of Medford weatherization ordinances (covering items 2a and 2b) were repealed by the Medford City Council in the spring of 1985. Jackson County repealed the weatherization-upon-sale ordinance (2b) in December 1985. The local weatherization ordinances were repealed primarily due to opposition by

persons who argued that the weatherization requirements would unduly complicate and delay real estate sales, especially during and immediately following the economic recession when real estate sales were poor.

The City of Ashland curtailment ordinance (2c) was repealed by a voter initiative in August 1982. The Ashland curtailment program was not critical to the success of the Medford-Ashland particulate strategy but the repeal of the Ashland ordinance contributed to the reluctance of Medford and Jackson County officials to enforce curtailment ordinances in the more critical particulate problem areas.

The Jackson County and Medford woodburning curtailment ordinances (2c) were scheduled to become effective in January 1985, but both the County and the City chose to implement the curtailment program as an advisory program without enforcement. The local woodburning curtailment ordinances were not enforced because of concerns that enforcement would be unpopular and because of the Ashland initiative. The Department worked with the City and County to make the voluntary Rogue Valley Woodburning Advisory Program (daily red/yellow/green advisory reports) as successful as possible. This program was operated from November through February during 1985-86, 1986-87, and 1987-88.

The state was responsible for the woodstove certification program (2d). The 1983 Oregon Legislature authorized the Commission to implement a woodstove certification program. The Commission adopted the necessary state rules in June 1984 that required woodstoves or fireplace inserts sold after July 1986 to meet specified emission standards; tighter emission standards become effective in July 1988. As of the end of 1987, the Department had certified 190 units of which 150 units met the 1988 standards.

The strategy adopted in 1983 also indicated that additional industrial or non-industrial control measures should be developed by 1988 to insure attainment of both the primary and secondary particulate standards. The 1987 Jackson County Woodburning Task Force has recommended additional residential woodsmoke control measures as discussed later in this report. The Department has identified additional potential control requirements for wood products industry in the Medford-White City area: Tighter emission requirements for veneer driers; tighter emission requirements for wood-fired boilers upon modification or replacement; more comprehensive industrial requirements for continuous emission monitoring and/or operation and maintenance; and more restrictive offset requirements. State rules would be needed for these industrial measures; the Department has drafted these rules and intends to request authorization from the Commission to hold a public hearing on these rules once local governments have firmed up the woodheating strategies.

The other elements of the strategy have generally been implemented: Local ordinances on open burning, and dirt trackout control; and interagency agreements on public education, shifting of firewood cutting to the spring months, winter sanding and cleanup, and paving of unpaved roads and shoulders (93 blocks in Medford during 1981-88). Some citizens expressed concern to the Commission at the April 28-29, 1988, meetings in Medford that open burning and

trackout control have not been given high priority for followup and enforcement in the unincorporated parts of Jackson County; these control measures are not as critical as the weatherization and curtailment ordinances, however.

In summary, the key control measures in the 1983 particulate strategy that have not been implemented to date are the local weatherization ordinances (2a and 2b) and the local woodburning curtailment ordinances (2c). Particulate levels in Medford in 1985 (the worst year during 1984-87) were 7% above the annual primary TSP standard and 52% above the peak-day primary TSP standard.

Efforts to Make Up the Strategy Shortfall

The Department and EPA have been aware of the lack of local government actions to implement certain components of the Medford-Ashland particulate strategy since 1985. This was discussed in the Oregon annual SIP implementation progress reports required by the Clean Air Act (Attachment 2) submitted to EPA and the Commission and made available to other interested persons.

No legal actions were taken by either agency to stimulate local actions because of the "imminent" adoption of new federal particulate standards (PM_{10}), that would better address health effects, and the knowledge that the TSP strategy would have to be revised to address PM_{10}. EPA and the states began monitoring specifically for PM_{10} in mid-1983. EPA proposed PM_{10} standards in the March 20, 1984, Federal Register. At that time, EPA proposed that the annual PM_{10} standard be in the range of 50 to 65 micrograms per cubic meter ($\mu g/m^3$) and the peak-day PM_{10} standard be in the range of 150 to 250 $\mu g/m^3$. At the higher end of these PM_{10} ranges, little additional controls would have been needed to meet the PM_{10} standards in the Medford area and therefore the full implementation of the local weatherization and curtailment ordinances would have been less essential. At the lower end of these PM_{10} ranges, substantial reductions would be needed to meet the PM_{10} standards in Medford. EPA proposed regulations for implementing the new PM_{10} standards in the April 2, 1985, Federal Register. EPA adopted PM_{10} standards at the lower end of the ranges (that is, annual standard of 50 $\mu g/m^3$ and peak-day standard of 150 $\mu g/m^3$) and adopted the regulations for implementing the standards in the July 1, 1987, Federal Register.

During this period of PM_{10} standards development, the Department chose to pursue cooperative efforts with local governments to obtain financial incentives and more public support for implementation of the controversial residential woodburning control measures.

In order to help make up the weatherization and curtailment shortfalls in the strategy, the Department and local governments supported clean air utility rates (to encourage less woodburning through greater use of electricity or natural gas for home heating) and pursued financial incentive projects (to replace existing woodstoves with cleaner burning units). Regarding clean air utility rates, the Pacific Power clean air electric rate proposals were

rejected by the Public Utility Commission in 1984, 1986, and 1987. Regarding financial incentives, the City of Medford received a $50,000 Community Development Block Grant last year to add retrofit afterburners to some existing woodstoves and Jackson County was awarded a $485,000 Block Grant this year to replace woodstoves in low-income homes with cleaner burning units. This funding could address the woodheating problem in the most critical 1-4% (depending on the actual average cost per home) of the woodheated homes in the problem area. The Department had proposed a $985,350 project in 1986 to replace or retrofit existing conventional woodstoves with cleaner burning technology; unfortunately, oil overcharge funds were not available for this project due to other pressing state energy needs. The Department is working with other state and local agencies on similar proposals for future oil overcharge and other funds.

In May 1987, the Jackson County Board of Commissioners appointed the Jackson County Woodburning Task Force to re-evaluate the particulate air quality issues and advise local governments on the most appropriate woodburning control measures. The Task Force made the following recommendations in December 1987:

1. Mandatory curtailment of woodstove and fireplace use (with limited exemptions) during periods of air stagnation;
2. Comprehensive public education program;
3. Clean air utility rates for electricity and natural gas;
4. Financial incentives and subsidies for cleaner woodburning units; and
5. Ban on installation of non-certified woodstoves.

The Task Force report was forwarded to the Jackson County Board of Commissioners and cities in the Rogue Valley. The Jackson County Commissioners adopted an action plan and schedule on April 21, 1988,to implement the Task Force recommendations except that they replaced the mandatory curtailment program with a more active continuation of the existing voluntary program. Jackson County has initiated efforts with the cities of Medford and Central Point for a coordinated action plan.

Legal Authority for Forcing Implementation

There are a number of options available to individual citizens or units of government to motivate or force implementation of woodheating particulate control measures in the Medford-Ashland area.

Citizens could sue EPA under Section 304 of the federal Clean Air Act which could result in a court order to EPA to enforce the current TSP State Implementation Plan (SIP) provisions (using orders, civil penalties, or injunctions) or promulgate and implement a Federal Implementation Plan (FIP). There has been a recent action in Arizona to require a FIP under court order to get the carbon monoxide strategy implemented. Because of the EPA transition from TSP to PM_{10} standards, it is not totally clear what a court or EPA would really require or do if faced with legal action on an existing TSP SIP. A citizen suit under Section 304 dealing with PM_{10} deficiency (in

contrast to a TSP deficiency) could more clearly result in a court order for EPA to promulgate a Federal Implementation Plan.

Even without citizen suits, EPA could initiate the TSP actions cited in the previous paragraph or pursue the following PM_{10} actions. Under the new PM_{10} standards and implementation schedules, EPA could promulgate its own PM_{10} control strategy as a Federal Implementation Plan under Section 110 of the Clean Air Act since the state and local governments did not meet the May 1, 1988, date for submission of an adequate PM_{10} strategy as a State Implementation Plan. EPA could propose sanctions such as an industrial growth moratorium or restrictions on sewage treatment or air planning grants.

The Commission has no legal means of forcing local governments to enforce ordinances in the SIP since the Commission does not have authority to regulate woodheating except for the woodstove certification program. The Commission could impose or pursue state sanctions on local areas as a means of forcing local implementation of woodheat controls. The Commission could impose an industrial growth sanction, in effect, by adoption of more restrictive industrial new source construction requirements in the Medford-White City area. The Oregon Legislature could be asked to provide authority to ban the installation of new woodstoves or fireplaces and/or require the removal of woodstoves upon house sale or rental in areas of the state that failed to develop or implement an adequate particulate control strategy.

Where to Go from Here

In the Department's opinion, locally shaped and enforced strategies to deal with residential woodsmoke pollution problems are still highly preferable over state or federal actions. Local governments are still making some progress toward developing acceptable solutions and the Department is hopeful that significant financial incentive programs can be put in place within the next year or so to help ease the burden of compliance.

The key short-term control measure to meet particulate standards is curtailment of woodburning during air pollution episodes. Special utility programs would help get more public support for such a strategy. The Commission and the Department do not have statutory authority to implement woodburning curtailment programs. Thus, the success of the particulate strategy is largely dependent on the commitment of citizens and local governments to effectively curtail woodburning on air stagnation days.

The key long-term control measure is the removal of existing woodstoves or their replacement with cleaner burning units. Large-scale removal or replacement with cleaner burning units will greatly reduce, but probably not totally eliminate, the needed number of days of curtailment per year in the Medford area. The Department is working with local governments, the Department of Energy, the Public Utility Commission, and private utilities to develop financial incentives for replacement of existing woodstoves. Legislative actions to provide tax credits, incentive utility programs, and oil overcharge

funds would greatly help get more local support to implement effective curtailment programs especially if receipt of this aid were tied to having an adequate local plan in effect.

However, it is probably not possible to gain full public support and provide complete financial subsidy of woodheat control strategies. So the key question that must be faced is how long do the local state and federal governments wait to act to rid the airshed of a significant health hazard. The new federal PM_{10} requirements which call for adequate plans by May 1, 1988, and attainment by September 1, 1991, provide potential new targets for consideration of more rigorous regulatory approaches.

The following program should assure that air quality health standards are met within the time frame required by federal law while giving maximum flexibility and assistance to local areas to voluntarily solve their air pollution problems.

Potential PM_{10} Compliance Program

The PM_{10} strategies proposed for the Medford-White City, Klamath Falls, and Grants Pass areas are similar in that they include pursuit of financial incentives for replacement of existing woodstoves with cleaner burning units, pursuit of special utility programs to encourage less woodburning, comprehensive public information programs to explain what homeowners can do to reduce woodsmoke and why it is important that they do so, and voluntary woodstove/fireplace curtailment programs during pollution episodes. Local governments should commit to implement mandatory curtailment programs if the voluntary participation is not sufficient to meet the health standards. The financial incentives and special utility programs should be conditioned on local willingness to do so. Some financial assistance will be available by the next heating season (1988-89). Additional financial assistance could be available for the 1989-90 heating season if the 1989 Legislature supports tax credits and/or special utility programs.

State restrictions on woodheat installations could be imposed, if authorized by the 1989 Legislature, automatically in areas where voluntary curtailment programs were insufficient to meet health standards and local governments were unwilling or unable to enforce mandatory curtailment programs. These could include a ban on new (non-replacement) woodstove or fireplace installations, or the removal of woodstoves and conversion of fireplaces to natural gas (or made inoperable) prior to home sale or rental.

SUMMATION

1. The Medford-Ashland total suspended particulate (TSP) control strategy (including the necessary local ordinances, state rules, and interagency agreements) was adopted by the Commission as a part of the State Implementation Plan in 1983 in order to address the serious air pollution problem. This strategy was approved by the U.S. Environmental Protection Agency (EPA) in 1984. The major elements were:

   (a) Industrial emission control requirements, including controls on veneer driers, fiber driers, particle driers, wood-fired boilers, charcoal furnace, air conveying systems, fugitive dust, and operation and maintenance;
   (b) Residential woodsmoke control requirements, including mandatory weatherization before new woodstove installation, mandatory weatherization of homes with woodstoves prior to sale, mandatory woodstove and fireplace curtailment during pollution episodes, and woodstove certification program for new woodstoves and inserts; and
   (c) Additional industrial or non-industrial control requirements to be determined in 1988.

2. The particulate strategy was not fully implemented and ambient particulate concentrations during 1984-87 did not improve as much as projected in the 1983 strategy. The Medford area continues to have very serious particulate air pollution. The major problems with implementation of the control strategy involved:

   (a) Retraction of local weatherization ordinances (requiring cost-effective weatherization upon sale of homes); and
   (b) No enforcement of local curtailment ordinances (requiring curtailment of woodstove and fireplace use during air pollution episodes).

3. The local weatherization ordinances were repealed due to opposition by persons who argued that the weatherization requirements would unduly complicate and delay real estate sales; the local woodburning curtailment ordinances were not enforced because of concerns that enforcement would be unpopular.

4. The other key elements of the control strategy have been implemented.

5. The potential legal means to motivate or force implementation of the local woodheat control measures include:

   (a) Citizen suits against EPA to enforce or implement the approved TSP State Implementation Plan or develop a Federal Implementation Plan;
   (b) State-imposed industrial growth moratorium;
   (c) State Legislature authorization of a ban on new woodstove or fireplace installations, or removal of woodstoves and fireplaces upon home sale or rental;

(d) Federal sanctions such as an industrial growth moratorium or restrictions on sewage treatment, highway, or air planning grants;
(e) Federal enforcement action, which could include orders, injunctions or civil penalties, against local governments for failure to implement ordinances in the State Implementation Plan;
(f) Citizen suit against EPA for failure to meet new PM_{10} requirements and schedules which could result in EPA promulgation of a Federal Implementation Plan.

6. In order to work towards a cooperative solution to the particulate problem, the Department and local governments supported clean air utility rates (to encourage less woodburning through greater use of electricity or natural gas for home heating) and pursued financial incentive projects (to replace existing woodstoves with cleaner burning units).

7. In May 1987, the Jackson County Board of Commissioners appointed a task force to advise local governments on the most appropriate woodburning control measures. The Task Force report was completed in December 1987 and forwarded to the Jackson County Board of Commissioners and cities in the Rogue Valley.

8. The key short-term control measure to meet particulate standards is curtailment of woodburning during air pollution episodes. The Department does not have statutory authority to implement woodburning curtailment programs. Thus, the success of the particulate strategy is largely dependent on the commitment of citizens and local governments to effectively curtail woodburning on air stagnation days.

9. The key long-term control measure is the replacement of existing woodstoves with cleaner burning units. Large-scale replacement with cleaner burning units will greatly reduce, but probably not totally eliminate, the needed number of days of curtailment per year in the Medford area.

10. Locally shaped and enforced strategies to deal with residential woodsmoke pollution problems are still highly preferable over state or federal actions. Potential financial incentive programs may help achieve the necessary pollution reductions. However, in order to prevent similar implementation problems in the future, either EPA may need to pursue its legal remedies or state authority may be needed from the Oregon Legislature to impose automatic restrictions that would effectively reduce future residential woodsmoke emissions in areas that failed to develop or implement the necessary control strategy.

DIRECTOR'S RECOMMENDATION

This report is provided for information only; no Commission action is required at this time. However, the Commission may want to give specific direction to the Department on the implementation issues.

Fred Hansen

Attachments:
1. History of Jackson County Air Quality Ordinances.
2. Oregon Annual Progress Reports to the U.S. Environmental Protection Agency.

Merlyn L. Hough
(229-6446)
May 27, 1988
EQCPM8
AD2822

Attachment 1
EQC Agenda Item
June 10, 1988

Memorandum

To: Members of the Woodburning Task Force

From: Kerry Lay, Director, Planning and Development

Date: June 5, 1987

Subject: History of Jackson County's Air Quality Ordinance

I. The Board of Commissioners adopted Jackson County's first Air Quality Ordinance (#82-6) in August, 1982. This ordinance formally recognized the importance of particulate air pollution in the Rogue Valley and attempted to reduce emmissions from, three sources of particulate pollutants. These sources were residential woodburning, trackout, and open burning of agricultural and nonagricultural wastes. This ordinance did not apply:

a) within the incorporated limits of any city;
b) to federal or state lands;
c) to regulated slash burns;
d) to cooking or ceremonial fires.

The ordinance included several measures designed to reduce the amount of woodburning for residential heating. Installation of wood stoves and fireplaces was allowed only if the dwelling, (1) contained an alternate form of space heating which could be used during periods of high air pollution levels, and (2) had been or would be cost-effectively weatherized. Also, all homes were to receive an energy audit prior to sale or rental and, after January of 1984, all homes with a wood heating system were to be weatherized to cost-effective levels at the time of sale or rental. Finally, the use of residential woodburning devices was prohibited during air stagnation advisories and when the level of particulate pollution exceed the health standard of 260 micrograms per cubic meter.

Limitation of "trackout" was intended to lessen the amount of particulate pollution resulting from dirt and dust on roads and roadways. This section applied mainly to construction, commercial and industrial sites and specified such measures as street sweeping, use of wheel washers, and graveling of access roads.

Open burning of nonagricultural wastes was prohibited within the Air Quality Maintenance Area (AQMA) from February 1 to November 30 of each year on days when the ventilation index was less than 400. During December and January of each year, open burning of nonagricultural wastes was prohibited county-wide. Finally, open burning of agricultural wastes was prohibited anywhere in the county when the ventilation index fell below 200.

This 1982 ordinance provided for civil penalties for violations of the trackout and open burning provisions, but did not specify any penalties for the sections concerning weatherization and woodburning restrictions.

II. By late 1984 it had become apparent that the Air Quality Ordinance needed a number of substantive and housekeeping revisions. The Board of Commissioners adopted a revised ordinance (#84-29) on October 17, 1984. The definition section was expanded and the ordinance language made more

precise and comprehensive. Although there were no significant changes to the sections regulating trackout and open burning, the provisions dealing with home weatherization and residential woodburning were revised substantially.

While installation of a woodstove or fireplace still required cost-effective weatherization of the residence, owners were now allowed to state in writing that weatherization would be completed within 90 days of permit issuance. Noncompliance with this requirement was made subject to civil penalty procedures.

The section dealing with Residential Weatherization was made much less restrictive by adopting the following provisions:

a) energy audits conducted by private individuals or companies were given equal standing with those done by utility companies;

b) energy audits were not required for mobile homes, homes outside the AQMA, and homes built after January 1, 1979;

c) the requirements for energy audits prior to sale and cost-effective weatherization at the time of sale of any home with a wood heating device were made effective on January 1, 1985, instead of January, 1984. Also, these requirements were no longer applied to rental dwellings.

d) the Planning Director was authorized to waive or modify the weatherization requirements when compliance would have been impractical or unduly burdensome.

e) minimum qualifications for private energy auditors were established.

This 1984 ordinance retained intact the section prohibiting the use of residential woodburning devices during air stagnation advisories and when the ambient air quality pollutant levels for particulates exceeded the health standards. Again, the ordinance specifically excluded penalties for violations of the sections governing Residential Weatherization and Residential Woodburning.

III. In the spring of 1985, the Medford City Council - after considerable discussion - chose to rescind the section of their Air Quality Ordinance requiring weatherization. It became evident to the county that unless certain cities, especially Medford, were willing to pass similar ordinances requiring weatherization and restricting woodburning during periods of poor air quality, any attempt by the county to establish a strong program would be futile.

In December, 1985, the Board of Commissioners adopted a third Air Quality Ordinance (#85-32). This version retained the residential weatherization requirement for installation of woodstoves and fireplaces but allowed an

exception when the solid fuel heating device meets the 1988 state certification requirements. The entire section on Residential Weatherization and energy audits was eliminated.

The restrictions of residential woodburning during periods of poor air quality were retained but solid fuel heating devices meeting the 1988 state certification standards were exempted from this requirement. Again, no penalties were prescribed for violations of the requirements of this section.

The section regulating trackout remains intact. The open burning provisions were strengthened by establishing a minimum ventilation index of 200 (rather than 400) for the open burning of nonagricultural wastes inside the AQMA between February 1 and November 30 of each year. Both the Trackout and Open Burning sections were kept subject to civil penalties procedures for any violations.

Copies of the original Air Quality Ordinance (#82-6) and the two amended versions (#84-29 and #85-32) are attached for your information.

Attachment 2
EQC Agenda Item
June 10, 1988

THE 1984 REPORT ON REASONABLE FURTHER PROGRESS STATE OF OREGON CLEAN AIR ACT IMPLEMENTATION PLAN

Oregon Department of Environmental Quality
September 1985

MEDFORD-ASHLAND AQMA: Particulate Strategy

The Medford-Ashland AQMA portion of the State Implementation Plan for Total Suspended Particulate was submitted to EPA on April 25, 1983, and was approved by EPA on August 14, 1984.

1. Update of the Emissions Inventory

The base year for the emission inventory is April 1979-May 1980, the period of the Medford Aerosol Characterization Study (MACS). The 1984 emission inventory is based on a 1984-85 wood heating survey, 1984 point source production/emission information, and 1984 traffic volumes. The particulate emission inventories are summarized in Table 15 and are outlined in more detail in Attachment 8.

Table 15. Medford-Ashland AQMA Particulate Emission Inventories.

Source Category	Particulate Emissions (Tons Per Year) MACS	1981	1982	1983	1984
Residential Woodburning	1,741	2,079	2,027	1,867	1,886
Fugitive Dust	3,043	3,425	3,259	3,131	3,292
Industrial Processes	3,778	2,177	1,588	1,233	1,241
Other Sources	1,108	1,083	762	651	721
Total	9,670	8,764	7,636	6,882	7,140

2. Reasonable Further Progress Tracking

Figure 15 is the updated RFP graph for the Medford-Ashland area. The emission points on the RFP graph represent the annual total particulate emissions from Table 15. Despite a slight increase in emissions in 1984 as compared to 1983, actual annual emissions remain below the RFP line.

3. Discussion of Particulate Emission Increases and Decreases

Residential woodburning emissions have significantly increased in Medford and other areas of Oregon since 1973. This emission trend is due primarily to increased use of woodstoves for home heating as a result of escalating costs of electricity, natural gas, and fuel oil. Residential woodburning emissions were projected to increase by about 55% from the MACS year to 1984 (without additional control measures); the actual increase (based on a recent woodheating survey) was 8%, due to control measures such as increased weatherization, improved firewood seasoning, better woodstove sizing, and expanded public education. However, the Medford plan projected that woodburning emissions would be 7% lower in 1984 than during MACS if the control measures were as effective as expected. Medford had 4426 degree-days in 1983 compared to 4708 degree-days in 1984. The Oregon Woodstove Certification Program (discussed under Portland TSP) is expected to significantly reduce residential woodburning emissions in future years as existing woodstove are replaced with cleaner burning units.

Industrial emissions have decreased substantially since 1970 due to more stringent control equipment and the phase-out of wigwam burners. Industrial emissions decreased by 48% from the MACS year to 1984 due to the adopted control measures of the particulate strategy. The total industrial emission decrease was 67% during this period; the additional decrease was due to decreased production during the recession.

The reduction in industrial emissions from 1982 to 1983 was due to a sharp decrease in particleboard plant emissions. Timber Products Company in Medford completed its new particle dryers and pollution control equipment in 1983. Down River Forest Products in White City closed down its particle dryers in June 1982 and has not operated them since that time.

Traffic volumes were similar in 1983 and 1984, but paved road dust emissions increased slightly due to less measurable rainfall (8.3% of hours in 1983 compared to 6.0% of hours in 1984).

4. **Report on Standard Attainment Progress**

Particulate monitoring results at the two key sites are summarized in Table 16. The second highest days are displayed graphically in Figure 16.

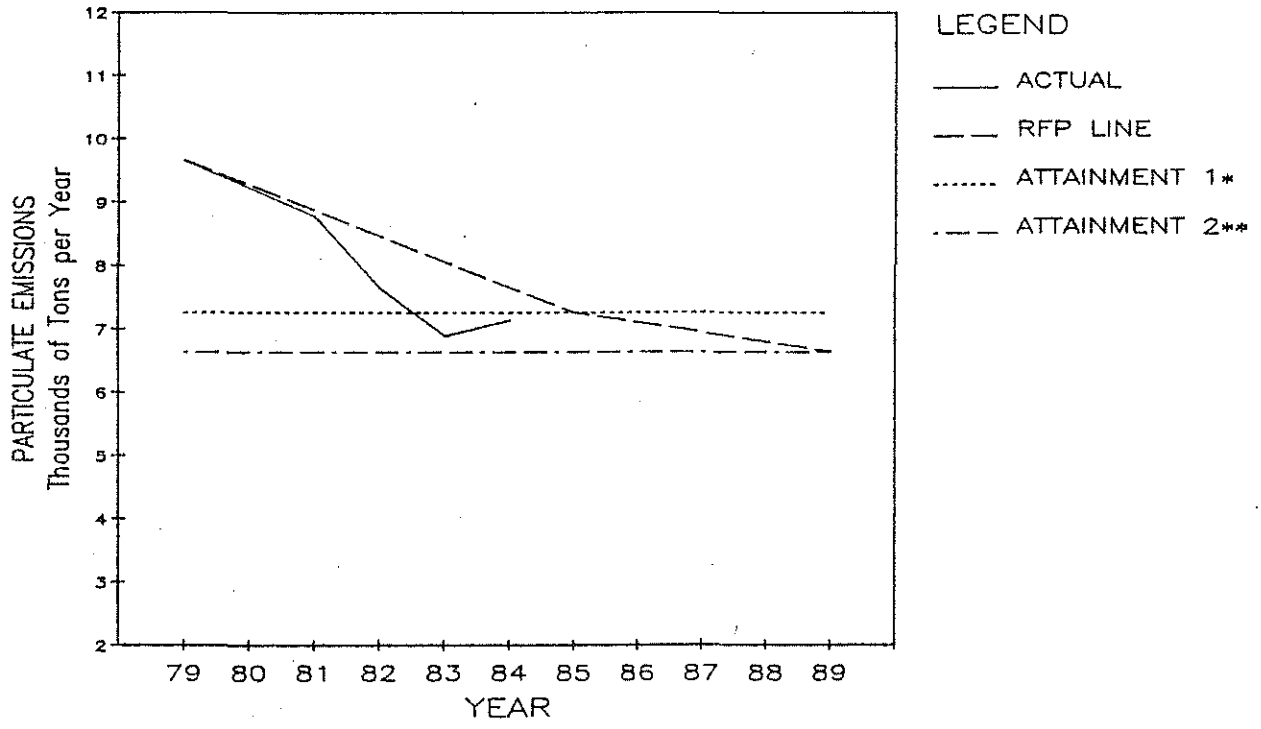
Table 16. Summary of Ambient Particulate Levels in the Medford Area.

Year	Total Suspended Particulate (ug/m^3)			
	Annual Geometric Mean		Second Highest Day*	
	Medford	White City	Medford	White City
1979	99	82	361	218
1980	79	85	398	224
1981	68	79	331	173
1982	63	58	232	157
1983	60	53	293	152
1984	70	62	260	205

*Based on all samples (routine every-sixth-day samples, plus special samples).

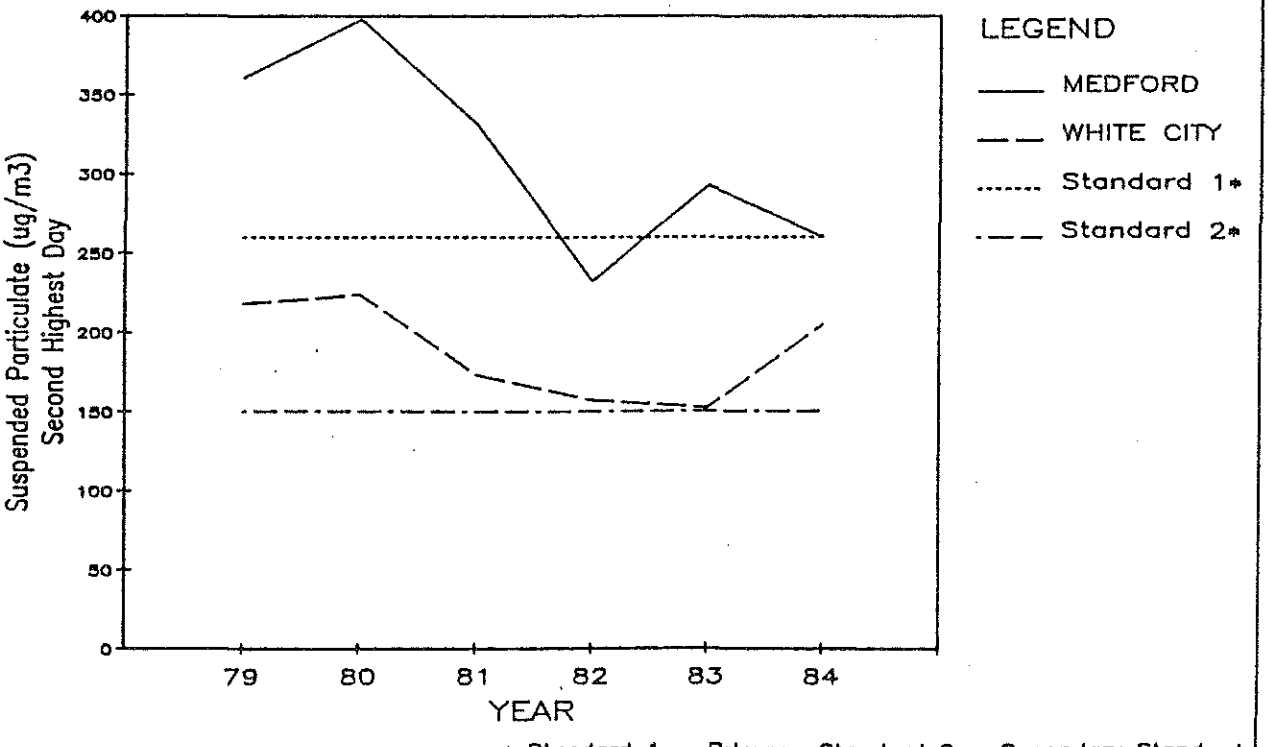
The annual average particulate levels in the Medford and White City areas have improved significantly since 1979. The worst day particulate levels have not improved as much as expected. The local residential woodburning control measures have not been as effective as projected in the particulate strategy. Implementation of some of the local weatherization ordinances has been behind schedule. Woodstove use does not appear to be curtailed during pollution episodes to the extent required in the particulate strategy. The Department is working with the City of Medford and Jackson County to improve the effectiveness of the residential woodburning control measures.

Figure 15: RFP Graph
PARTICULATE EMISSIONS
Medford–Ashland AQMA



* Attains Primary Standard; ** Attains Secondary Standard

Figure 16:
AMBIENT PARTICULATE (TSP) TREND
Medford–Ashland AQMA (ug/m3)



* Standard 1 = Primary, Standard 2 = Secondary Standard

State of Oregon

Clean Air Act Implementation Plan

REPORT ON REASONABLE FURTHER PROGRESS THROUGH DECEMBER 31, 1985

Oregon Department of Environmental Quality

October 1986

MEDFORD-ASHLAND AQMA: Particulate Strategy

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Table 15. Particulate Emission Inventories for the Medford-Ashland AQMA.

	Particulate Emissions (Tons Per Year)				
Year	Residential Woodburning	Fugitive Dust	Industrial Processes	Other Sources	Total
MACS	1741	3043	3778	1108	9676
1981	2079	3425	2177	1083	8764
1982	2027	3259	1588	762	7636
1983	1867	3131	1233	651	6882
1984	1886	3292	1241	721	7140
1985	1978	3441	1203	685	7307

2. Reasonable Further Progress Tracking

Figure 15 is the updated RFP graph for the Medford-Ashland area. The emission points on the RFP graph represent the annual total particulate emissions from Table 15.

3. Discussion of Particulate Emission Increases and Decreases

Residential woodburning emissions have significantly increased in Medford and other areas of Oregon since 1973. This emission trend is due primarily to increased use of woodstoves for home heating as a result of escalating costs of electricity, natural gas, and fuel oil. Residential woodburning emissions were projected to increase by about 60% from the MACS year to 1985 (without additional control measures); the actual increase (based on a recent woodheating survey) was 14%, due to control measures such as increased weatherization, improved firewood seasoning, better woodstove sizing, curtailment during pollution episodes, and expanded public education. However, the Medford plan projected that woodburning emissions would be about 10% lower in 1985 than during MACS if the control measures were as effective as expected.

Medford had 4836 degree-days in 1985 compared to 4708 degree-days in 1984. An estimated 25-38% of woodburning households cooperated with a woodburning advisory program during the 1985-86 heating season. The Oregon Woodstove Certification Program (discussed under Portland TSP) is expected to significantly reduce residential woodburning emissions in future years as existing woodstoves are replaced with cleaner burning units.

Industrial emissions have decreased substantially since 1970 due to more stringent control equipment and the phase-out of wigwam burners. Industrial emissions decreased by 48% from the MACS year to 1984 due to the adopted control measures of the particulate strategy. The total industrial emission decrease was 67% during this period; the additional decrease was due to decreased production during the recession.

The reduction in industrial emissions from 1982 to 1983 was due to a sharp decrease in particleboard plant emissions. Timber Products Company in Medford completed its new particle dryers and pollution control equipment in 1983. Down River Forest Products in White City closed down its particle dryers in June 1982 and has not operated them since that time.

Paved road dust emissions increased in 1985 due to higher traffic volumes (1.1% increase) and lower rainfall (4.0% of hours had measurable rainfall in 1985 compared to 6.0% in 1984).

4. Report on Standard Attainment Progress

Particulate monitoring results at the two key sites are summarized in Table 16. The second highest days are displayed in Figure 16.

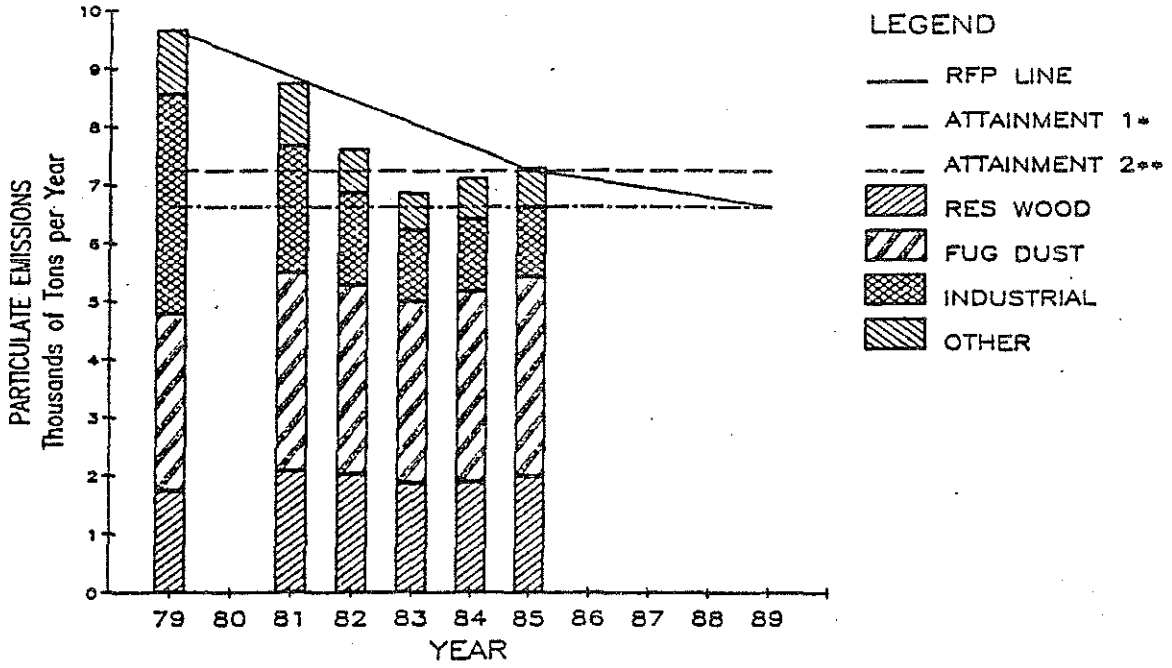
Table 16. Summary of Ambient Particulate Levels in the Medford Area.

Year	Total Suspended Particulate (ug/m3)			
	Annual Geometric Mean		Second Highest Day*	
	Medford	White City	Medford	White City
1979	99	82	361	218
1980	79	85	398	224
1981	68	79	331	173
1982	63	58	232	157
1983	60	53	293	152
1984	70	62	260	205
1985	80	73	394	284

* Based on all samples (routine every-sixth-day samples, plus special samples).

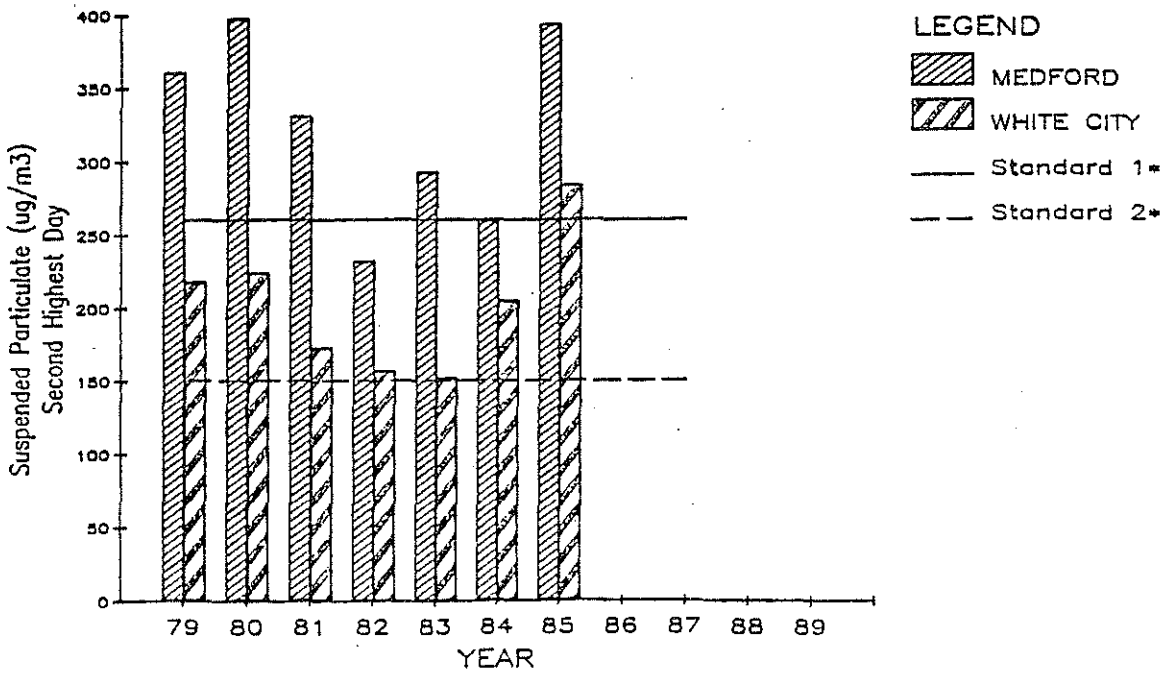
Worst day particulate levels in 1985 were especially high due to the extended periods of air stagnation in January and December discussed previously.

Figure 15: RFP Graph
PARTICULATE EMISSIONS
Medford–Ashland AQMA



* Attains Primary Standard; ** Attains Secondary Standard

Figure 16:
AMBIENT PARTICULATE (TSP) TREND
Medford–Ashland AQMA (ug/m3)



* Standard 1 = Primary, Standard 2 = Secondary Standard

The annual average particulate levels in the Medford and White City areas have improved since 1979. The worst day particulate levels have not improved as much as expected. The local residential woodburning control measures have not been as effective as projected in the particulate strategy.

Implementation of some of the local weatherization ordinances has not occurred as scheduled. The City of Medford and Jackson County still require weatherization before installation of new woodstoves. But the portion of the ordinances that required weatherization of all homes at time of sale has been repealed. Woodstove use is not curtailed during pollution episodes to the extent identified in the particulate strategy. Woodstove use is prohibited during pollution episodes by Medford and Jackson County ordinances, but the City and County have not provided adequate enforcement resources to insure compliance. Compliance during the 1985-86 heating season was less than half of the 70% compliance goal of the particulate strategy. The Department is working with the City of Medford and Jackson County to improve the effectiveness of the residential woodburning control measures.

Several particulate control measures for the Medford area are currently under development but have not yet been adopted or implemented. The Department is working with Pacific Power, the Oregon Department of Energy, and Oregon Environmental Council on a clean air electric rate for the 1987-88 heating season. This program is intended to reduce the amount of wood burned in homes heated by a combination of wood and electricity (about 55% of the woodburning homes) by marketing increased electric usage (above the previous year baseline) at 50% of the normal rate. The proposed pilot program would include Jackson County (in which the Medford-Ashland AQMA is located) and two other geographical areas of Oregon. Public hearings and approval of the Public Utility Commission are required prior to implementation. A presurvey on wood and electric use and potential interest in the program was distributed by Pacific Power to 3600 Jackson County residences in September 1986.

The Department has requested $985,350 of oil settlement funds for a demonstration project in the Medford-Ashland AQMA. The project would demonstrate the environmental energy, safety and economic benefits of retrofit woodstove control devices and Oregon certified woodstoves. Approximately 2000 low-income homes or other hardship cases that use wood as the sole or primary heat source (and thus have the most difficulty complying with the Rogue Valley Woodburning Advisory Program during pollution episodes) are targeted in this project. The distribution of oil settlement funds will be decided by the Governor and Oregon Legislature in early 1987.

Decisions on the clean air electric rate and oil settlement project are expected during 1987. If approved, the Department expects to include these control measures in the PM-10 control strategy in late 1987.

State of Oregon

Clean Air Act Implementation Plan

REPORT ON REASONABLE FURTHER PROGRESS THROUGH DECEMBER 31, 1986

Oregon Department of Environmental Quality

October 1987

MEDFORD-ASHLAND AQMA: Particulate Strategy

The Medford-Ashland AQMA portion of the State Implementation Plan for Total Suspended Particulate was submitted to EPA on April 25, 1983, and was approved by EPA on August 14, 1984.

1. Update of the Emission Inventory

The base year for the emission inventory is April 1979-May 1980, the period of the Medford Aerosol Characterization Study (MACS). The 1986 emission inventory is based on the most recent wood heating survey, 1986 point source production/emission information, and 1986 traffic volumes. The particulate emission inventories are summarized in Table 15 and are outlined in more detail in Attachment 8.

Table 15. Particulate Emission Inventories for the Medford-Ashland AQMA.

	Particulate Emissions (Tons Per Year)				
Year	Residential Woodburning	Fugitive Dust	Industrial Processes	Other Sources	Total
MACS	1741	3043	3778	1108	9676
1981	2079	3425	2177	1083	8764
1982	2027	3259	1588	762	7636
1983	1867	3131	1233	651	6882
1984	1886	3292	1241	721	7140
1985	1978	3458	1203	685	7307
1986	1779	3457	1149	718	7103

2. Reasonable Further Progress Tracking

Figure 15 is the updated RFP graph for the Medford-Ashland area. The emission points on the RFP graph represent the annual total particulate emissions from Table 15.

3. Discussion of Particulate Emission Increases and Decreases

Residential woodburning emissions have significantly increased in Medford and other areas of Oregon since 1973. This emission trend is due primarily to increased use of woodstoves for home heating as a result of escalating costs of electricity, natural gas, and fuel oil. Residential woodburning emissions were projected to increase by about 60% from the MACS year to 1986 (without additional control measures). The actual increase (based on a recent woodheating survey) was less than 10%, due to control measures such as increased weatherization, improved firewood seasoning, better woodstove sizing, curtailment during pollution episodes, and expanded public education. However, the Medford plan projected that woodburning emissions would be about 10% lower in 1986 than during MACS if the control measures were as effective as expected.

Medford had 4182 degree-days in 1986 compared to 4836 degree-days in 1985. An estimated 25-38% of woodburning households cooperated with a woodburning advisory program during the 1985-86 heating season. The Oregon Woodstove Certification Program (discussed under Portland TSP) is expected to significantly reduce residential woodburning emissions in future years as existing woodstoves are replaced with cleaner burning units.

Industrial emissions have decreased substantially since 1970 due to more stringent control equipment and the phase-out of wigwam burners. Industrial emissions decreased by about 70% from the MACS year to 1986 due to the adopted control measures of the particulate strategy.

The reduction in industrial emissions from 1982 to 1983 was due to a sharp decrease in particleboard plant emissions. Timber Products Company in Medford completed its new particle dryers and pollution control equipment in 1983. Down River Forest Products in White City closed down its particle dryers in June 1982 and has not operated them since that time. The slight decrease in paved and unpaved road emissions of fugitive dust was offset by increased aggregate storage and mineral products activities. In 1986 5.7% of hours had measurable rainfall as compared to 4.0% of hours in 1985.

4. Report on Standard Attainment Progress

Particulate monitoring results at the two key sites are summarized in Table 16. The second highest days are displayed in Figure 16.

Table 16. Summary of Ambient Particulate Levels in the Medford Area.

Year	Total Suspended Particulate (ug/m3)			
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1980	79	85	398	224
1981	68	79	331	173
1982	63	58	232	157
1983	60	53	293	152
1984	70	62	260	205
1985	80	72	394	284
1986	72	65	218	150

* Based on all samples (routine every-sixth-day samples, plus special samples).

Figure 15
PARTICULATE EMISSION TREND
Medford–Ashland AQMA

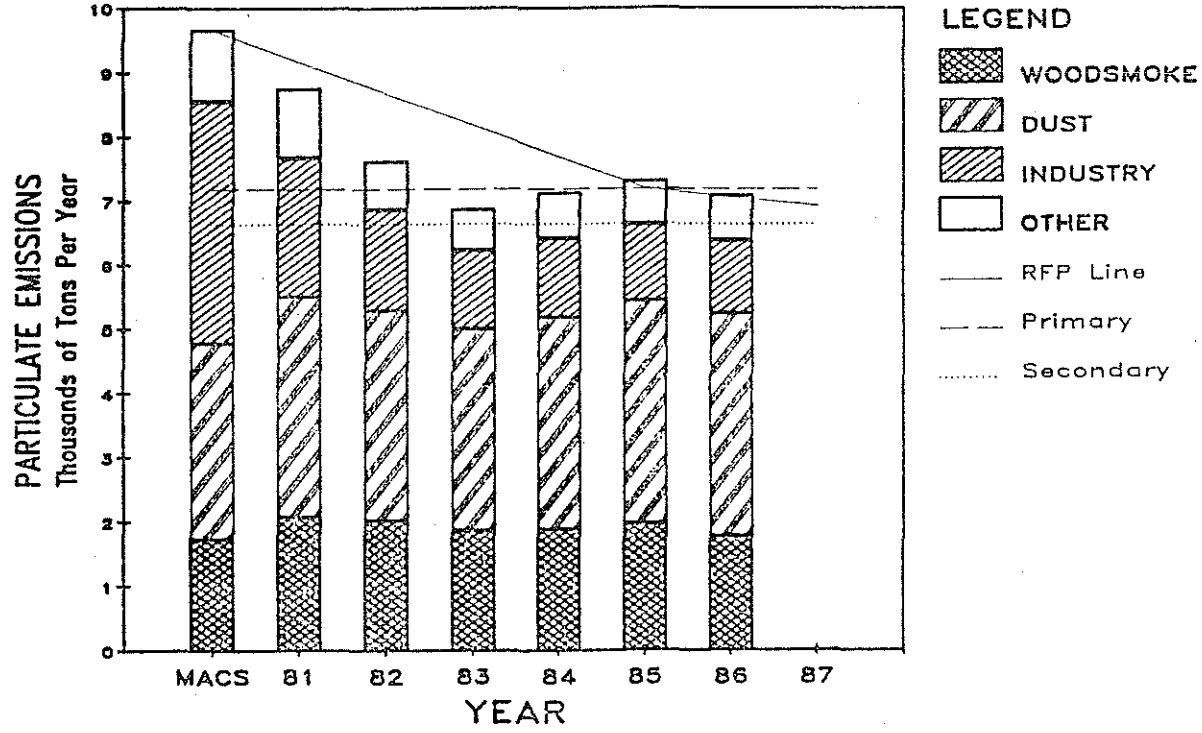
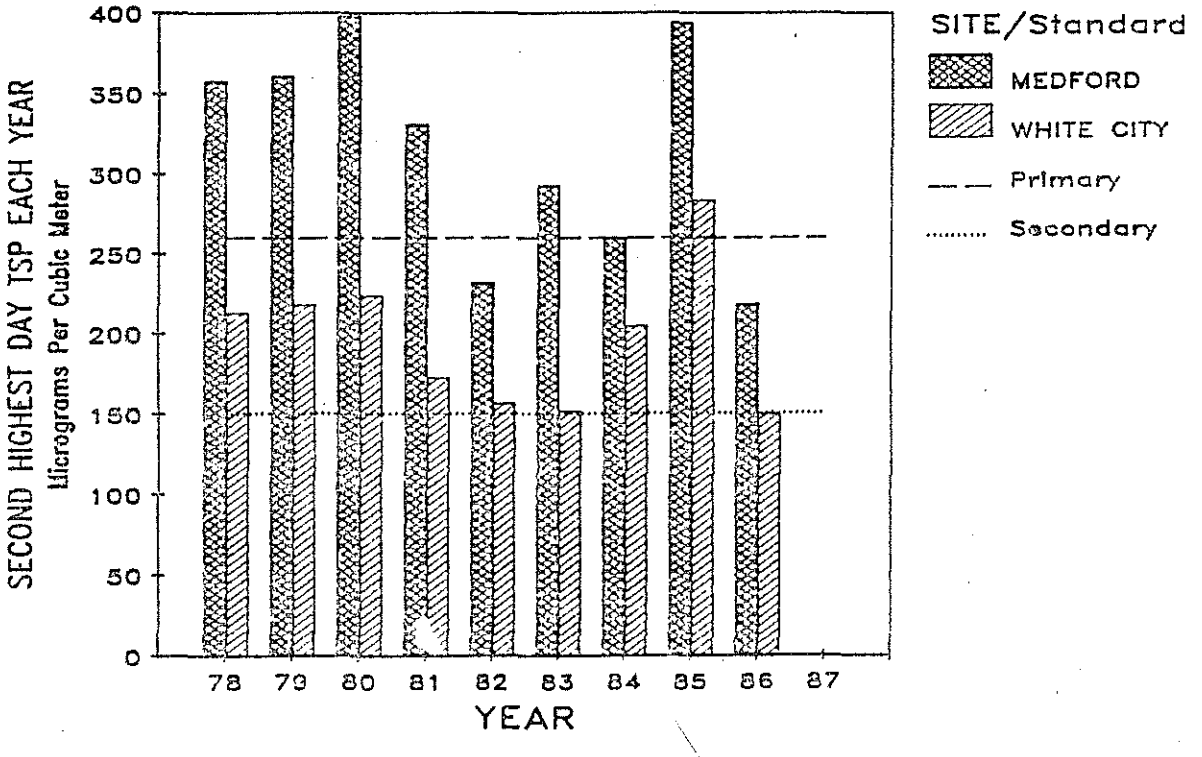


Figure 16
AMBIENT PARTICULATE TREND
Medford–Ashland AQMA



The annual average particulate levels in the Medford and White City areas have improved since 1979. The worst day particulate levels have not improved as much as expected. The local residential woodburning control measures have not been as effective as projected in the particulate strategy.

Implementation of some of the local weatherization ordinances has not occurred as scheduled. The City of Medford and Jackson County still require weatherization before installation of new woodstoves. But the portion of the ordinances that required weatherization of all homes at time of sale has been repealed. Woodstove use is not curtailed during pollution episodes to the extent identified in the particulate strategy. Woodstove use is prohibited during pollution episodes by Medford and Jackson County ordinances, but the City and County have not provided adequate enforcement resources to insure compliance. Compliance during the 1985-86 and 1986-87 heating seasons was less than half of the 70% compliance goal of the particulate strategy. The Department is working with the City of Medford and Jackson County to improve the effectiveness of the residential woodburning control measures.

Several particulate control measures for the Medford area are currently under development but have not yet been adopted or implemented. The Department worked with Pacific Power, the Oregon Department of Energy, and Oregon Environmental Council on a clean air electric rate but the Public Utilities Commission rejected the proposed clean air electric rate for the 1987-88 heating season. This program is intended to reduce the amount of wood burned in homes heated by a combination of wood and electricity (about 55% of the woodburning homes) by marketing increased electric usage (above the previous year baseline) at 60% of the normal rate. The proposed pilot program would have included Jackson County (in which the Medford-Ashland AQMA is located) and three other counties (Klamath, Josephine, and Deschutes). Public hearings and approval of the Public Utility Commission are required prior to implementation. A presurvey on wood and electric use and potential interest in the program was distributed by Pacific Power to 3600 Jackson County residences in September 1986.

The Department unsuccessfully requested $985,350 of oil settlement funds for a demonstration project in the Medford-Ashland AQMA. The project was intended to demonstrate the environmental energy, safety and economic benefits of retrofit woodstove control devices and Oregon certified woodstoves. Approximately 2000 low-income homes or other hardship cases that use wood as the sole or primary heat source (and thus have the most difficulty complying with the Rogue Valley Woodburning Advisory Program during pollution episodes) were targeted in this project. The current allotment of oil settlement funds was distributed to other pressing Oregon energy priorities but this type of woodstove project will again be considered, using other funding sources or future oil settlement funds.

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item N, June 10, 1988, EQC Meeting.
Informational Report: Air Quality Offset Rule.

1. The EQC requested the Department to prepare an informational report on the Air Quality Offset Rule.

2. The report reviews the background of the offset rule and discusses available options including continuing the present offset policy, adopting a growth margin approach, and adopting a no growth approach.

3. The report also discusses minor changes which could be considered, such as increasing the offset ratio or considering various economic development strategies.

4. The report recommends no action now, but recommends the Commission consider an increase in the offset ratio at the time that PM_{10} control strategies are brought before the Commission.

AD2820

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item N, June 10, 1988, EQC Meeting

Informational Report: Air Quality Offset Rule (OAR 340-20-240)

Background

At the April 29, 1988, EQC meeting in Medford, the Commission requested the Department to prepare an informational report on the Air Quality Offset rule. Concerns had been expressed by several people commenting before the Commission that the Offset rule allowed industry to move into areas that exceed the air quality standards. Particular reference was made to the application of the offset rule to the Biomass One facility in White City.

The Offset rule was adopted by the Commission in 1981 as part of the New Source Review rules that are required by the Clean Air Act as part of the State Implementation Plans for non-attainment areas. These rules were evaluated at that time by the three citizens advisory groups that were working on particulate control strategies (Portland, Eugene-Springfield and Medford). The Commission discussed these rules extensively and held a special work session to consider concerns raised by the industrial community. The rules were finally adopted and became effective on September 8, 1981. Subsequently, the rules were approved by EPA and incorporated into the State Implementation Plan.

OAR 340-20-240 (Attachment I) contains the requirements for major new industrial sources and major modifications of industrial sources wishing to locate in non-attainment areas. These requirements can be summarized as follows:

1. Lowest Achievable Emission Rate (LAER) technology must be installed,

2. All sources owned or operated by the permit applicant within the State must be in compliance with air quality requirements,

3. A growth increment allocation or emission offsets must be provided for any emissions increase, and

4. A Net Air Quality Benefit must be provided when offsets are required.

The requirements for a Net Air Quality Benefit are defined in OAR 340-20-260 and include:

1. A demonstration that the offsets will improve air quality in the same geographical area,
2. A requirement that the emission offsets provide reductions that are equivalent or greater than the proposed increases,
3. The offsets must be the same type of pollutant as the proposed increases, and
4. The offsets must be contemporaneous, that is, they must occur within the same time frame as the proposed increases, generally within the same year.

The offset requirement has not applied to very many new sources or modifications of sources in Oregon over the years since the rules were adopted. Several factors are believed to account for the limited application of these rules. First, the designated non-attainment areas in Oregon are small consisting of portions of the Portland Metropolitan area, Salem, Eugene-Springfield, and Medford. Potential new non-attainment areas include Klamath Falls and Grants Pass. Major industrial emitters have tended to avoid the non-attainment areas. Second, many new sources and modifications of sources have avoided the offset rule by controlling emissions below the cutoff levels established in the rules. New sources frequently install controls that represent technological advances in air pollution control in order to avoid the need for offsets. Modifications of sources can "net out" of the New Source Review rules by installing better controls on existing facilities such that no net increase in emissions occurs from the plant. A third reason for limited use of the offset provision has been the slow pace of economic development in the State. With an improving economy, it is possible that more new sources or modifications of sources will be proposed in Oregon. The offset requirement may be used more in the future than has been the case previously.

The Department believes that the offset requirement has provided for improvements in Air Quality management even though the specific offset requirement has been applicable in very few cases.

Alternatives

The Commission has the authority to leave the offset rules in place or to consider revisions to the rules. Any such revisions would be changes in the State Implementation Plan and would require EPA approval.

The alternatives available include the following:

1. Offsets - The offset rules which were adopted by the Commission allow for construction of major new sources and major modifications of sources in non-attainment areas provided that emission increases are offset by emission reductions elsewhere in the airshed. The offsets must satisfy the requirements spelled out in the rules for a Net Air Quality Benefit. The Department understands that every non-attainment area in the country has some form of the offset policy which has either been adopted by the State or imposed by EPA. This approach has generally been accepted as the best way to meet Clean Air Act requirements while allowing for economic development which will not exacerbate problems in non-attainment areas.

2. No Offsets Required - Under this alternative major new sources or major modifications of sources would be allowed to locate in non-attainment areas without offsets. This alternative is the growth margin alternative. Other existing sources in the airshed would need to control more than would be required to achieve attainment with standards in order to provide a growth margin for new source increases. The current Oregon rules allow for the use of this approach in areas where a growth margin is available. The Portland ozone non-attainment area has had a growth margin available because of emission reduction credits achieved by the automobile inspection and maintenance program. At the present time, this growth margin has been almost used up and major new sources or major modifications of sources would be subject to offsets as a fall back requirement.

3. No Major New Sources or Major Modifications Allowed - Under this alternative major new sources or major modifications would be prohibited in non-attainment areas. This alternative appeared to be required by the Clean Air Act until EPA issued an Interpretative Ruling in 1977 that established the legal basis for the offset policy. Clearly, a ban on major new sources or major modifications of sources would be economically destructive to the many non-attainment areas of the country including the non-attainment areas in Oregon. Some of the comments heard by the Commission at the Medford meeting seemed to favor this approach.

The Commission could consider a wide range of minor revisions to the current offset rules. Some of these revisions have been discussed as part of possible control strategies or economic development strategies.

Some possible rule tightening measures are:

1. Increase the offset ratio from the present 1 to 1 ratio to something greater, say 1.3 to 1.

2. Disallow the use of credits from shutdown facilities as offsets for new facilities. Such credits would revert solely to air quality improvements.

Some economic development provisions that have been discussed are:

1. Develop growth margins in non-attainment areas to allow more industry to locate in specified areas. Tighter controls on existing sources would be required to provide the growth margin.

2. Allocate any growth margin that may be available on a priority basis to industries that employ more workers.

3. Establish a bank of emission credits from shutdown industries to be allocated to new industries.

Generally it is felt by the Department, that these minor revisions for rule tightening or for economic development strategies would have very little impact on air quality. The economic development strategies have been discussed by some economic development officials, but no specific actions have been taken to propose such measures.

Director's Recommendation

It is recommended that the Commission take no action now. The Department is planning to propose new control strategies for PM_{10} non-attainment areas in the near future. One possible strategy being considered is an increase in the offset ratio. It is recommended that the Commission consider this proposed revision at the time the control strategies are brought before the Commission.

Fred Hansen

Attachments: Attachment I New Source Review Rules (OAR 340-20-240)

Lloyd Kostow:d
229-5186
AD2732
May 26, 1988

Attachment 1
Agenda Item N
June 10, 1988
EQC Meeting

New Source Review

340-20-220	Applicability
340-20-225	Definitions
340-20-230	Procedural Requirements
340-20-235	Review of New Sources and Modifications for Compliance With Regulations
340-20-240	Requirements for Sources in Nonattainment Areas
340-20-241	Growth Increments
340-20-245	Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)
340-20-250	Exemptions
340-20-255	Baseline for Determining Credit for Offsets
340-20-260	Requirements for Net Air Quality Benefit
340-20-265	Emission Reduction Credit Banking
340-20-270	Fugitive and Secondary Emissions
340-20-276	Visibility Impact Assessment

Plant Site Emission Limits

340-20-300	Policy
340-20-301	Requirement for Plant Site Emission Limits
340-20-305	Definitions
340-20-310	Criteria for Establishing Plant Site Emission Limits
340-20-315	Alternative Emission Controls (Bubble)
340-20-320	Temporary PSD Increment Allocation

New Source Review

Applicability

340-20-220 (1) No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 340-20-280 of these rules.

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Definitions

340-20-225 (1) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source:

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

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

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

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

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

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

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

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

(5) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120.

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

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

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

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

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

(9) "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or

would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

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

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

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

(13) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects: 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 the most stingent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.

(14) "Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition (22)) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modification causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

(15) "Major Source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition (22)).

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

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

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

(19) "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

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

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

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

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

(22) "Significant emission rate" means:

(a) Emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

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

Pollutant	Significant Emission Rate
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter*	25 tons/year
(D) Sulfur Dioxide	40 tons/year
(E) Volatile Organic Compounds*	40 tons/year
(F) Lead	0.6 ton/year
(G) Mercury	0.1 ton/year
(H) Beryllium	0.0004 ton/year
(I) Asbestos	0.007 ton/year
(J) Vinyl Chloride	1 ton/year
(K) Fluorides	3 tons/year
(L) Sulfuric Acid Mist	7 tons/year
(M) Hydrogen Sulfide	10 tons/year
(N) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(O) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

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

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

(c) Any emissions increase less than these rates associated with a new source or modification which would con-

struct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m³ (24 hour average) shall be deemed to be emitting at a significant emission rate (see Table 2).

(23) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 3. For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

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

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

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84

Procedural Requirements

340-20-230 (1) Information Required. The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these rules. Such information shall include, but not be limited to:

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

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

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

(d) A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;

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

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

(2) Other Obligations:

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

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

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

(3) Public Participation:

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

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

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

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

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

(D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies

having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.

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

(F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

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

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84

Review of New Sources and Modifications for Compliance With Regulations

340-20-235 The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Requirements for Sources in Nonattainment Areas

340-20-240 New major sources and major modifications which are located in designated nonattainment areas shall meet the requirements listed below:

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

(2) Source Compliance. The owner or operator of the proposed major source or major modification must demonstrate that all major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance or on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

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

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

(5) Alternative Analysis:

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

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

(6) Special Exemption for the Salem Ozone Nonattainment Area. Proposed major sources and major modifications of sources of volatile organic compounds which are located in the Salem Ozone nonattainment area shall comply with the requirements of sections (1) and (2) of this rule but are exempt from all other sections of this rule.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

Growth Increments

340-20-241 The ozone control strategies for the Medford-Ashland and Portland Air Quality Maintenance Areas (AQMA) 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 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 (May 1 to Sepember 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.

[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 5-1983, f. & ef. 4-18-83; DEQ 5-1986, f. & ef. 2-21-86

Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)

340-20-245 New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

(1) Best Available Control Technology. The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition (22)). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

(2) Air Quality Analysis:

(a) The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225 definition (22)), in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

(A) Any state or national ambient air quality standard; or

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

(C) An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition (23)). New sources or modifications of sources which would emit volatile organic compounds which may impact the Salem ozone nonattainment area are exempt from this requirement.

(b) Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.

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

(3) Exemption for Sources Not Significantly Impacting Designated Nonattainment Areas:

(a) A proposed major source or major modification is exempt from OAR 340-20-220 to 340-20-270 if:

(A) The proposed source or major modification does not have a significant air quality impact on a designated nonattainment area; and

(B) The potential emissions of the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:

(i) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input.
(ii) Coal cleaning plants (with thermal dryers).
(iii) Kraft pulp mills.
(iv) Portland cement plants.
(v) Primary Zinc Smelters.
(vi) Iron and Steel Mill Plants.
(vii) Primary aluminum ore reduction plants.
(vii) Primary copper smelters.
(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per day.
(x) Hydrofluoric acid plants.
(xi) Sulfuric acid plants.
(xii) Nitric acid plants.
(xiii) Petroleum Refineries.
(xiv) Lime plants.
(xv) Phosphate rock processing plants.
(xvi) Coke oven batteries.
(xvii) Sulfur recovery plants.
(xviii) Carbon black plants (furnace process).
(xix) Primary lead smelters.
(xx) Fuel conversion plants.
(xxi) Sintering plants.
(xxii) Secondary metal production plants.
(xxiii) Chemical process plants.
(xxiv) Fossil fuel fired boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input.
(xxv) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
(xxvi) Taconite ore processing plants.
(xxvii) Glass fiber processing plants.
(xxviii) Charcoal production plants.

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

(4) Air Quality Models. All estimates of ambient concentrations required under these rules shall be based on the applicable air quality models, data bases, and other requirement specified in the "**Guidelines on Air Quality Models**" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). Where an air quality impact model specified in the "**Guideline on Air Quality Models**" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Department and the Environmental Protection Agency. Methods like those outlined in the "**Workbook for the Comparison of Air Quality Models**"(U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May,

1978) should be used to determine the comparability of air quality models.

(5) Air Quality Monitoring:

(a)(A) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Additional Impact Analysis:

(a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification, the owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.

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

(7) Sources Impacting Class I Areas:

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

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

[**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 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85

Exemptions

340-20-250 (1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-20-240 sections (3) and (4) provided that:

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

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

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

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

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

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Baseline for Determining Credit for Offsets

340-20-255 The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Requirements for Net Air Quality Benefit

340-20-260 Demonstrations of net air quality benefit must include the following:

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

(2) For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition (23)) on the nonattainment area, the emission offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modification which emit volatile organic compounds and are located within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

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

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

Emisison Reduction Credit Banking

340-20-265 The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or by an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

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

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

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

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

the criteria established in OAR 340-14-005 through 340-14-050.

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

(6) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows:

(a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(20);

(b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

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

(a) A detailed description of the processes controlled;

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

(c) The date or dates of such reductions;

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

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

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

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

Fugitive and Secondary Emissions

340-20-270 Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Stack Heights

340-20-275 [DEQ 25-1981, f. & ef. 9-8-81; Repealed by DEQ 5-1983, f. & ef. 4-18-83]

Visibility Impact

340-20-276 New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact requirements:

(1) Visibility impact analysis:

(a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225, definition (22)) in conjunction with all other applicable emission increases or decreases (including secondary emissions) permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area.

(b) Proposed sources which are exempted under OAR 340-20-245(3), excluding paragraph (3)(a)(A) are not required to complete a visibility impact assessment to demonstrate that the sources do not cause or contribute to significant visibility impairment within a Class I area. The visibility impact assessment for sources exempted under this section shall be completed by the Department.

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

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

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

(4) Visibility monitoring:

(a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of TSP, SO_2 or NO_x shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and

shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year, would be adequate to determine that the source of major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan.

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

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

(6) Notification of permit application:

(a) Where a proposed major source modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application.

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

(c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing.

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85

Plant Site Emission Limits

Policy

340-20-300 The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of air quality permit holders as contained in OAR 340-20-301 through 340-20-320. However, by the adoption of these rules, the Commission does not intend to: limit the use of existing production capacity of any air quality permittee: cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. PSELs can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Requirement for Plant Site Emission Limits

340-20-301 (1) Plant site emission limits (PSEL) shall be incorporated in all Air Contaminant Discharge Permits except minimal source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements shall be subject to PSELs for all federal and state regulated pollutants. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.

(2) The emissions limits established by PSELs shall provide the basis for:

(a) Assuring reasonable further progress toward attaining compliance with ambient air standards.

(b) Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained.

(c) Administering offset, banking and bubble programs.

(d) Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Definitions

340-20-305 (1) "Actual Emissions" means the mass rate of emissions of a pollutant from an emissions source:

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

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

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

(2) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.

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

(4) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

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

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Criteria for Establishing Plant Site Emission Limits

340-20-310 (1) For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules:

(a) If an applicant requests that the Plant Site Emission Limit be established at a rate higher than the baseline emission rate, the applicant shall:

(A) Demonstrate that the requested increase is less than the significant emission rate increase defined in OAR 340-20-225(22); or

(B) Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 340-20-245. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the Plant Site Emission Limit to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

(b) Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to the Department's permit requirements.

(2) PSELs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.

(3) Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.

(4) Documentation of PSEL calculations shall be available to the permittee.

(5) For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.

(6) PSELs shall not allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit condition unless specific provisions of OAR 340-20-315 are met.

(7) PSELs may be changed pursuant to Department rules when:

(a) Errors are found or better data is available for calculating PSELs;

(b) More stringent control is required by a rule adopted by the Environmental Quality Commission;

(c) An application is made for a permit modification pursuant to the Air Contaminant Discharge Permit requirements and the New Source Review requirements and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments;

(d) The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Alternative Emission Controls (Bubble)

340-20-315 Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:

(1) Such alternatives are not specifically prohibited by a permit condition.

(2) Net emissions for each pollutant are not increased above the Plant Site Emission Limit.

(3) The net air quality impact is not increased as demonstrated by procedures required by OAR 340-20-260 (Requirements for Net Air Quality Benefit).

(4) No other pollutants including malodorous, toxic or hazardous pollutants are substituted.

(5) Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) where required by a previously issued permit and New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) where required, are not relaxed.

(6) Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.

(7) Application is made for a permit modification and such modification is approved by the Department.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Temporary PSD Increment Allocation

340-20-320 (1) PSELs may include a temporary or time-limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:

(a) No ambient air quality standard is exceeded.

(b) No applicable PSD increment is exceeded.

(c) No nuisance condition is created.

(d) The applicant's proposed and approved objective continues to be realized.

(2) When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration projects unless, in the opinion of the Department, extraordinary circumstances exist.

(3) Such temporary allocation of a PSD increment must be set forth in a specific permit condition issued pursuant to

the Department's Notice and Permit Issuance or Modification Procedures.

(4) Such temporary allocations must be specifically time limited and may be recalled under specified notice conditions.

Stat. Auth.: ORS Ch. 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81

Definitions

340-20-340 [DEQ 5-1983, f. & ef. 4-18-83; Repealed by DEQ 11-1986, f. & ef. 5-12-86]

Limitations

340-20-345 [DEQ 5-1983, f. & ef. 4-18-83; Repealed by DEQ 11-1986, f. & ef. 5-12-86]

Subject: Agenda Item O, June 10, 1988, EQC Meeting.

Review of Applications for Assessment Deferral Loan Program Revolving Funds

There are two errata as follows:

1. Pg. 9 (IIIA1), 2nd paragraph -- City of Eugene

"A total of 1,368 [1,176]..."

2. Pg. 12 (Table) City of Eugene (3rd col. -- Households)

City	Total Number Connections	Percent of Households in Project Area at or below 200% of the Federal	Number of Connections to Low-Income	Percent of Total Number of Connections to Low-Income	Allocation of Loans to Public Agencies
Portland	2,789	27 Percent	753	62 Percent	$186,000
Gresham	470	26 Percent	122	10 Percent	$ 30,000
Eugene	1,368	25 [27]Percent	342	28 Percent	$ 84,000
Total			1,217		

WH2704

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

EXECUTIVE SUMMARY

TO: Environmental Quality Commission

FROM: Fred Hansen, Director

SUBJECT: Agenda Item O, June 10, 1988, EQC Meeting. Executive Summary of Staff Report Reviewing Applications for Assessment Deferral Loan Program Revolving Funds.

In 1987, the legislature created the Assessment Deferral Loan Program to provide assistance to property owners who will experience extreme financial hardship resulting from sewer assessments for sewer connections required by a federal grant agreement or an order issued by a state commission or agency. Under this new program, public agencies apply to the Department for a loan and in turn provide loans to individual property owners.

The Department has received applications for loan funds from Portland, Gresham, and Eugene. Each of the City's proposed programs have been reviewed by the Department. This staff report recommends approval of all of the programs subject to conditions discussed below.

The City of Portland's program makes loans available to homeowners who meet eligibility criteria including having an income at or below 200 percent of the federal poverty level. A system for reverifying loan eligibility at set intervals after the loan is issued has been established. Also, a recordkeeping system, a system to monitor loan repayments, and a system to enforce liens is in place. The City plans to charge the borrower 5% simple interest which is the same interest rate DEQ charges the City. A nine-member Citizen Advisory Board was established to provide input during the development of the City's Assessment Deferral Program. This group still meets and acts as an advisory group for the Mid-Multnomah County sewer project.

Gresham's program is very similar to Portland's with a few exceptions. First, Gresham provides Assessment Deferral Loans to businesses which can demonstrate that they would suffer extreme financial hardship if required to pay the sewer assessment. Second, Gresham provided citizen involvement during the program development process through a City Council meeting and a public hearing. A Citizen Advisory Committee with five members was only recently established to provide ongoing citizen input to the Mid-Multnomah County sewer project. The Department, however, believes that the level of citizen involvement provided during the plan development stage was adequate to comply with rules and statutory requirements.

Eugene's program would provide loans for the River Road/Santa Clara area and is similar to Portland's program with regard to eligibility criteria, loan enforcement, and interest rates. Eugene developed a Citizen's Advisory Team

which was involved before program adoption. Eugene does not have an ongoing citizen group to provide participation. This type of ongoing citizen participation is not, however, required of Eugene under ORS 454.370(2), as it is of Portland and Gresham. This statutory requirement only applies to cities in a county with population of over 400,000.

A total of $300,000 is available during the 1987 - 1989 biennium to applicants. By following procedures in the rules for allocating funds, Portland would receive $186,000; Gresham would receive $30,000; and Eugene would receive $84,000.

WJ565

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission Date: April 5, 1988

From: Director

Subject: Agenda Item O, June 10, 1988, EQC Meeting.

Review of Applications for Assessment Deferral Loan Program Revolving Funds

Background

In 1987, the legislature adopted ORS 468.970 - .983 creating the Assessment Deferral Loan Program. This program is intended to provide "assistance to property owners who will experience extreme financial hardship resulting from payment of assessed costs for construction of treatment works required by a federal grant agreement or an order issued by a state commission or agency." (ORS 468.973 (1))

Under this new program, public agencies apply to the Department for a loan and in turn provide loans to individual property owners. The loans to property owners will be for the assessed costs of the collector sewers, and will be secured by liens against the property being sewered. The loan plus interest is due upon sale of the property. The Department is authorized to loan up to $300,000 from the Safety Net Loan Fund during the 1987-89 biennium.

In December 1987, the Environmental Quality Commission adopted rules to implement the loan program (OAR 340-81-110). Under these rules, all public agencies must apply for funding for the 1987-89 biennium by February 1, 1988. Proposed assessment deferral loan programs were received from Portland and Gresham for the Mid-Multnomah County area and from Eugene for the River Road/Santa Clara area. The Mid-Multnomah County area is required, under an EQC order issued pursuant to ORS 454.305, to connect to sewers due to the threat to drinking water. The programs for Portland and Gresham cover the entire Mid-Multnomah County area required to be sewered by the EQC order, including the unincorporated area in Multnomah County. The River Road/Santa Clara area is required, under a federal grant agreement, to connect to sewers due to the threat to groundwater.

The programs submitted by Portland and Gresham also include procedures for deferral of sewer connections for certain low-income property owners. The Department, in this report, has only reviewed the portions of the programs related to assessment deferral loans. The Department will prepare a Mid-Multnomah County status report in the next few months which will include a review of connection deferrals discussed in Portland's and Gresham's programs.

Under ORS 454.370 - .380, requirements are listed for jurisdictions constructing treatment works in response to an EQC order issued under ORS 454.305 declaring a threat to drinking water. These requirements only apply to Portland and Gresham since ORS 454.305 only applies to cities in a county with a population of over 400,000. In reviewing the programs submitted by Portland and Gresham, the Department has addressed compliance with ORS 454.370 regarding citizen participation requirements because citizen participation is also a requirement of the Assessment Deferral Loan Program rules (OAR 340, Division 81). It should be noted that the citizen involvement requirements under OAR 340-81-110 (3)(a)(F) are different than those under ORS 454.370. OAR 340-81-110 (3)(a)(F) has a general requirement for public involvement during assessment deferral loan program development. ORS 454.370 requires a citizen's advisory committee with detailed membership requirements for on-going participation in the Mid-Multnomah County sewer project, but not specifically for development of an assessment deferral loan program.

No attempt is made in this report to address compliance with ORS 454.375 - .380 regarding limits on sewer charges and spending on non-construction related items. These issues are outside the scope of the Assessment Deferral Loan Program and will be reviewed, as appropriate, in the Mid-Multnomah County status report which will be submitted to the Commission as discussed above.

In conjunction with the Environmental Quality Commission's review of these programs, the Department is developing a loan agreement which it will enter into with each jurisdiction. This agreement will cover items not covered in the proposed programs such as procedures for repayment of the loan to DEQ and the schedule for loan payments by DEQ to the public agency. These agreements will be finalized after the programs are reviewed by the EQC.

OAR 340-81-110 sets out a list of criteria which must be addressed in assessment deferral loan programs proposed by public agencies. These criteria are reviewed below for each jurisdiction which has applied for loan funds.

I. Portland

A. Program

1. Sewer connections to be made in the affected area as required by EQC order.

   A total of 2,789 sewer connections are anticipated by July 1, 1989. The City of Portland submitted a map of the Mid-Multnomah area showing the proposed schedule for sewer connection through 1994. This map is available in DEQ's Water Quality Division office.

2. Analysis of the income levels for the affected property owners.

   OAR 340-81-110 (4) identifies 200 percent of the federal poverty level as the basis for determining the amount of funds for which the City of Portland will be eligible. The City also uses this figure as a cut-off for assessment deferral loan eligibility. The City of Portland has estimated that 27 percent of the households in the affected area are at or below 200 percent of the federal poverty level. (Source: Mid-Multnomah County Sewer Safety Net Project, Tables 2-8, CH2M Hill, February 1987.)

3. Approximate cost of sewer assessments in the affected area.

   The City of Portland has estimated the approximate cost of sewer assessments in the affected area at $3,150 per household. This is based on an average lot size of 7,000 square feet and an assessment cost/sq. ft. of 45 cents.

4. Allocation of funds among eligible property owners.

   The City of Portland adopted eligibility criteria based on the premise that no one should suffer financial hardship or the loss of their home because of sewers. Under Portland's program, assessment deferrals are not available for businesses.

   Owner occupied homeowners who meet the following criteria will automatically qualify for a loan to defer all or part of their assessment:

   a. The gross income of all members of the household less any unreimbursable medical expenses must be 200 percent of the federal poverty level or less; (see Attachment I, Table I)

b. Net assets of all members of the household excluding the primary residence and it's contents and one vehicle must not exceed $20,000; and

c. Total house related expenses including the proposed cost of sewers must be at least 30 percent of gross income.

Owner occupied homeowners who do not meet the above criteria but have unusually large sewer costs may be eligible for the same benefits. For this group, the City would adjust their monthly gross income by the cost of sewers and other household expenses and use Attachment I, Table II, to determine the level of aid.

Portland's current program also calls for annual reverification of applicant eligibility. City staff members have recently drafted recommendations for amendments to limit the length of safety net loans to five years with the option to re-apply for assessment and connection deferrals. The City's staff believes these amendments will improve administration of the program by allowing a more thorough review of applicant's eligibility every five years rather than a short review annually. City Council review and decision are expected in June 1988. Assessment deferral loans will be granted to homeowners eligible for Safety Net assistance in the order that applications are received and approved.

5. Administration of the Assessment Deferral Loan Program.

a. Accounting and Record-Keeping Procedures: -- Portland's Financial Administration Agency will prepare a weekly summary of funds dispersed from the Safety Net Fund to the local improvement district (LID) construction fund.

Each quarter, a report will be prepared summarizing the amount and number of deferrals granted in that quarter, the total amount and number of deferrals currently outstanding and the amount of loans paid off because of the sale of property, because of death of a property owner or because of any other reason.

b. Liens: -- Portland's Financial Administration Agency will prepare documents necessary to record Safety Net loans as liens against the property. Recorded liens will be filed by the Auditor's Office. The City's Lien Collection Task Force adopted a collection process in February 1987, intended to maximize the collection of delinquent loans. This process is currently being refined, and the amended version is expected to be finalized by fall of 1988.

c. Repayments: -- Upon sale of the property, death of the owner, or a determination that the applicant is no longer eligible, the loan must be repaid.

d. Interest Rate: -- The City plans to charge the same interest rate on individual property assessment deferral loans as the rate applied by DEQ for assessment deferral funds loaned by the City.

6. Public Involvement.

The City of Portland provided adequate public involvement in adoption of the program in accordance with the requirements of OAR 340-81-110 (3)(a)(F). The City developed a Citizen's Advisory Board in November, 1986, which adopted the loan program in April 1987. In addition, the City held a public hearing to accept testimony on the proposed program on March 9, 1987.

The City also meets the requirement for ongoing citizen participation in the Mid-Multnomah County sewer project as required by ORS 454.370. The Citizens' Advisory Board currently has a membership of six. Of these six, two members are safety net eligible, five live in the area, one works in the area and one is a renter. They are currently seeking more board members to bring the total membership to nine. The Board's membership complies with the requirements of ORS 454.370 (2) because more than two-thirds of the members reside in the area, and one-third of the members are eligible for financial relief under the safety net plan. The City has had problems in the past maintaining the board's membership due to inability to find safety net eligible members and due to the lack of interest by members in participation on the board for long terms. The City has, however, shown a concerted effort to maintain the Board's membership. The minutes from all meetings since September, when HB 3101 took effect, have been submitted to the Commission Assistant and are available to the public upon request.

7. Resolution Adopting the Program.

The City submitted a copy of a resolution passed by the City Council on June 27, 1987, which adopted the program.

B. Program Evaluation

The Department finds that Portland's program meets the intent of the Assessment Deferral Loan Program Revolving Fund to provide assistance to property owners who would experience extreme financial hardship from payment of sewer assessments. The City is currently drafting program

amendments which the City has determined are necessary to improve the program. As amendments are made to the program, the Department recommends that the City be required to submit them to the Department for approval.

II. Gresham

A. Program

1. Sewer connections to be made in the affected area as required by EQC order.

   A total of 470 sewer connection are anticipated in Gresham by July 1, 1989. The City has submitted a schedule for construction of collector sewers through 1994 in the Mid-Multnomah area. A description of proposed construction is available in DEQ's Water Quality Division office.

2. Analysis of the income levels for the affected property owners.

   The City of Gresham has estimated that 26 percent of the households in the affected area are at or below 200 percent of the federal poverty level (Source: Mid-Multnomah County Sewer Safety Net Project, Table 2-8, CH2M Hill, February 1987).

3. Approximate cost of sewer assessments in the affected area.

   The City of Gresham has estimated the approximate cost of sewer assessments in the affected area at $5,111 for a 7,000 sq. ft. lot. This includes a $1,000 systems development charge, $1,672 for a house branch, 31 cents/sq. ft. frontage charge and a $200 interceptor charge.

4. Allocation of funds among eligible property owners.

   The City of Gresham developed eligibility criteria to provide assistance to the very needy who have no alternative means of financing the sewer costs.

   a. Homeowners

      Homeowners are eligible for a loan for all or a portion of their sewer assessment, with loan payments deferred until the home is sold or until the owner no longer qualifies if they meet the following criteria.

1) Income -- Homeowners who occupy the assessed property and have a gross household income, less non-reimbursed medical expenses, at 200 percent of the federal poverty level or less.

2) Housing Costs -- Homeowners whose housing costs exceed 30 percent of household income.

3) Assets -- Homeowners who have net household assets, excluding the primary residents, its contents and one vehicle, of $20,000 or less.

All three criteria would have to be met in order for a homeowner to automatically qualify for assistance. Homeowners who meet all three criteria are eligible for a deferred loan from 20 to 100 percent of their sewer assessments. (See Attachment II, Table I.)

Homeowners who do not qualify under the three basic criteria but may need a safety net loan to avoid losing their homes may receive assistance if:

1) The income criteria is met and one of the other two criteria -- housing costs of assets -- is also met; and

2) The City determines that a homeowner has extraordinary costs associated with the sewer implementation program.

b. Business assessment deferral loans are available to businesses that own the building in which they conduct their primary business if they meet the above listed income, building costs and assets criteria.

The City's Financial Operations Division will re-verify eligibility of applicants every three years.

Assessment deferral loans will be allocated to eligible applicants on a first-come, first-serve basis, as long as Safety Net funds are available.

5. Administration of the Assessment Deferral Loan Program.

a. Accounting and Record-Keeping Procedures: -- The City's Management Services Department will maintain a list of all loans and outstanding balances. A weekly summary of loans granted will be produced. Each quarter, a summary report will be prepared showing the amount and number of connection

deferrals granted in that quarter, connection deferrals now outstanding, loan granted and loans paid.

b. Liens: -- Gresham will prepare documents necessary to record Safety Net loans as liens against the property. The City will monitor the liens and require the liens to be satisfied at the time of title transfer. If the property owner becomes ineligible for the safety net deferral or if loans are not repaid, the City will institute foreclosure proceedings similar to those followed for delinquent Bancroft assessments.

c. Repayments: -- All payments are deferred until the property is sold, until the property no longer belongs to the applicant, until the applicant pays the Safety Net loan, or until the applicant is no longer eligible for the loan.

d. Interest Rates: -- Gresham plans to charge the same interest rate on assessment deferral loans as that charged by DEQ on the safety net funds loaned to Gresham.

6. Public Involvement.

The Assessment Deferral Loan Program rules (OAR 340-81-110 (3)(a)(F)) require citizen involvement during program development. Gresham provided copies of the program at the September 29, 1987 Gresham City Council meeting when the draft plan was first presented to the council. A public hearing was held on October 20, 1987, at which time citizens were invited to comment on the proposed plan. At that meeting, several citizens raised questions regarding the proposed safety net plan. A written response to these questions was presented to the Council prior to adoption of the safety net plan on November 3, 1987. The Department finds that this citizen participation process was adequate for development of the plan as required by OAR 340-81-110 (3)(a)(F). There is no statutory or rule requirement that the City must have a citizens' sewer advisory committee during program development, only that there must be citizen participation.

As required by ORS 454.370 (2) for on-going involvement in the safety net program, the City has established a citizens sewer advisory committee. The original committee with three members was established in March 1988. In May 1988, it was expanded to have 5 members. Two of the members are homeowners who are safety-net eligible, and the other three reside or do business in the affected area. The Committee's membership complies with the requirements of ORS 454.370(2), because more than two-thirds of the members reside in the area and more than one-third of the

members are eligible for financial relief under the safety net plan.

The minutes from all meetings have been submitted and are available upon request.

7. Resolution Adopting Program.

Gresham submitted a copy of the resolution passed by the City Council on November 3, 1987, adopting the program.

B. Program Evaluation

The Department finds that Gresham's program meets the intent of the Assessment Deferral Loan Program Revolving Fund to provide financial assistance to low-income property owners who would experience extreme financial hardship from payment of sewer assessments.

III. Eugene

A. Program

The City of Eugene currently offers its own assessment deferral program targeted at the elderly and those at the lowest income levels. The City's program implements the State's Assessment Deferral Loan Program and supplements this existing local program.

1. Sewer connections to be made in the affected area as required by a federal grant agreement:

A total of 1,176 sewer connections in the affected area are expected during the 1987-89 biennium. A total of 15 miles of collector sewers are anticipated to be built during the 1987-89 biennium.

2. Analysis of the income levels for the affected property owners.

The City of Eugene has estimated that 25 percent of the households are at or below 200 percent of the federal poverty level. (Source: Cost Implications of a Safety Net Program for the City of Eugene. Moore Breithaupt and Associates, Inc., May 1987).

3. Approximate cost of sewer assessments in the affected area.

The City of Eugene has estimated the approximate cost of sewer assessments in the affected area at $3,638 per service connection. This is based on an average lot size of 9,200 square feet. The

cost includes a lateral sewer charge averaging $2,668 and a service connection assessment of $970.

4. Proposed plan for allocating funds among eligible property owners.

The City of Eugene developed eligibility criteria with the goal of reducing the immediate financial impact of sewer assessments to low-income households. No deferral loans are given to businesses.

The City relies on the federal poverty level guidelines to determine eligibility. An applicant is eligible if the household income is at or below 200 percent of the federal poverty level, if applicant's non-income producing assets do not exceed four times the income eligibility level for which the application is made, and the applicant has received no deferrals on other property. Similar to the Portland and Gresham programs, the amount of costs deferred depends on how far the applicant's income is above the poverty level.

The City plans to review the eligibility of program participants every two years. Assessment deferral loans will be granted to property owners with the lowest income levels first and in the order of their original application.

5. Administration of the assessment deferral program.

a. Accounting and Record-Keeping Procedures: -- The funds will be accounted for separately by the City of Eugene. Information regarding the amount of the assessments, payment schedules, principal and interest balances and all loan activity will be recorded on a property-by-property basis. State loan funds, deferrals granted, and accrued interest due will be recorded in the accounting system.

b. Liens: -- Eugene will place liens on all property receiving assessment deferrals and will enforce the liens when the assessment becomes due.

c. Repayments: -- Upon sale or transfer of the property or upon determination that the applicant is no longer eligible, the assessment must be paid in full.

d. Interest Rate: -- The rate of interest the Eugene charges shall be equal to the rate of interest the City receives on the loans from the State under the Assessment Deferral Loan Program.

6. Public Involvement.

In 1984, a 15-member River Road/Santa Clara Citizens' Advisory Team (CAT) was formed to allow input to the planning process of the Sanitary Sewer Service Element of the River Road/Santa Clara Urban Facilities Plan. Over 70 informal CAT public meetings and three formal public hearing were held.

The Eugene City Council, Lane County, and the City of Springfield formally adopted the financing recommendations presented by the CAT.

Eugene does not currently have a citizen advisory group for the River Road/Santa Clara sewer project. There is no statutory requirement for Eugene to have on-going citizen involvement as there is for Portland or Gresham, since the requirements of ORS Chapter 454 regarding citizen involvement only apply to cities in counties of over 400,000.

7. Resolution Adopting the Proposed Program.

The City submitted its application for the Assessment Deferral Loan Program in January 1988, before the February 1 application deadline established by OAR 340-81-110 (2)(a). The program was adopted by ordinance by the City Council on May 23, 1988.

B. Program Evaluation

The Department finds that Eugene's program meets the intent of the Assessment Deferral Loan Program Revolving Fund by providing financial assistance to low income property owners who would experience extreme financial hardship from payment of sewer assessments.

Allocation of Loans to Public Agencies

A total of $300,000 is available during the 1987-89 biennium for the Assessment Deferral Loan Fund.

Based on the information submitted by each jurisdiction the City of Portland would be eligible for $186,000; the City of Gresham would be eligible for $30,000; and the City of Eugene would be eligible for $84,000. These determinations were made as follows according to the procedures outlined in 340-81-110 (4)(c).

City	Total Number Connections	Percent of Households in Project Area at or below 200% of the Federal	Number of Connections to Low-Income	Percent of Total Number of Connections to Low-Income	Allocation of Loans to Public Agencies
Portland	2,789	27 Percent	753	62 Percent	$186,000
Gresham	470	26 Percent	122	10 Percent	$ 30,000
Eugene	1,368	27 Percent	342	28 Percent	$ 84,000
Total			**1,217**		**$300,000**

Alternatives

1. The Commission could approve all three programs. This approval would be based on the determination that all three programs comply with all eligibility requirements, including compliance with the February 1, 1988 application deadline. Under this alternative, Eugene's application would be considered in compliance with the February 1, 1988 deadline, though it would be considered incomplete until May 23, 1988 when it was adopted by ordinance. This is the alternative recommended by the Department.

2. The Commission could approve Portland's and Gresham's programs and deny Eugene's program because it had not been adopted by ordinance before February 1, 1988. Under this alternative, no loan funds would be available to Eugene until the 1989-1991 biennium. This alternative, however, does not seem consistent will the statutory intent of providing assistance to affected property owners.

5. The Commission could require all amendments to approved programs to be approvable only be the Commission. This would allow the Commission on-going involvement in monitoring plan amendments. Alternatively, the Commission could allow amendment to approved programs to be approvable in the Department. This latter alterative would expedite approval of any program amendments and is the alternative recommended by the Department.

Summary

1. Portland, Gresham and Eugene have submitted assessment deferral loan programs for approval by the Commission.

2. The Department finds these programs to be in compliance with the requirements of the rules and statutes related to assessment deferral loan programs and recommends approval.

3. Amendments to approved programs will be reviewed and approved by the Department.

Director's Recommendation

Based on the summation, it is recommended that the Commission approve the proposed assessment deferral loan programs for Portland, Gresham and Eugene.

Fred Hansen

Attachments: (5)

I. Excerpts from Portland's Proposed Assessment Deferral Loan Program
II. Excerpts from Gresham's Proposed Assessment Deferral Loan Program
III. OAR 340-81-110
IV. OAR 468.970 - .983
V. ORS 454.275 - .380

Maggie Conley:hs/kjc
(229-5257)
WH2665
April 5, 1988

City of Portland Safety Net Program

Attachment I

Table I.

Sewer Safety Net Program Income Guidelines
1987

Household Size	1	2	3	4	5	6	
Federal Poverty Level February 1987 Division of Training 1 (415) 556-5059	5,500	7,400	9,300	11,200	13,100	15,000	+1,900 per add'l person
							Percent of Assessment Paid by Safety Net
Less than 75 % of Poverty	0 to 4,125	0 to 5,550	0 to 6,975	0 to 8,400	0 to 9,825	0 to 11,250	100%
75% to 124% of Poverty	4,126 to 6,820	5,551 to 9,176	6,976 to 11,532	8,401 to 13,888	9,826 to 16,244	11,251 to 18,600	80%
125% to 149% of Poverty	6,821 to 8,195	9,177 to 11,026	11,533 to 13,857	13,889 to 16,688	16,245 to 19,519	18,601 to 22,350	50%
150% to 200% of Poverty	8,196 to 11,000	11,027 to 14,800	13,858 to 18,600	16,689 to 22,400	19,520 to 26,200	22,351 to 30,000	20%

City of Portland Safety Net Program

Attachment I

Table II.

Exception Program Scale
1987

(This table is to be used for the Exception Program. It shows the gross income available at various levels after 30 percent of income is deducted for housing expenses. This helps to determine the relative burden that sewer costs put on a household that is not initially eligible for the Safety Net Program but may still require some level of assistance.)

Household Size	1	2	3	4	5	6	
Federal Poverty Level February 1987 Division of Training 1 (415) 556-5059	3,850	5,180	6,510	7,840	9,170	10,500	+1,330 per additional person
							Percent of Assessment Paid by Safety Net
Less than 75 % of Poverty	0 to 2,888	0 to 3,885	0 to 4,883	0 to 5,880	0 to 6,878	0 to 7,875	100%
75% to 124% of Poverty	2,888 to 4,774	3,886 to 6,423	4,883 to 8,072	5,881 to 9,722	6,878 to 11,371	7,876 to 13,020	60%
125% to 149% of Poverty	4,775 to 5,737	6,424 to 7,718	8,073 to 9,700	9,722 to 11,682	11,372 to 13,663	13,021 to 15,645	50%
150% to 200% of Poverty	5,737 to 7,700	7,719 to 10,360	9,701 to 13,020	11,682 to 15,680	13,664 to 18,340	15,646 to 21,000	20%
Over 200% of Poverty	7,701	10,361	13,021	15,681	18,341	21,001	0%

City of Gresham Safety Net Program

Attachment II

Table 1.

Sewer Safety Net Program Income Guidelines
1987

Household Size	1	2	3	4	5	6	
Federal Poverty Level February 1987	5,500	7,400	9,300	11,200	13,100	15,000	+1,900 per add'l person
Division of Training 1 (415) 556-5059							Percent of Assessment Paid by Safety Net
Less than 75 % of Poverty	0 to 4,125	0 to 5,550	0 to 6,975	0 to 8,400	0 to 9,825	0 to 11,250	100%
75% to 124% of Poverty	4,126 to 6,820	5,551 to 9,176	6,976 to 11,532	8,401 to 13,888	9,826 to 16,244	11,251 to 18,600	80%
125% to 149% of Poverty	6,821 to 8,195	9,177 to 11,026	11,533 to 13,857	13,889 to 16,688	16,245 to 19,519	18,601 to 22,350	50%
150% to 200% of Poverty	8,196 to 11,000	11,027 to 14,800	13,858 to 18,600	16,689 to 22,400	19,520 to 26,200	22,351 to 30,000	20%

FILED SEC. OF STATE 12/
Effective 12-16-1987
EQC meeting 12-11-1987

NOTE: THIS IS A NEW RULE.

OREGON ADMINISTRATIVE RULES

Chapter 340, Division 81 - Department of Environmental Quality

Assessment Deferral Loan Program Revolving Fund

340-81-110 Purpose. The Department will establish and administer an Assessment Deferral Loan Program Revolving Fund for the purpose of providing assistance to property owners who will experience extreme financial hardship from payment of sewer assessments. Assessment deferrals will be made available to qualifying property owners from approved assessment deferral loan program administered by public agencies.

(1) Loans from the Assessment Deferral Loan Program Revolving Fund may be made to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The public agency is required by federal grant agreement or by an order issued by the Commission or the Oregon Health Division to construct a sewage collection system, and sewer assessments or charges in lieu of assessments levied against some benefitted properties will subject property owners to extreme financial hardship;

(b) The public agency has adopted an assessment deferral loan program and the Commission has approved the program; and

c) The sewage collection system meets the requirement of section 2 Article XI-H of the Oregon Constitution regarding eligibility of pollution control bond funds.

(2) Any public agency requesting funding for its assessment deferral loan program from the Assessment deferral Loan Program Revolving Fund shall submit a proposed program and application to the Department on a form provided by the Department. Applications for loans and the proposed program shall be submitted by the following dates:

(a) By no later than February 1, 1988 for loans to be issued in the 1987-89 biennium;

(b) The subsequent bienniums, by no later than February 1 of odd numbered years preceding the biennium.

(3) Any public agency administering funds from the Assessment Deferral Loan Program Revolving Fund shall have an assessment deferral loan program approved by the Department.

(a) The proposed program submitted to the Department shall contain the following:

(A) The number of sewer connections to be made as required by grant agreement or State order;

(B) An analysis of the income level and cost of sewer assessments for affected property owners;

(C) A description of how the public agency intends to allocate loan funds among potentially eligible property owners, including the following:

(i) Eligibility criteria;

(ii) Basis of choosing the eligibility criteria;

(iii) How funds will be distributed for assessment deferrals among eligible property owners.

(D) A schedule for construction of collector sewers;

(E) A description of how the public agency intends to administer the assessment deferral program, including placing liens on property, repayment procedures, and accounting and record keeping procedures;

(F) Assurance that the public was afforded adequate opportunity for comment on the proposed program, and that public comments were considered prior to adoption of the proposed program by the public agency; and

(G) A resolution that the public agency has adopted the program.

(b) The Department shall review proposed programs submitted by public agencies within 30 days of receipt. The Department shall use the following criteria in reviewing submitted programs:

(A) The degree to which the public agency and it's proposed program will meet the intent of the Assessment Deferral Loan Program revolving Fund as specified in Section (1)(a) of this rule; and

(B) Whether the required sewers will be constructed and made available to affected property owners within the biennium for which funds are being requested.

(c) The Department shall submit to the Commission recommendations for approval or disapproval of all submitted applications and proposed assessment deferral loan programs.

(4) All public agencies meeting the requirements of OAR 340-81-110(1) shall receive an allocation of up to the amount of funds available based on the following criteria:

(a) The number of sewer connections to be made, as described in the approved program;

(b) The percentage of households within the area described in the program that are at or below 200 percent of the federal poverty level as published by the U.S. Bureau of Census.

(c) The allocation of available funds for qualifying public agencies shall be determined as follows:

(A) Calculate the number of connections to low income households for each public agency:

(total number of sewer connections in project area) X (% of households in project area where household income is at or below 200 percent of the federal poverty level.)

= number of connections to low income households

(B) Add the total number of connections to low income households for all qualifying public agencies;

(C) Calculate a percentage of the total sewer connections to low income households for each qualifying agency divide (A) above by (B) above);

(D) Multiply the percentage calculated in (C) above by the total funds available.

(5) Within 60 days of Commission approval of the application and allocation of loan funds, the Department shall offer the public agency funds from the Assessment Deferral Loan Program Revolving fund through a loan agreement that includes terms and conditions that:

(a) Require the public agency to secure the loan with assessment deferral loan program financing liens;

(b) Require the public agency to maintain adequate records and follow accepted accounting procedures;

(c) Contain a repayment program and schedule for the loan principal and simple annual interest. The interest rate shall be 5% for the 1987-1989 biennium, and shall be set by the Commission , by rule-making procedures for each subsequent biennium prior to allocation of available funds;

(d) Require an annual status report from the public agency on the assessment deferral loan program; and

(e) Conform with the terms and conditions listed in OAR 340-81-046.

(f) Other conditions as deemed appropriate by the Commission.

such capital investment, as the case may be, from and after the date that the order of revocation becomes final. [1985 c.684 §8; 1987 c.158 §95]

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 ca al investments meet the criteria of ORS 468.9 to 468.965. The increased allocation to previ ly certified capital investments under this sul ec- tion shall not include any of the $500)00 reserved under subsection (2) of this section. 1985 c.684 §10]

ASSESSMENT DEFERRAL LOAN PROGRAM

468.970 Definitions for ORS 468.970 to 468.983. As used in ORS 468.970 to 468.983:

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

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

(3) "Extreme financial hardship" has the meaning given within the assessment deferral programs adopted by public agencies and approved by the Department of Environmental Quality.

(4) "Public agency" means any state agency, incorporated city, county, sanitary authority, county service district, sanitary district, metropolitan service district or other special district authorized to construct water pollution control facilities.

(5) "Treatment works" means a sewage collection system. [1987 c.695 §1]

Note: 468.970 to 468.983 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 468 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

468.973 Policy. It is declared to be the policy of this state:

(1) To provide assistance to property owners who will experience extreme financial hardship resulting from payment of assessed costs for the construction of treatment works required by a federal grant agreement or an order issued by a state commission or agency.

(2) To provide assistance through an interest loan program to defer all or part of property assessments.

(3) To capitalize an assessment deferral loan program with moneys available in the Pollution Control Fund, available federal funds or available local funds. [1987 c.695 §2]

Note: See note under 468.970.

468.975 Assessment Deferral Loan Program Revolving Fund; uses; sources. (1) There is established the Assessment Deferral Loan Program Revolving Fund separate and dis-

tinct from the General Fund in the State Treasury. The moneys in the Assessment Deferral Loan Program Revolving Fund are appropriated continuously to the Department of Environmental Quality to be used for the purposes described in ORS 468.977.

(2) The Assessment Deferral Loan Program Revolving Fund may be capitalized from any one or a combination of the following sources of funds in an amount sufficient to fund assessment deferral loan programs provided for in ORS 468.977:

(a) From the Water Pollution Control Revolving Fund.

(b) From capitalization grants or loans from the Pollution Control Fund.

(3) In addition to those funds used to capitalize the Assessment Deferral Loan Program Revolving Fund, the fund shall consist of:

(a) Any other revenues derived from gifts, grants or bequests pledged to the state for the purpose of providing financial assistance to water pollution control projects;

(b) All repayments of money borrowed from the fund;

(c) All interest payments made by borrowers from the fund;

(d) Any other fee or charge levied in conjunction with administration of the fund; and

(e) Any available local funds.

(4) The State Treasurer may invest and reinvest moneys in the Assessment Deferral Loan Program Revolving Fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the Assessment Deferral Loan Program Revolving Fund. [1987 c.695 §§3, 11]

Note: See note under 468.970.

468.977 Conditions for program; administrative expenses; priority; report. (1) The Department of Environmental Quality shall use the moneys in the Assessment Deferral Loan Program Revolving Fund to provide funds for assessment deferral loan programs administered by public agencies that meet all of the following conditions:

(a) The program demonstrates that assessments or charges in lieu of assessments levied against benefited properties for construction of treatment works required by a federal grant agreement or by an order issued by a state commission or agency will subject property owners to extreme financial hardship.

(b) The governing body has adopted a program and the department has approved the program.

(c) The treatment works meets the requirements of section 2, Article XI-H of the Oregon Constitution concerning eligibility of pollution control bond funds.

(2) The department also may use the moneys in the Assessment Deferral Loan Program Revolving Fund to pay the expenses of the department in administering the Assessment Deferral Loan Program Revolving Fund and to repay capitalization loans.

(3) In administering the Assessment Deferral Loan Program Revolving Fund, the department shall:

(a) Allocate funds to public agencies for assessment deferral loan programs in accordance with a priority list adopted by the Environmental Quality Commission.

(b) Use accounting, audit and fiscal procedures that conform to generally accepted government accounting standards.

(c) Prepare any reports required by the Federal Government as a condition to the award of federal capitalization grants.

(4) The Department of Environmental Quality shall submit an informational report to the Joint Committee on Ways and Means or, if during the interim between sessions of the Legislative Assembly, to the Emergency Board before awarding the first loan from the Assessment Deferral Loan Program Revolving Fund. The report shall describe the assessment deferral loan program and set forth in detail the operating procedures of the program. [1987 c.695 §§4, 5, 8]

Note: See note under 468.970.

468.980 Application for loan; terms and conditions. Any public agency desiring funding of its assessment deferral loan program from the Assessment Deferral Loan Program Revolving Fund may borrow from the Assessment Deferral Loan Program Revolving Fund in accordance with the procedures contained in ORS 468.220 and 468.970 to 468.983. The public agency shall submit an application to the department on a form provided by the department. After final approval of the application, the department shall offer the public agency funds from the Assessment Deferral Loan Program Revolving Fund through a loan agreement with terms and conditions that:

(1) Require the public agency to repay the loan with interest according to a repayment schedule corresponding to provisions governing repayment of deferred assessments by property owners as defined in the public agency's adopted assessment deferral loan program;

(2) Require the public agency to secure the loan with an assessment deferral loan program financing lien as described in ORS 468.983; and

(3) Limit the funds of the public agency that are obligated to repay the loan to proceeds from repayment of deferred assessments by property owners participating in the assessment deferral loan program adopted by the public agency. [1987 c.695 §6]

Note: See note under 468.970.

468.983 Lien against assessed property; docket; enforcement. (1) Any public agency that pays all or part of a property owner's assessment pursuant to the public agency's adopted assessment deferral loan program shall have a lien against the assessed property for the amount of the public agency's payment and interest thereon as specified in the public agency's assessment deferral loan program.

(2) The public agency's auditor, clerk or other officer shall maintain a docket describing all payments of assessments made by the public agency pursuant to its adopted assessment deferral loan program. The liens created by such payments shall attach to each property for which payment is made at the time the payment is entered in this docket. The liens recorded on this docket shall have the same priority as a lien on the bond lien docket maintained pursuant to ORS 223.230. A lien shall be discharged upon repayment to the public agency of all outstanding principal and interest in accordance with the requirements of the public agency's adopted assessment deferral loan program.

(3) The lien may be enforced by the public agency as provided by ORS 223.505 to 223.650. The lien shall be delinquent if not paid according to the requirements of the public agency's adopted assessment deferral loan program. [1987 c.695 §7]

Note: See note under 468.970.

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 454.425 or 468.742 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 subpenaed 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 complaint, or information, in several counts. [Formerly 449.992]

TREATMENT WORKS

454.010 Definitions for ORS 454.010 to 454.040. As used in ORS 454.010 to 454.040, unless the context requires otherwise:

(1) "Construction" means any one or more of the following: Preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(2) "Industrial user" means a recipient of treatment works services for 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.

(3) "Municipality" means any county, city, special service district or other governmental entity having authority to dispose of or treat or collect sewage, industrial wastes or other wastes, or any combination of two or more of the foregoing acting jointly.

(4) "Replacement" means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

(5)(a) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes, of a liquid nature, necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of residues resulting from such treatment.

(b) In addition to the definition contained in paragraph (a) of this subsection, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems. [1973 c.101 §2]

454.020 Compliance with state and federal standards; enforcement. The Environmental Quality Commission may require each user of the treatment works of a municipality to comply with the toxic and pretreatment effluent standards and inspection, monitoring and entry requirements of the Federal Water Pollution Control Act, as enacted by Congress, October 18, 1972, and acts amendatory thereof or supplementary thereto, and federal regulations and guidelines issued pursuant thereto. The commission may institute actions or proceedings for legal or equitable remedies to enforce such compliance. [1973 c.101 §5; 1979 c.284 §146]

454.030 Rates and charges to meet costs of treatment works; use of funds; enforcement. (1) A municipality is authorized to adopt a system of charges and rates to assure that each recipient of treatment works services within the municipality's jurisdiction or service area will pay its proportionate share of the costs of operation, maintenance and replacement of any treatment works facilities or services provided by the municipality.

(2) A municipality is authorized to require industrial users of its treatment works to pay to the municipality that portion of the cost of construction of the treatment works which is allocable to the treatment of such industrial user's wastes. The Department of Environmental Quality is authorized to determine whether the payment required of the industrial user for the portion of the cost of the construction of the treatment works is properly allocable to the treatment of the industrial user's wastes.

(3) A municipality is authorized to retain the amounts of the revenues derived from the payment of costs by industrial users of its treatment works services and expend such revenues, together with interest thereon, for:

(a) Repayment to applicable agencies of government of any grants or loans made to the municipality for construction of the treatment works; and

(b) Future expansion and reconstruction of the treatment works; and

(c) Other municipal purposes.

(4) A municipality shall keep records, financial statements and books regarding its rates and charges and amounts collected on account of its treatment works and how such revenues are allocated. The Department of Environmental Qual-

ity may inspect such records, financial statements and books, audit them, or cause them to be audited, at such intervals as deemed necessary.

(5) In the event a municipality fails, neglects or refuses when required by the Environmental Quality Commission to adopt the system of charges and rates authorized by this section, or fails, neglects or refuses to comply with ORS 454.010 to 454.060, the commission may adopt a system of charges and rates as provided for in subsection (1) of this section and collect, administer and apply such revenues for the purposes of subsection (3) of this section.

(6) In lieu of proceeding in the manner set forth in subsection (5) of this section, the commission may institute actions or proceedings for legal or equitable remedies to enforce compliance with, or restrain violations of, ORS 454.010 to 454.060. [1973 c.101 §3; 1979 c.284 §147]

454.040 Determination of costs payable by users. In determining the amount of treatment works costs to be paid by recipients of treatment works services, the municipality or, if applicable, the Environmental Quality Commission shall consider the strength, volume, types and delivery flow rate characteristics of the waste; the nature, location and type of treatment works; the receiving waters; and such other factors as deemed necessary. [1973 c.101 §4]

454.050 Rules. The Environmental Quality Commission may adopt, modify or repeal rules, pursuant to ORS 183.310 to 183.550, for the administration and implementation of ORS 454.010 to 454.060. [1973 c.101 §6]

454.060 Powers in addition to other municipal or commission powers. The powers and authority granted to a municipality or the Environmental Quality Commission by ORS 454.010 to 454.050 are in addition to, and not in lieu of, or derogation of any other powers and authority vested in a municipality or the commission pursuant to law. [1973 c.101 §7]

FINANCING OF DISPOSAL SYSTEMS

454.105 Definitions for ORS 454.105 to 454.175. As used in ORS 454.105 to 454.175, unless the context requires otherwise:

(1) "Disposal system" means that term as defined in ORS 468.700.

(2) "Municipality" means a city, county, county service district, sanitary authority or sanitary district. [Formerly 449.405]

454.115 Authority over disposal systems. (1) In order to facilitate the abatement, elimination or control of the pollution of waters and streams, any municipality may:

(a) Construct, reconstruct, improve, extend, repair, equip or acquire disposal systems, within or without the municipality.

(b) Accept grants or loans or other aid from the United States or any other source.

(c) Enter into all necessary agreements.

(d) Issue revenue bonds of the municipality without limitation as to amount.

(2) The powers conferred by ORS 454.105 to 454.175 are in addition to and supplemental to the powers conferred by any other law and not in substitution for any right, powers or privileges vested in a municipality. [Formerly 449.410]

454.125 Bond election. Before any bonds may be issued under ORS 454.115, their issuance must first be approved by a majority of the electors voting on the proposition at either a general election or at a special election, to be called, held and conducted in the same manner as special elections on the proposition of issuing general obligation bonds. [Formerly 449.415]

454.135 Bonds issued to finance disposal system. (1) The bonds issued under ORS 454.115 shall be payable from that portion of the earnings of the disposal system of the municipality which is pledged to their payment, and they shall have a lien of such priority on the earnings as is specified in the proceedings providing for their issuance.

(2) The governing body may provide that the bonds, or such ones thereof as may be specified, shall, to the extent and in the manner prescribed, be subordinated and be junior in standing, with respect to their payment of principal, interest and security, to such other bonds of the municipality as are designated.

(3) The bonds shall bear such date, may be issued in such amounts, may be in such denominations, may mature in such amounts and at such time, shall be payable at such place, may be redeemable, either with or without premium, or nonredeemable, may carry such registration privileges, and may be executed by such officers and in such manner as is prescribed by the governing body.

(4) In case any of the officers whose signatures appear on the bonds or coupons cease to be officers before delivery of the bonds, the signatures, whether manual or facsimile shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until delivery.

(5) The bonds so issued shall bear interest at a rate to be fixed by the governing body payable at times to be fixed by the governing body.

(6) The bonds shall be sold at public sale. However, they may be sold at private sale to the United States or to the State of Oregon or any of their agencies or instrumentalities. [Formerly 449.420; 1981 c.94 §41]

454.145 Bond content. Bonds issued under ORS 454.115 or the proceedings of the governing body authorizing their issuance may contain such covenants as the governing body considers advisable concerning:

(1) Rates or fees to be charged for services rendered by the disposal system, the revenue of which is pledged to the payment of such bonds.

(2) Deposit and use of the revenue of such disposal system.

(3) Issuance of additional bonds payable from the revenue of such disposal system.

(4) Rights of the bondholders in case of default in the payment of the principal of or interest on the bonds, including the appointment of a receiver to operate such disposal system. [Formerly 449.425]

454.155 Refunding bonds. (1) The governing body of every municipality by ordinance or resolution without prior approval of the electors may issue and exchange or sell refunding revenue bonds to refund, pay or discharge all or any part of its outstanding revenue bonds, including interest thereon, if any, in arrears or about to become due.

(2) All other relevant provisions in ORS 454.105 to 454.175 pertaining to revenue bonds shall be applicable to the refunding revenue bonds, including their terms and security, the rates and other aspects of the bonds. [Formerly 449.430]

454.165 Joint agreements for construction and financing of disposal systems. (1) Any two, or more, municipalities, counties or other political subdivisions, notwithstanding any limitation or provision of municipal charter to the contrary, may, through their respective governing bodies, enter into and perform such contracts and agreements as they consider proper for or concerning the planning, construction, lease or other acquisition and the financing of the disposal system and the maintenance and operation thereof.

(2) Municipalities, counties or other political subdivisions so contracting with each other may also provide in any contract or agreement for a board, commission or h other body as their governing bodies consi proper for the supervision and general mar ment of the disposal system and for the op tion thereof, and may prescribe its powers an duties and fix the compensation of the men ers thereof. [Formerly 449.435]

454.175 Agreements with industrial establishment. When determined by its governing body to be in the public interest and necessary for the protection of the public health, any municipality may enter into and perform contracts, whether long-term or short-term, with any industrial establishment for the provision and operation by the municipality of the disposal system to abate or reduce the pollution of waters caused by discharges of industrial wastes by the industrial establishment and the payment periodically by the industrial establishment to the municipality of amounts at least sufficient, in the determination of such governing body, to compensate the municipality for the cost of providing, including payment of principal and interest charges, and of operating and maintaining the disposal system serving such industrial establishment. [Formerly 449.440]

DISPOSAL OF SEWAGE

454.205 "Municipality" defined. As used in ORS 454.205 to 454.255, "municipality" includes an incorporated city, a metropolitan service district, a sanitary district, a sanitary authority, a county service district, or any other special district authorized to treat and dispose of sewage. [1973 c.213 §2]

454.215 Authority over disposal systems. (1) Any municipality may own, acquire, construct, equip, operate and maintain, either within or without its statutory or corporate limits, in whole or in part, disposal systems with all appurtenances necessary, useful or convenient for the collection, treatment and disposal of sewage. The municipality may acquire by gift, grant, purchase or condemnation necessary lands and rights of way therefor, either within or without its statutory or corporate limits. For the purpose of acquiring property for such uses, the municipality may invoke and shall have the rights, powers and privileges granted to public corporations under the provisions of existing or future laws pertaining to this subject.

(2) The authority given by ORS 454.205 to 454.255 shall be in addition to, and not in derogation of any power existing in the municipality under any constitutional, statutory or charter provisions now or hereafter existing. [1973 c.213 §3]

454.225 Rates and charges; collection. The governing body of the municipality may establish just and equitable rates or charges to be paid for the use of the disposal system by each person, firm or corporation whose premises are served thereby, or upon subsequent service thereto. If the service charges so established are not paid when due, the amounts thereof, together with such penalties, interests and costs as may be provided by the governing body of the municipality may be recovered in an action at law, or may be certified and presented after July 15 and on or before the following July 15 to the tax assessor of the county in which the municipality is situated and be by the assessor assessed against the premises serviced on the next assessment and tax roll prepared after July 15. Once the service charges are certified and presented to the assessor, the payment for the service charges must be made to the tax collector pursuant to ORS 311.370. Such payment shall be made by the person responsible for the delinquent service charge or by the municipality who has received payment for the delinquent service charge. These charges shall thereupon be collected and paid over in the same manner as other taxes are certified, assessed, collected and paid over. [1973 c.213 §4; 1979 c.350 §19]

454.235 Election; bonds; when election required; compelling elections; when bonds can be ordered sold. (1) The governing body of the municipality, by proposed charter amendment or ordinance, may refer the question of acquiring and constructing a disposal or water system, as defined in ORS 448.115, to a vote of its electors, and after approval thereof by a majority of such electors, may authorize the issuance of and cause to be issued bonds of the municipality for such purposes. The bonds may be general obligation, limited obligation or self-liquidating in character in a sum not more than the amount authorized at such election and shall be subject to ORS 454.205 to 454.255. The bonds may provide for payment of principal and interest thereon from service charges to be imposed by the governing body for services to be extended through employment and use of the disposal or water system. If service charges are imposed to be paid as provided in ORS 454.225, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for payment of interest on the bond and the principal thereof at maturity.

(2)(a) When the Environmental Quality Commission or the Health Division enters an order pursuant to ORS 183.310 to 183.550 that requires the acquisition or construction of a disposal system or a water system in a municipality, respectively, the governing body of the municipality shall refer to its electors the question of a bond issue in an amount sufficient to finance the necessary acquisition or construction of such disposal or water system. The election shall be held within one year of the date the order of the commission or division is entered.

(b) If, within eight months after the order of the commission or division, the governing body of the municipality has not called an election in compliance with paragraph (a) of this subsection, the commission or division, whichever is appropriate, may apply to the circuit court of the county in which the municipality is located, or to the Circuit Court of Marion County for an order compelling the holding of an election.

(c) If the electors do not approve the disposal system bond issue, submitted pursuant to paragraph (a) or (b) of this subsection, the commission may apply to the circuit court of the county in which the municipality is located or to the Circuit Court of Marion County for an order directing that self-liquidating bonds of the municipality be issued and sold pursuant to ORS 454.205 to 454.255, and directing that the proceeds be applied to the acquisition or construction of a disposal system required to comply with the final order of the commission. If the court finds that the disposal system required by the final order of the commission is necessary under the rules or standards of the commission, it shall issue an order directing that such bonds be issued and sold without elector approval in such an amount as the court finds necessary to acquire or construct such disposal system, and that the proceeds be applied for such purposes.

(d) Any court proceeding authorized by paragraphs (b) and (c) of this subsection shall be advanced on the court docket for immediate hearing. [1973 c.213 §5; 1981 c.749 §22]

454.245 Serial bonds; term and content; interest; amount. (1) The governing body of the municipality may determine the maturities and tenor of the bonds issued under ORS 454.235. However, the bonds shall be serial in character in accordance with present or future provisions of law or the charter. They shall be payable in not to exceed 40 years from the date of issuance thereof, and shall be sold at a price to net the municipality not less than the par value thereof with accrued interest. They shall bear interest at not to exceed six percent per annum payable semiannually.

(2) The amount of any bonds issued under ORS 454.205 to 454.255 shall not be within any limitation of indebtedness fixed by law or charter, but shall be in addition thereto. [1973 c.213 §§6, 7]

454.255 Plans and cost estimates; examination by electors. Before calling any election under ORS 454.235, the governing body of the municipality shall cause to be prepared plans, specifications and estimates of costs of any proposed disposal or water system, as defined in ORS 448.115, to be voted upon, which may be examined by any elector of the municipality. [1973 c.213 §8; 1981 c.749 §23]

CONSTRUCTION OF SEWAGE TREATMENT WORKS; PROVISION OF SERVICES

454.275 Definitions for ORS 454.275 to 454.380. As used in ORS 454.275 to 454.380:

(1) "Affected area" means an area subject to an order of the commission issued under ORS 454.305.

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

(3) "Governing body" means a board of commissioners, county court or other managing board of a municipality.

(4) "Municipality" means a city, county, county service district, sanitary district, metropolitan service district or other special district authorized to treat or dispose of sewage in any county with a population exceeding 400,000 according to the latest federal decennial census.

(5) "Subsurface sewage disposal system" has the meaning given that term in ORS 454.605.

(6) "Threat to drinking water" means the existence in any area of any three of the following conditions:

(a) More than 50 percent of the affected area consists of rapidly draining soils;

(b) The ground water underlying the affected area is used or can be used for drinking water;

(c) More than 50 percent of the sewage in the affected area is discharged into cesspools, septic tanks or seepage pits and the sewage contains biological, chemical, physical or radiological agents that can make water unfit for human consumption; or

(d) Analysis of samples of ground water from wells producing water that may be used for human consumption in the affected area contains levels of one or more biological, chemical, physical or radiological contaminants which, if allowed to increase at historical rates, would produce a risk to human health as determined by the local health officer. Such contaminant levels must be in excess of 50 percent of the maximum allowable limits set in accordance with the Federal Safe Drinking Water Act.

(7) "Treatment works" has the meaning given that term in ORS 454.010. [1981 c.358 §1; 1983 c.235 §7; 1987 c.627 §8]

454.280 Construction of treatment works by municipality; financing. Notwithstanding the provisions of ORS chapters 450, 451 and 454, or any city or county charter, treatment works may be constructed by a municipality and financed by the sale of general obligation bonds, revenue bonds or assessments against the benefited property without a vote in the affected area or municipality or without being subject to a remonstration procedure, when the findings and order are filed in accordance with ORS 454.310. The provisions of ORS 223.205 to 223.295, 223.770 and 287.502 to 287.515 shall apply in so far as practicable to any assessment established as a result of proceedings under ORS 454.275 to 454.380. [1981 c.358 §2]

454.285 Resolution or ordinance. (1) The governing body may adopt by resolution or ordinance a proposal to construct sewage treatment works and to finance the construction by revenue bonds, general obligation bonds or by assessment against the benefited property.

(2) The resolution or ordinance shall:

(a) Describe the boundaries of the affected area which must be located within a single drainage basin as identified in regional treatment works plans; and

(b) Contain findings that there is a threat to drinking water.

(3) The proposal must be approved by a majority vote of the governing body and does not require the approval of the residents or landowners in the affected area or municipality.

(4) The governing body shall forward a certified copy of the resolution or ordinance to the commission. Preliminary plans and specifications for the proposed treatment works shall be submitted to the commission with the resolution or ordinance. [1981 c.358 §3; 1983 c.235 §8]

454.290 Study; preliminary plans. (1) The governing body shall order a study and the preparation of preliminary plans and specifications for the treatment works.

(2) The study shall include:

(a) Engineering plans demonstrating the feasibility of the treatment works and conformance of the plan with regional treatment works plans.

(b) Possible methods for financing the treatment works.

(c) The effect of the treatment works on property in the affected area. [1981 c.358 §4]

454.295 Commission review; hearing; notice. (1) After receiving a certified copy of a resolution or ordinance adopted under ORS 454.285, the commission shall review and investigate conditions in the affected area. If substantial evidence reveals the existence of a threat to drinking water, the commission shall set a time and place for a hearing on the resolution or ordinance. The hearing shall be held within or near the affected area. The hearing shall be held not less than 50 days after the commission completes its investigation.

(2) The commission shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of adoption of the resolution or ordinance in a newspaper of general circulation within the affected area once each week for two successive weeks beginning not less than four weeks before the date of the hearing and by such other means as the commission deems appropriate in order to give actual notice of the hearing. [1981 c.358 §5]

454.300 Conduct of hearing; notice of issuance of findings; petition for argument. (1) At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a threat to drinking water exists in the affected area, whether the conditions could be eliminated or alleviated by treatment works and whether the proposed treatment works are the most economical method to alleviate the conditions. The hearing may be conducted by the commission or by a hearings officer designated by the commission. After the hearing the commission shall publish a notice of issuance of its findings and recommendations in the newspaper used for the notice of hearing under ORS 454.295 (2), advising of the opportunity for argument under subsection (2) of this section.

(2) Within 15 days after the publication of notice of issuance of findings any person or municipality that will be affected by the findings may petition the commission to present written or oral arguments on the proposal. If a petition is received, the commission shall set a time and place for argument. [1981 c.358 §6]

454.305 Effect of findings; exclusion of areas; filing of findings. (1) If the commission finds a threat to drinking water does exist but treatment works would not alleviate the conditions, the commission shall terminate the proceedings.

(2) If the commission finds a threat to drinking water exists within the territory and the conditions could be removed or alleviated by the construction of treatment works, the commission shall order the governing body to proceed with construction of the treatment works.

(3) If the commission finds that a threat to drinking water exists in only part of the affected area or that treatment works would remove or alleviate the conditions in only part of the affected area, the commission may reduce the affected area to the size in which the threat to drinking water could be removed or alleviated. The findings shall describe the boundaries of the affected area as reduced by the commission.

(4) In determining whether to exclude any area, the commission must consider whether or not exclusion would unduly interfere with the removal or alleviation of the threat to drinking water and whether the exclusion would result in an illogical boundary for the provision of services.

(5) If the commission determines that a threat to drinking water exists but that the proposed treatment works are not the most economical method of removing or alleviating the conditions, the commission may issue an order terminating the proceedings under ORS 454.275 to 454.380, or referring the resolution or ordinance to the municipality to prepare alternative plans, specifications and financing methods.

(6) At the request of the commission the municipality or a boundary commission shall aid in determining the findings made under subsections (3) and (4) of this section.

(7) The commission shall file its findings and order with the governing body of the municipality. [1981 c.358 §7]

454.310 Construction authorized upon commission approval; final plans. (1) When a certified copy of the findings and order approving the proposal is filed with the governing body, the governing body shall order construction of the treatment works and proceed with the financing plan as specified in the order.

(2) Within 12 months after receiving the commission's order the municipality shall prepare final plans and specifications for the treatment works and proceed in accordance with the time schedule to construct the facility. [1981 c.358 §8]

454.315 [1973 c.424 §2; repealed by 1975 c.167 §13]

454.317 Resolution or ordinance authorizing levy and collection of seepage charge. (1) When a certified copy of the findings and order approving the proposal is filed

with the governing body as provided in ORS 454.305, the governing body may adopt a resolution or ordinance authorizing the levy and collection of a seepage charge upon all real properties served by onsite subsurface sewage disposal systems, as defined in ORS 454.605, within the boundaries of the affected area.

(2) A resolution or ordinance adopted under this section shall authorize the levy and collection of a seepage charge only in an affected area located entirely within a single drainage basin as identified in regional treatment works plans.

(3) A resolution or ordinance adopted under this section shall:

(a) Describe the boundaries of the affected area; and

(b) Contain an estimate of the commencement and completion dates for the proposed treatment works and a proposed schedule for the extension of sewer service into the affected area. [1983 c.235 §2]

454.320 Hearing on resolution or ordinance; notice of levy. (1) The governing body shall give notice of the time and place of the hearing on the resolution or ordinance by publishing the notice of the intent to adopt the resolution or ordinance in a newspaper of general circulation within the affected area once each week for four successive weeks and by such other means as the governing body deems appropriate in order to give actual notice of the hearing. The hearing shall be held within or near the affected area described in the resolution or ordinance. At the hearing on the resolution or ordinance, any interested person shall have a reasonable opportunity to be heard or to present written testimony. The hearing shall be for the purpose of determining whether a seepage charge should be levied and collected.

(2) After the hearing held under this section, the governing body shall publish a notice of the levy of the seepage charge and thereafter proceed to levy and collect the seepage charge in such amount as in the discretion of the governing body will provide revenues for the payment of the principal and interest, in whole or in part, due on general obligation bonds or on revenue bonds issued by the governing body to construct the treatment works or to provide capital funds for the construction of treatment works. [1983 c.235 §3]

454.325 [1973 c.424 §3; repealed by 1975 c.167 §13]

454.330 County to collect seepage charge for municipality. (1) The county in which a municipality is levying a seepage charge under ORS 454.317 to 454.350 shall collect the seepage charge for the municipality.

(2) The county shall establish a separate account for each ordinance or resolution adopted by a municipality and imposing a seepage charge within the county. The seepage charges collected under an ordinance or resolution shall be credited only to the account established for that ordinance or resolution.

(3) Moneys in an account established under this section shall be disbursed only to the municipality for which the account was established.

(4) In order to receive funds under this section, a municipality must notify the county that the commission has ordered the governing body to proceed with construction of treatment works as provided in ORS 454.305 (2). Upon such notification, the county shall release funds from the appropriate account to the municipality. [1983 c.235 §4]

454.335 [1973 c.424 §4; repealed by 1975 c.167 §13]

454.340 Use of seepage charge; credit for systems development charge; seepage charge to cease if user fee imposed. (1) All seepage charges levied and collected by the governing body shall be used for the construction of treatment works.

(2) Systems development charges for the installation or replacement of cesspools or septic tanks shall not be imposed by a municipality in any area in which seepage charges are imposed and collected under ORS 454.317 to 454.350. If an owner of real property against which seepage charges are imposed has already paid a systems development charge for the installation or replacement of cesspools or septic tanks for that real property, the owner shall be allowed a credit against the seepage charge otherwise payable in an amount equal to the systems development charge.

(3) When a user fee for the use of treatment works is imposed upon real property, all seepage charges levied against that real property shall cease.

(4) The governing body shall, by ordinance, allocate all of the seepage charges collected under ORS 454.317 to 454.350 for the purpose of allowing owners of real properties against which the seepage charges are imposed a credit against the future connection charges or systems development charges otherwise due when those real properties are connected to treatment works.

(5) If the municipality levying the seepage charges is not the municipality imposing the connection charges or systems development charges imposed at the time of connection to the treatment works, then the municipality levying

the seepage charges shall transfer those seepage charges it has collected to the municipality imposing the connection charges or systems development charges imposed at the time of connection to the treatment works. [1983 c.235 §6; 1985 c.680 §1]

454.345 [1973 c.424 §5; repealed by 1975 c.167 §13]

454.350 Effect of ORS 454.317 to 454.350 on contracts between municipalities. Nothing in ORS 454.317 to 454.350 prohibits contracts between municipalities under which a municipality may provide treatment facilities or services to another municipality. [1983 c.235 §5]

454.355 [1973 c.424 §6; repealed by 1975 c.167 §13]

454.360 Areawide 208 Plan as master plan for provision of sewage services. The Areawide 208 Plan, adopted pursuant to the Federal Water Pollution Control Act of 1972, P.L. 92-500, as amended, and any sewer implementation plan approved by the commission under ORS 454.275 to 454.380 shall be the governing master plan for the provision of sewage collection, treatment and disposal services by municipalities in an affected area. Any substantial amendment to such plan shall be submitted to and approved by the commission before taking effect. [1987 c.627 §2]

454.365 Safety net program to provide financial relief. (1) Any municipality providing sewage collection, treatment and disposal services within an affected area shall approve and adopt a safety net program designed to provide financial relief to eligible property owners who would experience extreme financial hardship if required to pay costs associated with the construction of and connection to treatment works.

(2) A safety net program adopted under subsection (1) of this section:

(a) May include funds provided pursuant to ORS 468.220 and 468.970 to 468.983.

(b) May include, at the option of a municipality, funds contributed by the municipality. However, a municipality shall not be required to contribute such additional funds. [1987 c.627 §3]

454.370 Citizens sewer advisory committee; membership; duties. (1) Each municipality providing sewage collection, treatment and disposal services within an affected area shall, after consultation with elected officials of the affected area, establish a citizens sewer advisory committee composed of persons directly affected by the order issued under ORS 454.305. The committee shall advise the commission and the governing body of the municipality on matters relating to the implementation of the commission's order.

(2) The members of each citizens sewer advisory committee shall represent a cross section of businesses, homeowners and renters in the affected area and others affected by the order. At least two-thirds of the members shall reside or do business within the affected area. At least one-third of the members shall be persons eligible for financial relief under the safety net plan provided for in ORS 454.365.

(3) The citizens sewer advisory committee shall provide the commission and the governing body of the municipality with a copy of its minutes and recommendations. The municipality shall respond to any recommendation made by the advisory committee.

(4) Members of the citizens sewer advisory committees shall serve without compensation.

(5) The citizens sewer advisory committees within the affected area may meet jointly as necessary to carry out their responsibilities. [1987 c.627 §4]

454.375 Filing documentation of sewer charges; prohibited charges. (1) Before any property owner is required to pay for construction of or connection to treatment works constructed pursuant to ORS 454.275 to 454.380, the local governing body shall file with the commission documentation that connection charges and user charges levied for sewer service are based upon the cost of providing sewer service, according to reasonable cost-of-service sewer utility ratemaking principles. The existence of a city boundary shall not be used as a basis for imposing a sewer user rate or connection fee differential unless there are documented cost causative factors to justify the differential.

(2) Any assessment imposed by a local improvement district for the construction of treatment works pursuant to an order of the commission under ORS 454.305 shall not include costs incurred before September 27, 1987, that are associated with responding to litigation to amend or reverse the order or with development of the plan for constructing treatment works prepared pursuant to ORS 454.290. [1987 c.627 §§5, 6]

454.380 Limitation on spending for nonconstruction items; exception. (1) Not more than 20 percent of an assessment imposed by a municipality through a local improvement district for the construction of treatment works in an affected area pursuant to an order of the commission under ORS 454.305 shall be used to pay for nonconstruction items.

(2) As used in subsection (1) of this section, "nonconstruction items" includes engineering work, administrative expenses and legal fees.

(3) If a municipality submits the final local improvement district report to the citizens sewer advisory committee before final action of the governing body on the final local improvement district report, the limitation contained in subsection (1) of this section shall not apply. If the committee requests further documentation and explanation regarding the report, the municipality shall provide such information. Any findings of the committee following this review shall be reported to the commission and to the governing body of the municipality, along with any recommendations the committee may offer. [1987 c.627 §7]

CONSTRUCTION OF SEWAGE SYSTEMS

454.405 Definitions for ORS 454.425 and 468.742. As used in ORS 454.425 and 468.742:

(1) "Construct" includes a major modification or addition.

(2) "Person" means any person as defined in ORS 174.100 but does not include, unless the context specifies otherwise, any public officer acting in an official capacity or any political subdivision, as defined in ORS 237.410. [Formerly 449.390; 1975 c.248 §1; 1987 c.158 §86]

454.415 [Formerly 449.395; 1975 c.248 §2; renumbered 468.742]

454.425 Surety bond required; exception; action on bond. (1) Every person proposing to construct facilities for the collection, treatment or disposal of sewage shall file with the Department of Environmental Quality a surety bond of a sum required by the Environmental Quality Commission, not to exceed the sum of $25,000. The bond shall be executed in favor of the State of Oregon and shall be approved as to form by the Attorney General.

(2) A subsurface sewage disposal system designed for and used in not to exceed a four-family dwelling shall be exempt from the provision of subsection (1) of this section. The commission may adopt rules exempting other facilities from the requirements of subsection (1) of this section.

(3) The department may permit the substitution of other security for the bond, in such form and amount as the commission considers satisfactory, the form of which shall be approved by the Attorney General.

(4) The bond or other security shall be forfeited in whole or in part to the State of Oregon by a failure to follow the plans and specifications approved by the department in the construction of the sewerage system or by a failure to have the system maintained and operated in accordance with the rules and orders of the commission. The bond or other security shall be forfeited only to the extent necessary to secure compliance with the approved plans and specifications or the rules and orders of the commission. The commission shall expend the amount forfeited to secure compliance with the approved plans and specifications or the rules and orders of the commission.

(5) When a failure as described in subsection (4) of this section occurs and part of the bond or other security remains unforfeited, any person, including a public person or body, who has suffered any loss or damage by reason of the failure shall have a right of action upon the bond or other security and may bring a suit or action in the name of the State of Oregon for the use and benefit of the person. This remedy shall be in addition to any other remedies which the person who suffered loss or damage may have against the person who has failed to follow the approved plans and specifications or to comply with the rules and orders of the commission.

(6) When the ownership of the sewerage system is acquired or its operation and maintenance assumed by a city, county, sanitary district, or other public body, the bond or other security shall be considered terminated and void as security for the purposes of this section and shall be returned to the person who filed the security. [Formerly 449.400; 1975 c.248 §3]

STATE AID FOR CONSTRUCTION OF MUNICIPAL SEWAGE TREATMENT WORKS

454.505 Definitions for ORS 454.505 to 454.535. As used in ORS 454.505 to 454.535, unless the context requires otherwise:

(1) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement or extension of sewage treatment works, preliminary planning to determine the economic and engineering feasibility of sewage treatment works, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of sewage treatment works, and the inspection and supervision of the construction of sewage treatment works.

NEIL GOLDSCHMIDT
GOVERNOR

Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: June 10, 1988 EQC Meeting

Recommended Legislative Concept to Establish Hazardous Substance and Groundwater Protection Fund.

At it's April 29, 1988 meeting, the Commission was presented with the Department's proposed legislative concepts for the 1989 legislative session. Attached is an additional concept that was not ready on April 29.

The Department has several programs that address or are proposed to address hazardous substances and groundwater protection. These programs include the Department's hazardous site cleanup and hazardous waste reduction programs and multi-agency programs addressing hazardous materials spill response and groundwater protection. What is missing is a stable, long-term funding mechanism for these programs. The Department is proposing assessments on hazardous substances, including petroleum, to provide the needed funds.

A subcommittee of the Joint Legislative Interim Committee on Environment and Hazardous Materials has been looking at options for a funding mechanism. That subcommittee is also considering assessments similar to what is proposed in this legislative concept. It is likely that any concept that evolves from the subcommittee's work will at some point be merged with the Department's legislative concept. Our goal is to foster a general consensus on a funding mechanism before the 1989 session begins.

Fred Hansen

Attachment: Proposed Legislative Concept

Bob Danko
229-6266
ZB7582
June 1, 1988

LEGISLATIVE CONCEPT

AGENCY Dept. of Environmental Quality **CONCEPT NUMBER** _____

SUBJECT/TITLE Hazardous Substance and Groundwater Protection Fund

CONTACT PERSON Bob Danko **PHONE NUMBER** 229-6266

BUDGET IMPACT: YES: xxxxxxxxxxx **NO:** _____
(IF YES ATTACH FISCAL IMPACT)

HOUSEKEEPING: YES: _____ **NO:** xxxxxxxxxx

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PURPOSE STATEMENT:

The Department of Environmental Quality has programs that address or are proposed to address hazardous substances and groundwater protection. These programs do not have funding, or they do not have funding adequate to support the necessary activities. For example, the 1987 legislature passed S.B. 122 to regulate cleanups of hazardous substances. The legislative committee that first considered the bill directed the Department to return to the 1989 legislative session with a permanent funding proposal to implement the legislation. Meanwhile, the Department is coordinating the development of a groundwater protection act for the state. Several agencies are involved and the effort should result in proposed legislation to address groundwater protection and cleanup. The proposed groundwater legislation will require several agencies to perform various activities and a permanent funding source is needed to pay for implementation of any groundwater legislation.

The programs in need of a long-term funding source are:
--Hazardous Substance Cleanup (a Department program);
--Groundwater Protection (a multi-agency program);
--Hazardous Waste Reduction (a Department program);
--Hazardous Materials Spill Response (a multi-agency program);
--Drug Manufacturing Site Cleanup (a Department program);
--Underground Storage Tank Program Enhancement (a Department program);
--Hazardous Waste Management Program Enhancement (a Department program).

These programs are discussed in detail in other legislative concepts or in the Department's decision packages. This concept addresses which fees will be assessed to form the

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GOVERNOR'S OFFICE APPROVAL INFORMATION:

CONCEPT APPROVED FOR DRAFTING: YES_____ NO_____

SIGNED: _____ DATE: _____

Hazardous Substance and Groundwater Protection Fund, to pay for these programs.

LEGISLATIVE CONCEPT:

This concept utilizes fees or charges on three categories. The monies would be placed in the Hazardous Substance and Groundwater Protection Fund (the Fund) to support programs related to hazardous substances and groundwater cleanup. The three categories are: 1) Hazardous substances other than petroleum; 2) Petroleum; and 3) Agricultural chemicals not covered under hazardous substances.

1) This proposed legislation would assess a fee on the first possession of hazardous substances (other than petroleum) within the state. The assessed fee would be set at a certain percent of the wholesale value of the substance. Thus, a fee would be paid upon first possession of substance, at the rate of 0.X% of the wholesale value of each substance. The existing hazardous substance reporting system required under ORS 453.317 (the Hazardous Substance Employers Survey) provides an opportunity to identify both the fee payers and the specific hazardous substances for which a fee would be paid.

2) This proposed legislation would also assess charges or fees on petroleum. This hazardous substance must be treated differently because of restrictions contained in the Oregon Constitution. Two options could be pursued for petroleum:

a) Ask the Legislature to refer a Constitution modification to the voters to allow petroleum to be included in a hazardous substance fee program like the one described above;

b) Assess fees or charges on petroleum in a way that does not require a Constitutional change. For example, an assessment based on annual gross operating revenues of petroleum suppliers is already being done under ORS 469.421. This assessment could be increased to provide monies for the Fund. Certain fees on non-highway uses of petroleum may also be acceptable.

This concept would utilize the second option, while leaving open the consideration of the first option during the legislative session.

3) A fee or charge on the use of certain agricultural chemicals would provide monies for implementation of the proposed groundwater protection act. The interagency work group developing this proposed groundwater legislation will also address how to pay for it.

This proposed legislation would require the fees or charges from the three categories above to be paid beginning January 1, 1990 so that activities could be funded during the 1989-91 biennium. Note that a Constitution change would not be voted upon until November of 1990, thus essentially postponing the availability of monies until the 1991-93 biennium.

The moneys in the Hazardous Substance and Groundwater Cleanup Fund would be used for the following activities. Included is the approximate amount proposed for each activity. Note that these amounts will be modified to reflect decisions made on the Department's other legislative concepts and decision packages. This legislative concept only establishes the Fund to pay for these activities.

1. Implementation of the proposed groundwater protection act (multi-agency). $$ to be defined by interagency work group.

2. The hazardous materials spill response program (multi-agency). $4.9 million.

3. The hazardous substance site cleanup program (state superfund program) as authorized by ORS 466.590(5) (DEQ). $17.0 million.

4. The drug manufacturing site cleanup program (DEQ). $ 100,000.

5. The hazardous waste reduction program (DEQ). $ 800,000.

6. The underground storage tank enhancement program (DEQ). $ 900,000.

7. The hazardous waste management enhancement program (DEQ). $ 900,000.

The total amount to be raised by this concept would thus approximate $ 25 million during the first full biennium, plus what is needed to implement a groundwater protection act.

POLICY IMPLICATIONS:

This concept will provide a permanent funding source for the major programs in the groundwater and hazardous substance arena. There is a direct relationship between the fees to be assessed under this concept and the programs to be funded under this concept. For example, hazardous substances including petroleum have a relationship to the hazardous substance site cleanup, spill response and hazardous waste

programs. Agricultural chemicals (and hazardous substances) have a relationship to groundwater contamination and protection.

There is also compatibility between this concept and the hazardous substance fee recently enacted in the State of Washington. It is important to approach hazardous waste management with a regional perspective. Oregon's fee assessment should compliment, not conflict with, Washington's so that double fees are not assessed on materials that cross state lines. Also, the two fee assessment programs should be perceived as being equally fair, meaning that approximately the same rate of assessment should be charged in each state. This proposed legislation would meet both of these requirements.

This concept has major implications on how existing and new programs addressing hazardous substances and groundwater protection are funded. This proposal spreads the cost of these programs very widely while limiting the bureaucracy involved in fee collection. The fee paying categories are being carefully chosen to match already defined categories and reporting requirements already in state law. This concept ensures adequate long-term funding for these programs while minimizing the reporting requirements and spreading the financial impact across Oregon's population and its businesses.

AGENCIES AFFECTED:

Several state agencies will be positively affected by this concept. The impacts are described in the decision packages and legislative concepts for the specific programs proposed to be funded. The Department of Revenue would collect the fees and deposit them in the Fund to be used by the agencies. The Department of Revenue believes fee collection to be feasible and has preliminarily estimated the cost of fee collection to be in the $200,000 range. The Department of Revenue's costs will be subtracted before the moneys are deposited in the Fund.

PUBLICS AFFECTED:

Employers, businesses, and other persons who will be called upon to pay the fees are significantly impacted by this concept. The Joint Legislative Interim Committee on Hazardous Materials and the Environment has established a funding subcommittee to consider "whys" and "hows" of this type of concept. This concept has been crafted to blend with the approach being explored by the funding subcommittee. Most of the interests impacted by this concept are represented on the funding subcommittee and have been

discussing the merits of this approach. There has been general acceptance of the need for the Fund at approximately the amount shown in this concept. If this concept is approved, the Department will develop the details necessary to draft the legislation while continuing to work with the Legislature's funding subcommittee.

The Department has also discussed this concept and related concepts and decision packages with its advisory committees or work groups developing the groundwater proposal, hazardous waste reduction, and hazardous waste management. The IHCC has discussed funding options for spill response and the legislative committee which considered the hazardous substance site cleanup program discussed funding options last session before directing the Department to come back to the 1989 legislative session with a comprehensive funding proposal. The Department also continues to work with other agencies on a proposed groundwater protection act.

JOHN POINTER
United Citizens

My name is John Pointer. Besides being on the Board of the United Citizens, I also represent Citizens Concerned with Waste Water Management. The issues that we wanted to bring before you today are: The City of Portland has been consistently above the limitations, well not limitations, the DEQ calls them guidelines for heavy metals in their sludge and there was a performance audit performed because of a request or actually a violation that we brought out to the DEQ that they were dumping toxic sludge on Hayden Island illegally and this went through, they went through, they didn't cite the City of Portland but what they did was wrote them a letter telling them that they had disposed of this improperly and they didn't address it being over the limits. Well, what they did then was had a audit of their books and in the audit they found that the City of Portland was out of compliance in many different areas. Now, in those areas, one of those was they would not, for 1. there was not the proper monitoring done; for number 2. there was a confidentiality clause in there that violates both the EPA's and the DEQ's laws as far as the City of Portland was supposed to give the industrial user or the categorical industrial user a 10-day notification before either the DEQ or the EPA was allowed to see their books. Now we don't know what kind of arrangement the City of Portland has with these people, other than a monetary one, but this kind of thing not only in the EPA's judgment but in ours, offends us. We feel that the public has a right to know these particular measures. I mean what is going on, what is going into our sewer systems. And then, on querying what exactly guidelines mean, we went around and around with Janet Gillaspie of the DEQ on this and she says that even though the limits that we have in here show that the City is almost double on two different samplings over this last summer (43 and 48 on cadmium) they

HCPNT

show an increase in all heavy metal limits from when the DEQ tested and Janet won't address the question of: 1. whether they are toxic. We went round and round on that. She said define toxic. I defined toxic. Still wouldn't answer the question and then whether or not what exactly the limitations mean. After speaking with the EPA, the EPA states that these limitations actually do have some meaning or they wouldn't be in existence. And, even though they are over double the limit, the DEQ still hasn't taken any kind of action. The City of Portland, because we are having problems getting rid of this heavy sludge and heavy metals, has built a composter. In the composter, what it eliminates and why it is attractive to other places who are coming to see the City of Portland's facility, is because it eliminates the tracking and the monitoring and all the requirements that the DEQ and the EPA put on for sludge. If you look for compost, what the composter actually does, all it is is a heat treating that they add sawdust to. It's a simple process. It doesn't reduce the toxins. It doesn't reduce the heavy metals. All it does is essentially add a filler which would be illegal to do under any other thing but, you know, doing it under a process and we have figures in here that DEQ says that the compost and the City of Portland says that the compost is below the sludge limit. Well, we have in, I believe three different places, I have the paperwork here if you would like to review it, that the City of Portland is over the sludge limit in their compost. Now, we find that kind of dangerous because there is no tracking of that. One of the places that this compost went was the Street of Dreams out in northwest Portland. Actually, past Beaverton and they found it quite offensive because for: 1. They are paying quite a bit of money for those homes; they don't know what what's going into the soil that they are putting in. They were given no notice by the contractor what was in their soil so if their children are out picking up a handful of dirt and

eating, if they are putting in a fruit tree, if they are putting in a vegetable garden where this was applied, they are not regulated as far as accumulator crops. For crops that pick up these heavy metals and then you ingest them. The consequences of ingestion are that some of these are neurotoxins and affect, besides affecting the brain, affect the organs of the body and the others as far as cadmium, are very strong carcinogens. We feel that something is going to have to be done about this and we can't just look past this problem. The composter, I guess for the City of Portland, takes away their problem of being able to get, you know, get rid of the sludge which essentially they overflowing with because they can't find agricultural lands to put it on. For one reason is they are almost double over the agricultural limit or guideline again and we feel that if this sludge is going to be taken care, that for one in that they meet the items in that performance audit which they were cited for ten different items out of that where they were out of compliance and that the heavy metals be taken to well below the limitation or guideline set and then they could dispose of this sludge in any number of different manners without any environmental impact or a minimal environmental impact. We also tried to get Janet to address the Hayden Island site. They did go out and make an inspection. What George Davis found out there; he said they were supposed to be applying to, I believe it was a 1,000 acre site out there, and that was 3,300 dry tons which would be right at the agronomic loading rate. Well what happened, George Davis went out there and he found it from two to six inches which would be from about 20 to 60 times the, not agronomic rate, but 20 to 60 over the agronomic rate and well over any kind of a rate. Actually, if the two acre site was the only spot it was put down on, it would be, hypothetically, six feet deep. We have pictures that we tried to show the DEQ showing that they belly-dumped out in pits out there to the

south side of the island. When George was taken out there he said he was shown the north side of the island and never did see anything on the south side of the island and we asked George, well, what kind of a process is this or investigation is this, if the respondent gets to show you where they were polluting. If the respondent was environmentally responsible, we would have had no reason, to the City of Portland in this case, we would have had no reason to turn them in and to force this action to be taken. Wasn't much of an action but at least there was something. But anyway, the problem never was addressed whether or not there were actual pits out there that they dumped into. As far as our pictures and things and not looking at them and taking our other evidence, I questioned Mr. Davis, this is from a transcript of that conversation, George is speaking with me, he goes, "We've already obtained your information" and I'm speaking, "You haven't obtained anything but an oral complaint. We had a lot to offer. We had pictures. We had all kinds of information. Were you interested in taking that information, even though I offered it to you several times?" Davis responds, "I was told not to. I was told the Department would carry out, 'its own investigation'." "And who gave you those orders." Davis responded, "Janet Gillaspie." Now I really don't see how an investigation can be made when they take out the respondent to the site to show them where they have been committing these crimes. They won't take our investigation to show them where actually these have been committed and when asked why we couldn't show them and to take core samples to legitimately clean-up the Hayden Island site and for one thing the water table out there violates your rules too, as far as disposal. It has to be five feet away from the water table. The water table out there is right there. We have pictures that prove that. And, Ms. Gillaspie just is not going to address those problems. We also, just a second, let me get this piece of documentation,

I'm trying to be quick here, skipping over a lot of things. On the pretreatment audit that the City of Portland was with and out of compliance in all of these particular issues, this is a letter written from Mr. Hansen to us after our Citizens for Wastewater Management met with him through Ron McCarty and signed by Mr. Hansen. In the audit they find that the City of Portland is out of compliance on these items which I can show you after this. Anyway, Mr. Hansen's summation for us of the audit reads as such, "Findings by the audit team were that the City of Portland was properly implementing its pretreatment program. The City was in compliance with both EPA and State of Oregon requirements for management of industrial discharges into public sewers. The audit team, well it just goes on. Did you read that audit before you summarized that, Mr. Hansen?

And you stand by those statements?

I'm sorry I didn't know the forum. I'm sorry. We never have been able to get a response on that. We tried recontacting. Okay, anyway what we would like to see done is that for one where they have disposed of these types of things, to have those legitimately cleaned up. For another thing, when there are problems, we would expect that DEQ as the protector, the supposed protector of our environment, to legitimately address these questions and leave legitimate investigations where they do take our pictures, where they do take our evidence, and where they if necessary they go out of what they call a "standard investigation" and they allow us to either show them where it's at or they go out and they core sample to find out if our accusations are valid because so far the DEQ has not been able to invalidate any one of

our accusations and has not addressed a lot of them. Like for one that there was raw sewage being dumped at Hayden Island.

Sir? I thought you were raising your hand to ask me a question. I'm sorry.

And, ah, do I have just another minute or two? ..... Okay. ..... I've got tons of paperwork here. ..... Great, I'll try to.

On the audit findings, the City of Portland, it says that the City of Portland has never cited any of its industrial polluters. And it says that it has no means to take the required authority on a lot of offenders but they do on many others. They also say that there was no, that total toxic organic monitoring must be implemented and enforced. They were improperly taking cyanide monitoring when they are supposed to monitor it when it comes out of the plant what they are doing is monitoring when it is already in the wastestream and the EPA audit says that, hey, how can you monitor what is coming out of the plant when you are measuring it in the wastestream. Further, they aren't keeping proper records. They are conducting surveillance to identify independent of information supplied by the IU's in the occasional or continuing non-compliance with pretreatment standards. When we spoke with Mr. Hansen, he stated that you quite simply don't have the funds to do your own monitoring and that's the reason why the City of Portland still continues, even after numerous times that we have found them out of compliance. Again, we went back out to Hayden Island with the Channel 2 news crew and found that and then the City of Portland they interviewed Mr. Peterson of the wastewater treatment plant and he said that no, they weren't out of compliance and they skipped right over him and we went to the letter on the DEQ. What we need to have done is have these

problems so we aren't having to go back out to Hayden Island and readdress this. We shouldn't be having to watchdog the City of Portland and the DEQ. Once we bring the problem to your attention, that as far as we citizens are concerned, should be it and it should be handled properly. And furthermore, once we started this whole process, we have never been given credit; they quote the City, "The City informed them that they had illegally dumped out at Hayden Island." This is in the letter that we got a response to and then they supposedly took care of the problem. Then in further correspondence, we were given no credit. And we certainly don't want any credit, but we do want these problems addressed and it isn't like the City is turning themselves in. Self-monitoring, in fact, is not working. And I don't know whether some kind of a fine needs to be set up or whether we need to go to the legislature. If you don't have the funds, then maybe when the City of Portland is found out of compliance, then there ought to be a fine levied or they ought to be cited. In all these violations, again, not only is the City of Portland never cited any industrial user as we can find, the DEQ has never cited the City of Portland and if they did cite them, then if the DEQ is "short on funds" that particular money could be used to let's say monitor them for a year or two years down the road to make sure that they are complying and get away from the self-monitoring. Self-monitoring is possibly a good concept for the people that show that they can comply or that haven't been found guilty. Once found guilty, it's like putting a prisoner, bringing him in and turning him loose with no parole, no supervision and no jail time.

.....

Can I respond to just one thing he said. Okay, when he is talking about slightly above the limits, the DEQ both times when they split a sample with the City of Portland and with the City of Troutdale, the DEQ has shown to be

just slightly above the limit with the City of Portland and well below again the private labs. The private labs are consistent, DEQ is consistent but it's well below the limit. What we would like to do is split a sample with the DEQ, a private lab and the City because we feel that somehow in here this process isn't being taken care of properly and as far as the Hayden Island site, if they have legitimately investigated it, why still haven't they taken our pictures? Why still haven't they taken our testimony? And why haven't they core sampled to find out if that happened out there?

.....

On the adage of "a picture is worth a thousand words", it's hard to make a picture lie and if nothing else

.....

That's exactly what I'm saying. Accept. I'm not saying that they have to believe without investigating.

.....

That wasn't my contention sir. My contention was that they at least look at our information. How can you conduct a legitimate investigation without taking all of the information from both sides? Which is again what I stated in the previous conversation and if there is any question that the information I supplied you isn't true, I have the tape recorded conversation between Mr. Davis and between Ms. Gillalspie and we also have the paperwork

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

JUN 6 1988

John Pointer
2480 N.W. 111th
Portland, OR 97229

Dear Mr. Pointer:

To follow up on your appearance before the Environmental Quality Commission at its March 11, 1988 public forum, I requested the staff to research your concerns in detail.

Your concerns have been summarized in a series of questions which have been answered by the staff. I have reviewed the answers and believe they address the questions you raised.

Sincerely

Fred Hansen
Director

FH:y
RY7136
cc: Environmental Quality Commission
Water Quality Division, DEQ
Laboratory, DEQ
Northwest Region, DEQ
Regional Operations, DEQ

SUMMARY OF POINTER TESTIMONY BEFORE EQC, MARCH 11, 1988

1. Are the heavy metal concentrations in the City of Portland sludge above the guideline concentrations? If so, how toxic are these concentrations? How are the guidelines for heavy metals included in the sludge management rules to be used? Do the heavy metals concentrations in the City 's compost pose an environmental or public health risk?

2. How is the compost from the City regulated by the Department?

3. Is the City's pretreatment program meeting federal and state requirements?

4. Does the "confidentiality" clause of the City of Portland's code prevent effective auditing of the City's pretreatment program by not allowing EPA and DEQ to review industrial user data without 10 days notice?

5. Did the City improperly dispose of sludge at Hayden Island? If so, what was the Department's investigation and follow up. Was sludge dumped to within 5 feet of the water table, and was it on the south or north side of the island?

6. Is raw sewage being dumped at Hayden Island?

7. Does the Department routinely take complainants out with them on complaint investigations?

8. Why has the DEQ not fined the City of Portland for past violations?

9. Does self-monitoring allow adequate oversight of the permittees?

10. What level of deviation is acceptable between results from different laboratories?

11. Why has the DEQ refused to review the pictures of illegal sludge disposal from the Hayden Island site?

Janet A. Gillaspie
RY6993
229-5292
May 31, 1988

Question 1:

Are the heavy metal concentrations in the City of Portland's sludge above the guideline concentrations? If so, how toxic are these concentrations? How are the guidelines for heavy metals included in sludge management rules to be used?

According to the City of Portland[1], Portland's anaerobically digested, belt-pressed sludge has the following characteristics:[2]

Total Solids:	25 percent (dry weight)
Volatile Solids:	45.9 percent of Total Solids
Zinc:	1,981 milligrams/kilograms (dry weight)
Lead:	511 milligrams/kilograms (dry weight)
Copper:	726 milligrams/kilograms (dry weight)
Nickel:	177 milligrams/kilograms (dry weight)
Cadmium:	34 milligrams/kilograms (dry weight)
Nitrate Nitrogen:	0.05 percent (dry weight)
Ammonia Nitrogen:	0.38 percent (dry weight)
Total Kjedahl Nitrogen:	3.38 percent (dry weight)

1 Telephone conversation M.P. Ronayne with Greg Hettman, March 11, 1988.

2 Data indicated are from a January 13, 1988, sludge sample (Sample No. 8-0028/0030) processed by Neilson Research Corporation, Medford, Oregon.

Table 1 to Oregon's sludge guidelines (OAR 340-50-075) (attached) provides a benchmark which is useful for differentiating between domestic sludges that show influence from industrial activities and those which are less impacted by industrial wastewaters discharged to sewers which drain to a domestic sewage treatment facility. When total metal concentrations exceed values indicated in Table 1, those sludges may still be suitable for land application, however, management practices may require closer scrutiny to assure that the potential beneficial uses at the receiving site are not jeopardized; that the public's health will be protected, and that soil, air, surface and groundwater will not be impaired.

Nickel and cadmium levels in the City of Portland's sludge exceed values for these constituents noted under Table 1 (i.e., 100 mg/kg and 25 mg/kg respectfully in Table 1 versus 177 mg/kg and 34 mg/kg respectively for these metals in the City's sludge).

Approximately 25 percent of Portland's, belt-pressed sludge is land applied to Wasco County pasture sites at a rate of 100 pounds available nitrogen per acre per year (12,048 pounds total solids dry weight). Based on the January 13, 1988 belt pressed sludge analysis, each acre would receive 23.87 pounds zinc, 6.16 pounds lead, 8.75 pounds copper, 2.13 pounds nickel, and 0.41 pounds of cadmium. The addition of metals at these rates would not compromise immediate or long-term site use nor would metals be expected to be toxic to the environment or the public's health since they are insoluble under natural conditions (pH typically ranges from 6.6 to 7.3) and the extremely small fraction of metal that might solubilize and enter the soil

solution would be readily bound and immobilized by sludge and soil organic matter, clay particles and relatively insoluble iron and aluminum, oxides, hydroxides and sequioxides. In addition, metals in solution that contact pasture grass roots are selectively rejected from the soil solution by the roots. Pasture grasses have little affinity to absorb lead, nickel, and cadmium. They generally exhibit greater affinity for zinc and copper assimilation. However, these metals are essential plant micronutrients.

Attachment A

City of Portland - Composted Sludge

TS:	50 %	Total Solids/yd^3 = 500 lbs.	
Bulk Density:	0.6	Zn:	1,074 mg/kg
TKN:	1.74 %	Cd:	20 mg/kg
NH_3:	0.63 %	Pb:	276 mg/kg
NO_3:	0.18 %	Ni:	103 mg/kg
K:	0.166 %	Cu:	412 mg/kg
Total P:	1.80 %		

Characteristics reported by Greg Hettman, City of Portland (from a 1/13/88 sample of composted sludge sample processed by Neilson Research Corporation Laboratory, Medford, Oregon).

Additional discussion of the sludge characteristics follows:

Question: How many pounds cadmium are there in one cubic yard of composted sludge?

Answer: 500 lbs/yd^3 x $\frac{20 \text{ mg cd}}{1{,}000{,}000 \text{ mg TS}}$ = 0.01 lbs

Question: How many cubic yards of composted sludge can be applied/acre/yr if an agricultural crop were to be grown on soils with pH less than 6.5 that would not be amended by liming?

Answer: 0.45 lbs cd/ac/yr ÷ 0.01 lbs cd/yd^3 = 45 yds^3

Question: How thick a layer of composted sludge (inches) would this represent if 45 yd^3 sludge were evenly distributed across one acre?

Answer: 27 ft^3/1 yd^3 x 45 yd^3 x 12"/ft ÷ 43,860 ft^2/ac = 0.33"

Question: How many inches of composted sludge could be land applied per acre where a site would not be used to produce an agricultural (food chain) crop if cadmium were the factor limiting the quantity of product added?

Answer: If the site were not used for agricultural (food chain crop) purposes, then total cadmium input on a site where soil pH was 6.5 or less would be 4.5 lbs/ac.

0.33"/0.45 lbs x 4.5 lbs/ac total = 3.33"

Question: How many cubic yards of sludge could be land applied/acre before cadmium accumulation would reach 4.5 lbs/acre?

Answer: 4.5 lbs Cd/Ac ÷ 0.01 lbs Cd/yd^3 = 450 yd^3 composted sludge would contain 4.5 lbs. cadmium

Question: How many pounds of available nitrogen are contained in 450 yd^3 Portland's composted sludge?

Answer: 450 yd^3 (composted sludge) x 500 lbs/yd^3 Total Solids = 225,000 lbs. total solids

Note:

May 17, 1988, Mark Ronayne of the Department's Water Quality Division contacted Frank Goullin, University of Maryland, College Place, Maryland, to determine an appropriate mineralization rate for the beneficial use land application of the City of Portland's composted sludge. Mr. Goullin is recognized as an authority on research for appropriate mineralization rates of composted sludge. He indicated composted sludge from in-vessel compost processes, like that operated by Taulman-Weiss, resulted in an end products with a total nitrogen mineralization rate around 8% following the first year of compost land application. That mineralization rate would apply provided composted materials had first gone through a thirty-day minimum pile cure process.

Mr. Goullin indicated that in New England, recommended compost land application guidelines limit compost application to maximum of 50 dry tons (100 wet tons) per year. This would represent 200 cubic yards of Portland's composted sludge (50 dry tons per year x 2,000 lbs per dry ton ÷ 500 lbs per yd^3 = 200 yd^3/ac/yr) or not greater than 4.59 yd^3/1,000 ft^2 (200 yd^3/ac ÷ 43.56 - 1,000 ft^2 units/ac = 4.59 yd^3 per 1,000 ft^2).

0.08 x 225,000 lbs total solids x $\frac{19,200 \text{ mg TN}}{1,000,000 \text{ mg TS}}$ = 346 lbs avail N/ac/yr
(10% min. rate of TN)

Question: If 100 lbs available nitrogen can be consumed by grass at landscaping start up, how many pounds total solids should be applied/acre?

Answer: $\frac{100 \text{ lbs available nitrogen}}{346 \text{ lbs available nitrogen} / 225,000 \text{ lbs total solids}}$ = 65,104 lbs total solids/acre

Question: How many cubic yards of composted sludge would be required to supply 100 lbs available nitrogen?

Answer: 65,104 lbs composted sludge ÷ 500 lbs composted sludge/yd^3 = 130 yd^3

Question: If 130 yd^3 composted sludge were evenly distributed over 1 acre, what would the resulting depth of the applied sludge compost product be?

Answer: 130 yd^3 x 27 ft^3/yd^3 x 12"/ft ÷ 43,560ft^2/ac = 0.96" = 1"

A 1" layer of Portland's compost would provide approximately 103 lbs (1" ÷ 0.966942"/100 lbs = 103) available nitrogen the first year following compost application.

Question: How much cadmium would be supplied in 65,104 lbs composted sludge?

Answer: 20 mg^{cd}/1,000,000mg total solids x 65,104 lbs total solids = 1.3 lbs cadmium

Questions: How many pounds other metals would be supplied in 65,104 lbs composted sludge?

Zn = 1,074 mg/1,000,000 mg x 65,104 lbs total solids = 70 lbs
Pb = 276 mg/1,000,000 mg x 65,104 lbs total solids = 18 lbs
Ni = 103 mg/1,000,000 mg x 65,104 lbs total solids = 6.7 lbs
Cu = 412 mg/1,000,000 mg x 65,104 lbs total solids = 27 lbs

Question 2:

<u>How is compost from the City regulated by the Department?</u>

<u>Answer:</u>

Oregon sludge rules and guidelines regulate the use of sludge and sludge derived products including composted sludge in OAR 340, Division 50. The Department is currently in the process of developing a formal agreement with the City of Portland, the generator of sludge used for the composting process, Taulman-Weiss, the compost producer, and North American Soils, the composted product's marketing operation, to assure compost will be used appropriately for landscaping soil conditioning and fertilizer purposes rather than as a soil amendment at food crop growing sites and at loading rates which will not jeopardize future beneficial land use.

Currently, North American Soils provides prospective compost users with information which outlines recommended product use as well as restrictions in use. An analysis of composted sludge nutrients and metals is also available to product users upon request.

Based on the composted sludge's cadmium content, up to 450 yards compost could be land applied per acre (See calculations in Question 1) before total cadmium content would accrue to 4.5 pounds per acre. At this amount, sites could be used for a variety of purposes, including the growing of plants with a high affinity for cadmium.

Question 3:

Is the City's pretreatment program meeting federal and state requirements?

Answer:

Based on the Department's present knowledge, the city program meets standards. However, a number of actions were recommended to improve the City's pretreatment program during a joint EPA/DEQ audit conducted in 1987. A follow-up to the 1987 audit was conducted in May, 1988, and is currently being written up.

Pretreatment regulations and guidance are regularly updated and re-evaluated by both the state and EPA. The planned inspection will also be used as an opportunity to update the City on any new regulations or guidance.

Question 4:

Does the "confidentiality" clause of the City of Portland's code prevent effective auditing of the City's pretreatment program by not allowing EPA and DEQ to review industrial user data without 10 days notice?

Answer:

The City of Portland's Sewer User Ordinance developed in 1982, contains language requiring a written notice by a governmental agency to obtain confidential information. However, the Department considers this a reasonable clause based on the following:

1. Less than 3 of the City's approximately 260 permitted industries have requested that the information regarding their treatment activities be considered confidential.

2. Portland's 10-day notification requirement is taken directly from EPA model sewer use ordinance.

3. DEQ's present (1988) model sewer use ordinance has similar language requiring that agencies include a written request for confidential information.

4. The City uses the exemption clause of the Oregon Open Records Law (ORS 192) to guide its requests for confidentiality as does DEQ.

Question 5:

Did the City improperly dispose of sludge at Hayden Island? If so, what was the Department's investigation and follow up. Was sludge dumped to within 5 feet of the water table, and was it on the south or north side of the island?

a. Did the City improperly dispose of sludge at Hayden Island?

Yes, in the fall of 1986 dewatered sludge was improperly spread by a contractor on the Hayden Island site. Sludge was not spread evenly and thinly, as required, but was dumped and spread in a number of small areas at thicknesses ranging from 3 to 6 inches.

b. If so, what was the Department's investigation and follow up?

City staff reported the improper spreading of the sludge to the Department in the Spring of 1987, approximately three to five months after the sludge had been spread. The site was inspected once by Northwest Region staff only, and again by Northwest Region staff, City staff and a consulting engineer for the City. It was verified that the sludge was spread improperly in a number of areas on the site.

The Northwest Region required the City to do soil evaluations on the site, to determine if any drinking water wells might be affected, to determine the groundwater gradient beneath the site, and to respread the sludge as well as could be done without destroying the existing grass crop. The City was also required to submit a sludge management plan. All required actions were carried out by the City and its contractors, and a report was submitted detailing the soils evaluations, groundwater gradient determination, well location determination and respreading rates. After the sludge had been respread, the site was reinspected by Northwest Region staff, accompanied by City staff. No drinking water wells were located that were likely to be affected. Only one well was located where it might be affected by leachate from the sludge; the well is in the shallow aquifer and produces poor quality water that is not used for drinking. The soils evaluations indicated that soil metals levels in the sludge application areas were not much different from areas where no sludge was applied. Respreading rates were still well above the agronomic rates for nitrogen, but the metals loadings were below the ultimate loading limits. The sludge management plan was also submitted. The Department determined that the City had properly carried out all required actions, and that the site did not constitute an environmental problem.

c. Was sludge dumped to within 5 feet of the water table, and was it on the south or north side of the island?

During the course of the above investigation, it was learned that the sludge had been initially dumped in large pits on the site (the northern side of the island); from the pits, the sludge was removed and dumped in the spreading areas. During the last inspection by Northwest Region staff, these pits were viewed. The bottoms of the pits consisted of sandy soils with large rocks; no remaining sludge was evident in the pits. It is not

known what the depth to groundwater was from the bottom of the pits, and a technical violation may have occurred; however, because the pits are located near the river to which the groundwater would drain, and because water from the shallow aquifer is unsuitable for drinking, such a violation would not lead to an environmental or health hazard.

Mr. Pointer also contacted the Northwest Region later in 1987 alleging that the City had illegally buried composted sludge on Hayden Island. Northwest Region staff made an inspection of two locations.

The first location was the same site where the sludge had been respread earlier (the northern end of the island). At that site it was found that piles of what appeared to be barkdust were partially covered over by dredging spoils. The land is owned by Portland General Electric Company (PGE), and leased to Mr. Jeff Strasheim. Both PGE and Mr. Strasheim were contacted. From PGE, it was learned that Mr. Strasheim had obtained the barkdust and planned to use it on the site; when the dredging spoils were pumped onto the site, the barkdust piles were accidentally covered. Mr. Strasheim gave the Department the same information, and further verified that he had obtained the barkdust from a private party, and that to his knowledge it consisted entirely of barkdust and wood chips. The City verified that no sludge or composted sludge had been taken out to Hayden Island since the sludge discussed above was taken there.

The second location that Northwest Region staff inspected is a sand pit near the southern end of the island. The sand pit operators had obtained composted sludge from the City in the summer of 1986. Northwest Region staff were aware that the composted sludge had been obtained, and had responded to odor complaints about the compost. During the inspection, the Northwest Region staff discussed the use of the compost with one of the sand pit workers, who explained that the composted sludge is mixed with sand and sold to landscapers. The sand pit operators had covered the pile of compost with sand to alleviate the odor problems. The storage and use of the composted sludge is not in violation of state rules.

Question 6:

Is raw sewage being dumped on Hayden Island?

Answer:

Northwest Region staff were contacted by Mr. Pointer several months ago regarding his concerns on Hayden Island. Mr. Pointer made several serious allegations about the sewage treatment plant operations on the Island. Specifically, he said that the plant operators were pumping raw sewage out of the plant and dumping it around the island. He claimed to have pictures of a tanker truck dumping "sewage" on the island. The truck was labeled "water". Staff asked him how he knew the truck was dumping sewage and he said he didn't really know if it was sewage but it could have been. Investigations by Northwest Region staff did not confirm any such dumping occurring. Staff requested Mr. Pointer's documentation of the dumping

incident, including pictures and a letter describing the location, date and time it occurred.

At this date, the Department has not received the material so requested.

Question 7:

Does the Department routinely take complainants out with them on complaint investigations?

Answer:

The Department does not routinely take complainants out on complaints with them. When received, pollution complaints are written up and forwarded to the field staff person best able to resolve it. The field staff return the call of the complainant within 48 hours of receiving the initial contact to gather additional information from the complainant and to keep the complainant informed as to resolving the problem. The complaint will then be incorporated into the field inspectors other routine work including inspections, spill response, and resolving other complaints. As the complaints are resolved, the complainant is again called back as to the solution, and a final report reviewing the field inspectors actions on the complaint is forwarded to the section supervisor for review prior to being filed.

If the field staff were to take complainants out with them in the field, the Department would need to evaluate how these private parties would gain lawful access to private property to accompany the Department on an inspection, along with any liability problems which might occur should the people be injured in a state vehicle or at the site.

Question 8:

Why has the DEQ not fined the City of Portland for past violations?

Answer:

The City of Portland has received 1 Notice of Violation in the past 5 years. One was issued October 14, 1982 (NWR-86-112) for the City's failure to properly notify the Department when sewage bypasses were occurring, inadequate training of staff and using wastewater treatment facilities without an appropriate permit. Additional compliance meetings have been held with the City of Portland Bureau of Environmental Services Administrator. No civil penalties have been issued because the City has committed to resolving the violations brought to their attention without the need for penalties. Since the Notice of Violation, the City's overall compliance has increased. The Department will continue to review the compliance of the City with regard to its permits and other regulations carefully.

Question 9:

Does self-monitoring allow adequate oversight of the permittees?

Answer:

Self monitoring is a system by which permittees collect and analyze samples of their waste and report on results and other pertinent information onto discharge monitoring reports for submittal to DEQ. These in turn are reviewed to evaluate compliance with permitted limitations and conditions. Self monitoring reports are a very useful regulatory tool; however, they are not the sole means by which oversight of permittees is conducted. The federal Clean Water Act recognized that continuous on-site evaluation of regulated sources by a regulating agency is not possible and established a means by which permittees are responsible for reporting on their discharges. Failure to comply or falsely report data are also violations of permit conditions.

In addition, permittees are inspected by the DEQ. At least one annual comprehensive inspection which includes sampling of the effluent of all major permittees is conducted. These inspections also include an evaluation of the record keeping and sampling and analytical procedures used by the permittee, as well as the overall performance of the permitted facility.

Question 10:

What level of deviation is acceptable between sludge results from different laboratories?

Answer:

The reliability (precision, accuracy and representativeness) of sewage sludge analyses are influenced most by the analytical methods employed and the sample matrix complexity of sewage sludge. There are at least five different sample digestion procedures which have been used for sludge analysis. Data available comparing results obtained from five different digestion procedures is summarized in Table B. Results obtained from the digestion procedures indicates that the digestion used can greatly affect the analytical results. The inherent complexity of the sample matrix is the predominant factor in method performance. Depending on the sample matrix, the digestion procedure employed may be inadequate for the complete oxidation of organic matter in the sample. The unoxidized organic matter can affect the extraction efficiency and introduce either positive or negative interferences to the analysis.

The DEQ Laboratories employ Test Methods for Evaluating Solid Waste (EPA SW-846) Method 3050 digestion procedure for the analysis of sewage sludge samples. Intralaboratory precision and accuracy control limits are $\pm$ 10% and 100 $\pm$ 20%, respectively.

Performance Criteria

An EPA interlaboratory performance study on sewage sludge is summarized in Table C. Reported precision was in percent relative standard deviation (%RSD). For split sample performance evaluation %RSD will be calculated by dividing the relative percent difference by the square root of two.

Performance Evaluation

Based on the calculated %RSD on the split sample between DEQ Laboratories and Columbia Blvd. STP Laboratory performance was considered to be acceptable for cadmium, copper, nickel, lead and zinc. The calculated %RSD for cadmium was above the study %RSD; however, the results were not considered to be significant. Reported interlaboratory %RSD has been reported to be as high as 60% on some types of sewage sludge.

TABLE B

COMPARISON OF PRECISION BETWEEN FIVE DIGESTION PROCEDURES(1)

PARAMETER	INTRALAB %RSD	%RSD BETWEEN METHODS	RPD(2)
Cadmium	1-10%	21%	40%
Lead	2-8%	5%	11%
Nickel	2-8%	6%	12%
Copper	1-15%	8%	20%
Zinc	2-10%	11%	25%

(1) From: Status of Available Techniques for Sewage Sludge Analysis Draft Report to EPA under contract by JRB Associates; October 1983.

(2) Relative Percent Difference calculated from (max.-min.)/mean *100 of reported data included in draft report.

TABLE C

INTERLABORATORY PRECISION STATISTICS ON SLUDGE

PARAMETER	%RSD(1)	SPLIT CRITERIA(2)
Cadmium	16%	25%
Chromium	21%	25%
Copper	13%	25%
Nickel	16%	25%
Lead	23%	25%
Zinc	16%	25%

(1) %RSD = 100 * standard deviation/mean
(2) Acceptable split sample performance criteria in %RSD

SPLIT SAMPLE RECORDS

Facility: Columbia Blvd. STP
Date: November 9, 1987
DEQ Lab #: 88-0949

SAMPLE	PARAMETER	UNITS	SOURCE	DEQ	DIFF.	RPD(1)	%RSD(2)	ACCEPTABLE PER-FORMANCE
BELT PRESS SLUDGE	Cd (Total)	mg/kg(dry)	36	26	10	32.3%	22.8%	Yes
	Cu "	mg/kg(dry)	741	640	101	14.6%	10.3%	Yes
	Ni "	mg/kg(dry)	140	140	0	0.0%	0.0%	Yes
	Pb "	mg/kg(dry)	500	460	40	8.3%	5.9%	Yes
	Zn "	mg/kg(dry)	1870	1600	270	15.6%	11.0%	Yes
	TVS	%	48.1	49	-0.9	-1.9%	-1.3%	Yes

(1) RPD - (Source - DEQ)/(Source + DEQ)/2) * 100
(2) %RSD = RPD/Square Root of 2

Question 11:

Why has the DEQ refused to review the pictures of the illegal sludge disposal from the Hayden Island site?

Answer:

Northwest Region staff have repeatedly requested Mr. Pointer share with us the photographs he says illustrates his concerns. Repeated requests for the photographs have not proven fruitful. To further explore Mr. Pointer's concerns, Tom Bispham, administrator of the Regional Operations Division scheduled a special meeting with Mr. Pointer in February, 1988 to hear his concerns. Mr. Pointer did not attend the meeting.

RY6999

Route Slip

Date 6/22

TO: Name	Division/Section	Initial	Date
1. Dolores Barta, OD			
2.			
3.			
4.			
5.			

	as requested		investigate		per conversation
	approval		justify		prepare reply
	comment		necessary action		return with more detail
	confer		initial and return		review and circulate
✓	for your information		note and file		signature

Fred wanted a copy of this. I couldn't find the signed copy we received. I guess we need one for the

FROM: Jing EQC files and Salem files. Phone No.

Central Stores 97677

☐ See Other Side ♻ Recycled Paper

June 10, 1988

John Pointer
2480 NW 111th
Portland, OR 97229

Dear Mr. Pointer:

To follow-up on our discussion at the Commission meeting today, it would be most useful to have your group prepare a written list of additional questions you have regarding the concerns you raised about the City of Portland.

That written list of questions should be forwarded to the Director's office at DEQ (811 SW Sixth Avenue, Portland, OR 97204) so the staff can respond to them.

Sincerely,

James E. Petersen
Chairman
Environmental Quality Commission

JEP:p
RP1571
cc: John Lang, City of Portland
Fred Hansen, DEQ

NEIL GOLDSCHMIDT
GOVERNOR

Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

June 22, 1988

John Pointer
2480 NW 111
Portland, OR 97229

Dear Mr. Pointer:

To follow up on your earlier letter from Chairman Petersen, when we receive your list of written questions, we will be able to schedule this discussion before the Environmental Quality Commission. The Commission normally meets about every six weeks. Finalized staff reports are distributed to the Commission at least two weeks prior to the meeting, and must be reviewed internally prior to being distributed.

The deadline for preparing staff reports for the July 8th meeting has now passed. We may still be able to schedule this issue before the August 19th meeting, if we receive your questions shortly.

When we receive your list of questions, we will be able to estimate the time it will take to adequately research the concerns you raise, and prepare the necessary staff report. It will then be scheduled for the appropriate Environmental Quality Commission meeting. We will let you know when it will be scheduled.

Sincerely,

Janet A. Gillaspie
Regional Manager
Northwest Region

JAG:y
RY7195
cc: Environmental Quality Commission
Water Quality Division, DEQ
Regional Operations, DEQ
John Lang, City of Portland

STATE OF OREGON

INTEROFFICE MEMO

TO: Fred Hansen

DATE: June 9, 1988

FROM: Alice Everest

SUBJECT: 1988 Semi-Annual Backyard Burning Hardship Permit Summary

There was a total of 755 permits issued or recorded on the computer. This is up from a year ago by 55 permits.

The breakdown is:

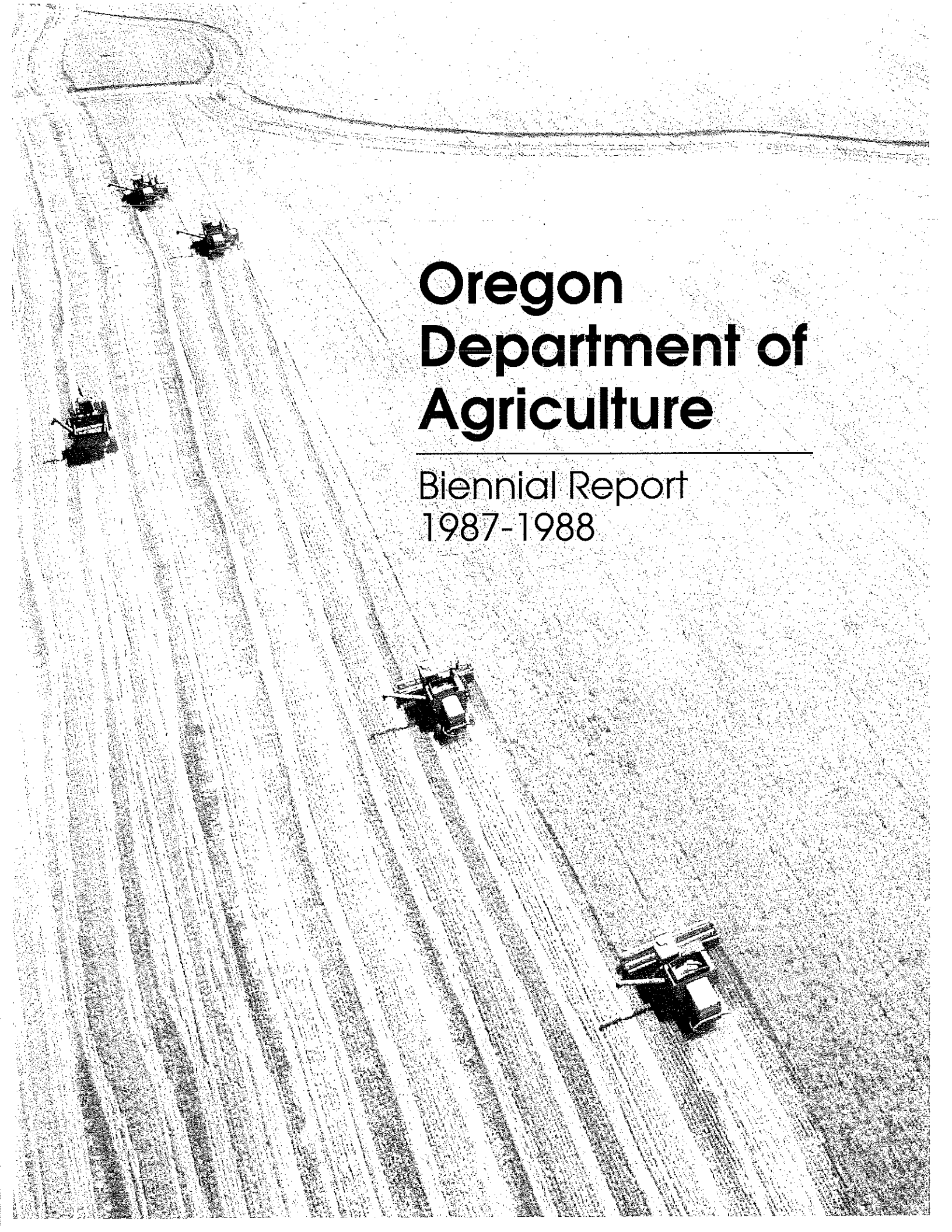
Annual	390
Spring	347
Fall	18
	755

"First-time" burners numbered 186 while there were 148 fee waivers granted.

55
131

ahe

cc: NNikkila
JFKowalczyk
SLErickson
LDBrannock
MAMileham
HMDemaray



Oregon Department of Agriculture

Biennial Report 1987-1988

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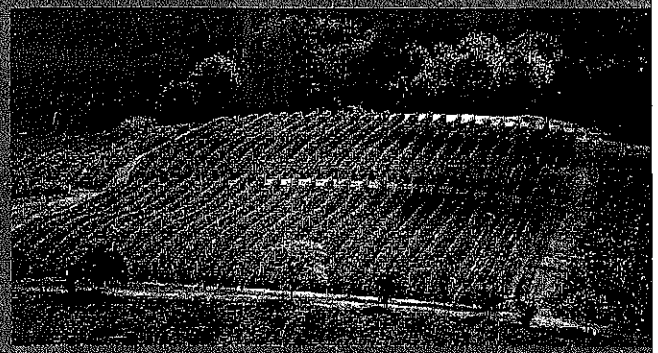
Cover photo of a wheat harvest in eastern Oregon by Dalton Hobbs, Director of Communications, Oregon Department of Agriculture

농산물에 관한 문의 사항이 있으시면
하기 주소로 연락 하시기 바랍니다.

Oregon Department of Agriculture
Agricultural Development Division
Salem, Oregon 97310-0110
전화; (503) 378-3787
텔렉스 TLX: 263241 OREAG UR
훽스; FAX: (503) 378-5529

우수한 농산물의 산지

오레곤주



The Agriculture
QUARTERLY

Issue 294 | Oregon Department of Agriculture | Winter 1988

Can Oregon crack Russia's markets?

At the invitation of the Soviet Chamber of Commerce, Bob Buchanan, director of the Oregon Department of Agriculture, and Bruce Andrews, deputy director of the department, recently journeyed to Russia to explore market opportunities.

The pair had made previous contacts with Russian officials through their work with the Oregon Wheat Growers League and "Sov-Am," a Soviet-American fishing company that employs Newport fishermen.

Accompanied by Stephen Anderson, an aide to U.S. Rep. Les AuCoin, they were the first westerners to visit Vladivostok, a city in the Soviet Far East, in 10 years.

By Bruce Andrews
and Bob Buchanan

Imagine a couple of eastern Oregon farm boys bent on spread-

of competitive freight costs, the Northwest has almost no established trade within the Soviet Union.

The lack of trade stems partly from Soviet regulations that limit access to their country.

Circuitous route to Far East

During the winter, the only way to get to the Far East is through Moscow. From here to there means crossing 18 time zones.

Our trip went from Seattle to Copenhagen to Stockholm to Moscow, about 22 hours of travel. In order to make connections to the Far East, an overnight stop is required in Moscow.

Moscow to Khabarovsk is a nine-hour flight, crossing another seven time zones. A four-hour wait in Khabarovsk and a 16-hour train ride allows the traveler to arrive at Vladivostok.

That's 46 hours of travel time, not including the Moscow layover.

D.I.R.T.

Department's Internal Report & Tribute

Souvenir first edition | Oregon Department of Agriculture | Spring 1988

Inspectors share stories, ping-pong with Russians

Here's what happens when a couple of tired, lonely Food & Dairy inspectors get together with Russian sailors

By Jim Postlewait

It was growing late and Bob Gerding and I were eager to start our evening run. We had been at the Oregon coast all week inspecting fish plants and collecting environmental swabs for a pathogen known as listeria monocytogenes.

We are both recreational joggers and look forward to stretching our legs after being on our feet in a fish plant all day. This run would be no different than any of the others, or so we thought.

We hot-footed it down toward the docks where two large ships were tied up. One was a Panamanian ship loading logs and the other was a Russian fish processing ship taking on fuel and supplies.

Tour de ping pong

As we ran by, we noticed school children from Astoria disembarking after a tour of the Russian ship. Bob, being his usual outgoing self, jogged over to ask the sailor stationed at the gangplank if we could look around the ship. Of course, he didn't speak a word of English, but vigorously motioned for us to come aboard.

The sailor rang for an officer who asked in very good but abrupt English, "What do you want?" Undaunted by his unfriendly air, Bob asked if we could look around the ship. To my surprise, he said "yes." In short order our guide appeared and our tour began.

Enterprising Food and Dairy inspectors, Bob Gerding (left) and Jim Postlewait

The tour really only consisted of viewing a few pictures of Gorbachev and other Russian dignitaries. Our guide and several others, including the ship's doctor, had an ulterior motive -- ping-pong.

The challenged was issued and without a moment's hesitation, Bob accepted -- for me, of course.

After warming up, the Russians challenged us to doubles. Thirty minutes later, Bob and I emerged victorious, having beaten the Russians two games out of three.

Oh no, inspectors!

We adjourned to one of the cabins where we spent several hours talking about families, hobbies, politics and nuclear war over tea and cookies.

When informed what we did for a living, the Russians rolled their eyes and said, "Stop processing until everything is clean!" Their actions made it clear that inspectors are regarded the same the world around.

Russian peace emissaries

These were common working men but better emissaries of peace would be hard to find. Never have I felt more comfortable and among friends than with these four Muscovites.

At 9 p.m. our "abrupt" officer informed us in his usual manner that we would have to leave.

Our new-found friends escorted us to the gangplank, gave us each a Russian coin to remember them by and invited us to visit the Soviet Union.

Bob hasn't quite figured out how we're going to wrangle that trip on state per diem, but I'm sure he'll think of something. ¶