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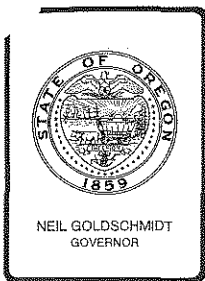
OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS



State of Oregon
**Department of
Environmental
Quality**

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Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item N, April 29, 1988, EQC Meeting

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

BACKGROUND AND PROBLEM STATEMENT

The Department is proposing the adoption of new asbestos abatement rules and the adoption of amendments to existing asbestos control rules. The new and revised rules are included as Attachment A. These rules were developed in cooperation with the Oregon Asbestos Advisory Board and the Department of Insurance and Finance, Accident Prevention Division (APD).

The proposed rules are intended to establish contractor licensing and worker certification programs for people who work with asbestos. These programs are required by ORS 468.875 to 468.899 which is included for reference as Attachment B (1987 House Bill 2367). The rules would establish programs for the accreditation of training providers, the licensing of small-scale asbestos abatement contractors and full-scale asbestos abatement contractors, and the certification of small-scale workers, full-scale workers, and supervisors for full-scale asbestos abatement. These categories were designed to be compatible with existing occupational and environmental regulations for asbestos. Fees would be charged for licensing, certification, and accreditation.

The proposed rules are also intended to satisfy federal regulations pertaining to asbestos abatement in schools. Regulations developed by the U.S. Environmental Protection Agency (EPA) to implement the Asbestos Hazard Emergency Reduction Act of 1986 (AHERA) require each state to adopt regulations for the training and certification of asbestos abatement contractors and workers. About thirty states have the required programs in place or are preparing the required programs. Programs are already in place in the state of Washington.

The proposed rules would revise the existing regulations on asbestos as a hazardous air contaminant. Work practices, notification procedures, and disposal requirements would be revised. These changes are necessary to reduce the releases of airborne asbestos from abatement projects and to incorporate the current federal requirements on asbestos which are included

in the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Fees for filing of notifications would be added to support the asbestos control program.

Minor updates in the existing rules for hazardous air contaminants sources are included in the proposed rules. These revisions, which were added after the public comment period, are necessary for consistency with the Air Contaminant Discharge Permit requirements.

The Commission authorized hearings on the proposed rules on January 22, 1988. The staff report for the hearing authorization request is included as Attachment C. The public notice was published on February 1, 1988. Five hearings were held around the state on March 2 through 15, 1988. The Hearings Officer's report is included as Attachment D. Attachment E is the Department's response to the comments received.

A Statement of Need for Rulemaking is included as Attachment F.

ALTERNATIVES AND EVALUATION

Overall, the Commission may choose to adopt the rules required by ORS 468.893 at this meeting or to delay rule adoption. Rule adoption is required by law by July 1, 1988. If the Commission chooses to postpone adoption, it could adopt regulations at the meeting scheduled for June 6, 1988 or at a specially-scheduled meeting. Any delays in adopting the rules will reduce the amount of time before January 1, 1989, when the certification and licensing requirements become mandatory. That deadline can be extended by the Commission if inadequate training is available.

During the public comment period and meetings of the Oregon Asbestos Advisory Committee, options were discussed for many sections and subsections of the rules. These areas are discussed in the Hearings Officer's Report (Attachment D) and in the Response to Comments (Attachment E). In some cases, state law, federal regulations, or other considerations make the options unworkable. Alternatives based on the remaining options follow. These alternatives are identified by the rule number to which they apply. In each case, the Department's preferred alternative is listed first (Alternative #.0).

DIVISION 25 SECTION 465

The Department has been delegated authority by the EPA for implementation of NESHAPs. Many of the requirements of proposed OAR 340-25-465(4) through (7) are necessary to implement the federal program. An implementation date of June 1, 1988 is recommended for these changes. This would allow sufficient time for the regulated community to receive Department notice of the changes and to prepare for them.

Testimony was received about the exemptions in the proposed rules for certain nonfriable materials. Additional testimony was received on a possible minimum cutoff for application of the asbestos requirements. These issues can be combined into a single exemption category. As proposed in Attachment A, any activity exempted under OAR 340-25-465(4), would also be exempted from the licensing and certification requirements of OAR 340-33.

ALTERNATIVE 465(4).0 Adopt the exemptions in the proposed rules. These exemptions have been expanded from the exemptions proposed for public comment to include any nonfriable asbestos materials which are handled without causing the release of asbestos fibers. An exemption is also added for very small quantities of friable materials, when asbestos abatement is not the primary intent of the activity. The exemption for nonfriable materials will reduce the regulatory burden for materials which are not expected to cause a hazard and will allow Department resources to be used more effectively. The very small quantity exemption recognizes that it may not be feasible to require licensing and certification for this class of activity, although health hazards could still be created.

ALTERNATIVE 465(4).1 Remove the exemption for very small quantities of asbestos. Licensing, certification, and the specified work practices and engineering controls would be required for asbestos abatement projects of any size. This could significantly increase the number of workers subject to the requirements and encourage intentional noncompliance. It would reduce the probability of homes and other buildings becoming contaminated with asbestos if all affected persons complied with the rule. Department resources would have to be focused on the very small quantity abatement projects to insure compliance.

The rules would add a timetable for submittal of notifications and would introduce a notification fee. Several alternatives have been identified.

ALTERNATIVE 465(5).0 Adopt the notification procedure and fee structure proposed in Attachment A. The fees would fund improved compliance, enforcement, and assistance activities. This alternative would meet the current federal requirements for ten day advance notification on NESHAPs projects, with exceptions for emergencies and small jobs.

ALTERNATIVE 465(5).1 Require that a separate notification be filed for each three months of an on-going project. This requirement was included in the rules proposed for public comment to offset the increased cost of inspecting very large jobs and of extra inspections which might need to be done on a very large job. Testimony was received indicating that assessing additional project notification fees on this basis could be inequitable. The Department removed this requirement from the proposed rules but expects to maintain adequate records to determine more precisely a basis for a request for additional notification fees. Adoption of this alternative would restore the original wording on projects extending beyond three months.

ALTERNATIVE 465(5).2 Adopt different fees from those shown. Higher or lower fees could be established. As requested by the Oregon Legislature, the proposed fees were presented to the Legislative

Emergency Board on March 17, 1988. The Board found the proposed fees to be acceptable. With regard to notification fees, the Department considered and rejected as unacceptable several other fee bases, including job duration, job cost, and actual cost of inspections. The proposed fees are based on projections of the number of notifications received in each category and staffing levels to accomplish compliance assurance goals. The Lane Regional Air Pollution Authority has already considered adopting fees, but tabled adoption pending Commission action. With regard to the certification, licensing, and accreditation fees, the proposed fees in Division 33 were structured to support those program requirements. Revising any of the proposed fees would directly impact the Department's program execution capabilities.

Notification fees established under these rules would increase by 50% for any project started without submittal of the notification and specified fee. The increased fee would offset higher costs incurred by the Department for such projects. As proposed, the fee for each notification category is proportional to the number of project inspections anticipated and amount of resources needed for an inspection in that category. Projects for which notifications are not submitted prior to commencement will require additional Department resources. These projects will have a greater need for inspection, particularly if the removal was started without knowledge of the presence of asbestos or use of proper work practices, and a higher probability of enforcement action as a result. The costs to the Department will also increase due to disruption of the schedule for project inspections and other activities.

The proposed rules contain revisions to the existing work practice and engineering control requirements. In Attachment A, Subsections 465(6)(a) through (e) update the existing regulations to match the current federal requirements. Subsection 465(6)(f), which was added following the public comment period, would impose new requirements on the use of exhaust ventilation and vacuuming equipment. The current regulations allow, under different circumstances, for either no visible emissions or have no specified emission limit. As pointed out in public testimony, this is inadequate protection of the environment. The equipment referred to in the rule is the industry standard for asbestos abatement and, when under their jurisdiction, is required by the APD, so the impact of the change would be minor.

ALTERNATIVE 465(6).0 Adopt subsection 465(6)(f) as proposed.

High efficiency particulate air (HEPA) filters would be required on any air cleaning or vacuuming equipment. Inferior filters are not adequate to capture asbestos fibers and result in the dispersion of asbestos into the air, either in the work space or into the building or exterior environment. Since HEPA filtration equipment is already the industry standard, the economic impact on safely conducted asbestos abatement projects is minimal.

ALTERNATIVE 465(6).1 Delete subsection 465(6)(f) and continue existing requirements. This would allow projects which are not under APD jurisdiction to be done without industry-standard air cleaning. More

asbestos emissions would be allowed than under the previous alternative.

The proposed rules include changes to the existing waste disposal requirements. The Department's intent is to insure that all asbestos waste is disposed of without the release of asbestos fibers to the air. As proposed for public comment, the rule would have required that all asbestos waste, including friable and nonfriable materials, be subject to the same disposal requirements. Waste which could not be traced to a regulated source or project was included; disposal of these wastes is currently unregulated. Testimony suggested that the requirements for disposal of nonfriable waste was too stringent. Additional testimony suggested that record-keeping be required as a means of verifying that waste was disposed of properly. This would also provide an indication of the actual size of a removal project. Both of these recommendations were incorporated in the proposed rules.

ALTERNATIVE 465(13).0 Adopt this section as proposed. Record-keeping would be required. Nonfriable asbestos waste would, at a minimum, have to be disposed of safely. This would reduce the potential for environmental contamination from mishandling of these materials.

ALTERNATIVE 465(13).1 Delete the record-keeping requirement. More improper disposal might occur under this alternative. Some reduction in record-keeping might occur, although these records are probably retained already for tax purposes.

ALTERNATIVE 465(13).2 Delete subsection 465(14) requiring safe disposal of nonfriable asbestos waste which is not already regulated. The current requirements would remain in force. Public uncertainty over the requirements for disposal of these materials would continue.

DIVISION 33 SECTIONS 010 TO 110

Worker certification levels, training, and experience requirements were developed based on recognized needs, existing environmental and worker protection requirements, federal requirements for persons working in schools, statutory requirements to consider different classes of workers, and model curricula available from the EPA and other state programs. The identified alternatives to the rules presented in Attachment A relate to refresher training and examinations. The specific curriculum requirements are located in the DEQ Asbestos Training Guidance Document, which is included as Attachment G.

The proposed rules require refresher training on an annual basis for all certified workers. This training would be needed to maintain a valid worker certification card and to obtain biennial renewal. This requirement is based on ORS 468.887(3) which states that, "if the commission determines there is a need for a category of workers to update the workers' training in order to meet new or changed conditions, the commission may require the

worker, as a condition of certificate renewal, to successfully complete an accredited asbestos abatement review course."

In developing the regulations proposed in Attachment B, the Department considered the extent of new or changed conditions in two categories: new or changed regulatory conditions and new or changed abatement practices and procedures. The Department believes that there is a need to require refresher training based on changes in these areas.

Since the authorizing legislation was filed on July 20, 1987, changes have been made in state and federal regulations. The most significant of these are the EPA regulations implementing the Asbestos Hazard Emergency Reduction Act (AHERA). Promulgated on October 30, 1987, these regulations contain extensive asbestos requirements for all kindergarten through twelfth grade schools. AHERA requires one day of annual refresher training for all full-scale abatement supervisors and workers who do abatement work in schools. These requirements apply to school employees and to contractors employed by the schools. Under AHERA, each state is required to develop contractor certification programs at least as stringent as the EPA model plan.

The regulations of the Accident Prevention Division have also changed since House Bill 2367 was adopted. On September 17, 1988 the APD regulations were revised to make certain work practices mandatory for regulated "small scale, short duration" asbestos abatement work and to make several other changes in the asbestos construction code. These changes are the latest in a number of significant changes the APD has made in the last two years in their asbestos requirements for worker protection. Other changes have included a reduction in the allowable exposure levels; the initiation of negative-pressure enclosure requirements, supervisor ("competent person") requirements, and other changes in full-scale requirements; medical monitoring and record keeping requirements; and other changes in the requirements for small scale, short duration jobs. The entire APD asbestos code was reformatted into separate codes for general industry and for construction. It is likely that APD requirements will continue to be responsive to developments in worker protection for asbestos abatement.

Asbestos abatement is a developing industry. Procedures and practices for effectively abating asbestos while minimizing worker exposure and asbestos release have changed rapidly throughout the 1980s and are expected to continue to change. New solutions to common abatement problems are developed frequently. One major area of change has been the development of "negative-air" enclosures which pull contaminated air out of the work space through HEPA filters and which have airlock chambers with clean-up facilities for ingress and egress from the work area. These enclosure techniques have been the subject of a federal patent and subsequent legal actions to have the patent overturned which are not yet finally resolved. Optimum designs for these enclosures are still being developed to suit the wide array of abatement situations. Improved methods or designs are being developed for the airlock chambers, for ensuring that contaminated air

leaves the work area only through the HEPA filters, and for removing waste from the work area without contamination. New chemicals for improved wetting of asbestos materials (surfactants) prior to handling and for binding asbestos materials together (encapsulants) are being developed. These chemicals reduce the amount of asbestos fibers which are released. With the increasing demand for asbestos abatement, new hardware and mechanical equipment is also being developed to suit particular applications. These tools can be combined with new procedures for improved abatement.

Changes in worker protection methods have also occurred. The procedure for exposure monitoring has been revised. Increasingly, a more refined method of asbestos analysis, transmission electron microscopy, is being used on jobs to provide more accurate assessment of the kind of fibers present and the amount of extremely small fibers present. Other changes in work practices have reduced the potential for individual injury due to electric shock, heat stress, and other physical causes.

New developments have also occurred in the procedures used specifically for small-scale asbestos abatement. New glovebags with design improvements for certain applications come on the market frequently. These glovebags are the mainstay of small-scale abatement work, since they allow the worker to remain isolated from the asbestos, when used properly.

For the abatement supervisors, the changes occurring in the insurance market have had and will continue to have significant impacts on asbestos abatement operations.

The eastern United States has generally led the country in asbestos concerns and abatement practices. Judging by the impact of asbestos on real estate markets in that part of the country, much of the impact of asbestos in buildings has yet to be felt in Oregon. As the impact increases, the pace of new developments in abatement is also expected to increase. New techniques being developed in the eastern United States will also need to be brought to the attention of Oregon-certified workers.

Based on these factors, several alternatives for refresher training have been identified.

ALTERNATIVE 050.0 The Commission can find that there is a need for workers to update their training in order to meet new and changed conditions which exist and can be expected to exist for the foreseeable future. Refresher training would be required as specified in the proposed rules. The Department will monitor conditions in the asbestos abatement industry. When conditions stabilize for one or more of the categories of certified workers, the Department will report that information to the Commission. Such a finding can be supported by the descriptions of new and changed conditions given above. The rapid pace of developments in asbestos abatement, which has occurred throughout

the 1980s and is expected to continue, produces a need to have workers who have current training.

ALTERNATIVE 050.1 The Commission can find that there is a need for refresher training based on new and changed conditions for all workers who may do work in schools. Refresher training is required as proposed for all workers employed by kindergarten through twelfth grade schools and for all workers employed by contractors or not employed at a fixed facility other than a school. This alternative would be difficult to administer, would restrict the mobility of workers, and could result in the use of techniques which are less protective of worker health and the environment than current industry standards by those workers who are not subject to the refresher training requirements. For any level at which refresher training is not required, deterioration in worker skills and skill application can be expected.

ALTERNATIVE 050.2 The Commission can find that there is no need for refresher training based on insufficient new or changed conditions. All reference to mandatory refresher training would be deleted from the proposed rule. This alternative would not provide for a mechanism to ensure that all workers continue to be aware of and trained to use the most appropriate techniques for safe abatement of asbestos. Increased emissions of asbestos and increased worker and public exposure could result. The economic impact of this alternative on the regulated community would be lessened by the extent to which workers are not otherwise provided refresher training. The Oregon program might not be acceptable to EPA as equivalent to the model program for full-scale workers and supervisors. If EPA failed to approve the Oregon program, anyone doing asbestos work in schools would have to receive training from an EPA-approved or EPA-sponsored training facility. Additional travel and training expenses could be incurred by those working in schools. Local training providers could be economically disadvantaged.

The means of examination of students prior to certification has been a significant topic of discussion. The proposed rules allow the training providers to draw up, validate, and administer their own examinations, subject to Department approval. This procedure is currently used in the state of Washington for worker certification and is allowed under the AHERA regulations and EPA model contractor accreditation plan. The Oregon Asbestos Advisory Board and several persons who submitted testimony recommended that this procedure be changed. They recommended that the Department develop or develop and administer the examinations.

ALTERNATIVE 060.0 The Department approves those examinations submitted by training providers which meet the requirements. The Department review would focus on the content of the examination and ensuring that test questions had been appropriately validated by the provider. As proposed in the rules, the Department could require a provider to add specified questions or substitute a Department-provided examination for their classes. These provisions could help ensure that training quality is maintained by all providers.

ALTERNATIVE 060.1 The Department would develop examinations for use by

accredited training providers. These examinations would be provided to the training provider for each class and could be changed by the Department without notice. This alternative was recommended by the advisory board. It would reduce the potential conflict of interest for training providers who would want to ensure that a high percentage of students successfully completed the examination. Additional Department resources would be required for examination development and validation and for distribution of examinations.

ALTERNATIVE O60.2 The Department develops and administers all examinations. This alternative would add an additional burden on either the Department or the workers. The Department could give the examinations at regulated intervals and in certain locations. Workers could have to travel to the location at which the training is being given and would have a delay between the completion of training and the issuance of certification cards. Another option would be for the Department to send a representative to each training course offering to administer the examination. This would allow for prompt certification of eligible workers but would require additional Department resources. Since the asbestos program will be supported almost entirely by fees, either the fees would have to be raised or resources would have to be taken away from the inspection, assistance, and enforcement components of the program.

SUMMATION

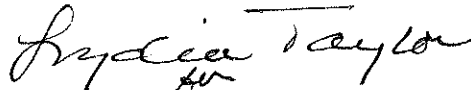
1. The 1987 Legislature created asbestos abatement contractor licensing, worker training, and training provider accreditation requirements. The Commission is required to adopt regulations to implement these programs by July 1, 1988.
2. Authorization for public hearings on the proposed rules relating to asbestos control (OAR 340-33) and proposed amendments to the hazardous air contaminant rules for asbestos (OAR 340, Divisions 25, Section 450-465) was granted by the Commission on January 22, 1988.
3. The proposed rules were published in the Secretary of State's bulletin on February 1, 1988. Five public hearings were held between March 2 and March 15, 1988. Additional written testimony was received by the Department.
4. The Oregon Asbestos Advisory Board created by the 1987 Legislature assisted the Department in the development of the proposed regulations. The Accident Prevention Division of the Department of Insurance and Finance was represented on the Board and was consulted throughout the rule development process.

5. In addition to establishing the worker certification, contractor licensing, and training provider accreditation programs, the proposed rules would revise the existing asbestos control requirements. Revisions include more stringent requirements for notification, fees for filing notifications, revised work practice and engineering control requirements, and revised disposal requirements.
6. Alternatives have been identified for project notification procedures, the fee structure, work practices and engineering controls, waste disposal, refresher training, student examinations, and exemptions.
7. The revisions to the existing regulations in OAR 340-25 would be effective on June 1, 1988. The new regulations in OAR 340-33 would be mandatory on January 1, 1989.
8. Refresher training of a class of workers can be required by the Commission as a condition of recertification if the Commission finds there is a need for retraining based on new or changed conditions. New and changed conditions exist in the regulatory requirements and work practices and procedures for asbestos abatement. These conditions are expected to persist for the foreseeable future.

DIRECTOR'S RECOMMENDATION

Based upon the Summation, it is recommended that the Commission adopt the revisions to OAR 340-25-450 through 340-25-465 in the proposed rules, effective June 1, 1988.

Based upon the findings in the Summation, it is also recommended that the Commission adopt OAR 340-33-010 through 340-33-110 as proposed, including requirements for refresher training of certified workers, effective immediately.


Fred Hansen

Attachments

- A Proposed rules
- B ORS 468.875 to 468.899: Asbestos Abatement Projects
- C Agenda Item H, January 22, 1988 EQC Meeting: Request for Hearing Authorization
- D Hearings Officer's Report
- E Response to Comments
- F Statement of Need for Rulemaking
- G DEQ Asbestos Training Guidance Document

Wendy L. Sims:k
AK419
229-6414
April 13, 1988

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 25 - DEPARTMENT OF ENVIRONMENTAL QUALITY

Emission Standards and Procedural
Requirements for Hazardous Air Contaminants

Policy

340-25-450 The Commission finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air contaminants. Air contaminants currently considered to be in this category are asbestos, beryllium, and mercury. Additional air contaminants may be added to this category provided that no ambient air standard exists for the contaminant, and evidence is presented which demonstrates that the particular contaminant may be considered as hazardous. It is hereby declared the policy of the Department that the standards contained herein and applicable to operators are to be minimum standards, and as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

Stat. Auth.: ORS CH.

Hist: DEQ 96.f.9-2-75,ef.9-25-75

Definitions

340-25-455 As used in this rules, and unless otherwise required by context:

(1) "Asbestos" means [actinolite, amosite, anthophyllite, crysotile, crocidolite, or tremolite.] ...the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite."

(2) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this subpart, or friable asbestos material including, but not limited to, asbestos mill tailings, control device asbestos waste, friable asbestos waste material, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos.

(3) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air."

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NOTE: an asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6). Emergency fire fighting is not an asbestos abatement project.

[3](4) "Asbestos manufacturing operation" means the combining of commercial asbestos, or in the case of woven friction products, the combining of textiles containing commercial asbestos with any other material(s) including commercial asbestos, and the processing of this combination into a product as specified in rule 340-25-465.

[4](5) "Asbestos-containing material" means asbestos or any material containing at least 1% asbestos by weight, including particulate asbestos material.

[5](6) "Asbestos mill" means any facility engaged in the conversion or any intermediate step in the conversion of asbestos ore into commercial asbestos.

[6](7) "Asbestos tailings" means any solid waste product of asbestos mining or milling operations which contains asbestos.

[7](8) "Beryllium" means the element beryllium. Where weight or concentrations are specified in these rules, such weights or concentrations apply to beryllium only, excluding any associated elements.

[8](9) "Beryllium alloy" means any metal to which beryllium has been added in order to increase its beryllium content, and which contains more than 0.1 percent beryllium by weight.

[9](10) "Beryllium containing waste" means any material contaminated with beryllium and/or beryllium compounds used or generated during any process or operation performed by a source subject to these rules.

[10](11) "Beryllium ore" means any naturally occurring material mined or gathered for its beryllium content.

[11](12) "Commercial asbestos" means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

[12](13) "Commission" means the Environmental Quality Commission.

[13](14) "Demolition" means the wrecking or removal of any [boiler, duct, pipe, or structural member insulated or fireproofed with asbestos material or of any other thing made of friable asbestos such as decorative panels.] structural member of a facility together with related handling operations.

[14](15) "Department" means the Department of Environmental Quality.

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[15](16) "Director" means the Director of the Department or regional authority and authorized deputies or officers.

(17) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

[16](18) "Friable asbestos material" means any [asbestos material easily crumbled or pulverized by hand, resulting in the release of particulate asbestos material. This definition shall include any friable asbestos debris.] asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry."

(19) "HEPA filter" means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

[17](20) "Hazardous air contaminant" means any air contaminant considered by the Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.

[18](21) "Mercury" means the element mercury, excluding any associated elements and includes mercury in particulates, vapors, aerosols, and compounds.

[19](22) "Mercury ore" means any mineral mined specifically for its mercury content.

[20](23) "Mercury ore processing facility" means a facility processing mercury ore to obtain mercury.

[21](24) "Mercury chlor-alkali cell" means a device which is basically composed of an electrolyzer section and a denuder (decomposer) section, and utilizes mercury to produce chlorine gas, hydrogen gas, and alkali metal hydroxide.

[22](25) "Particulate asbestos material" means any finely divided particles of asbestos material.

[23](26) "Person" means any individual, corporation, association, firm, partnership, joint stock company, public and municipal corporation, political sub-division, the state and agency thereof, and the federal government and any agency thereof.

[24](27) "Propellant" means a fuel and oxidizer physically or chemically combined, containing beryllium or beryllium compounds, which undergoes combustion to provide rocket propulsion.

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[25](28) "Propellant plant" means any facility engaged in the mixing, casting, or machining of propellant.

[26](29) "Regional authority" means any regional air quality control authority established under the provisions of ORS 468.505.

[27](30) "Renovation" means [the removing or stripping of friable asbestos material used to insulate or fireproof any pipe, duct, boiler, tank, reactor, turbine, furnace, decorative panel, surface or structural member.] altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.

(31) "Small-scale asbestos abatement project" means any asbestos abatement project which meets the definition given in OAR 340-33-020(17).

[28](32) "Startup" means commencement of operation of a new or modified source resulting in release of contaminants to the ambient air.

[29](33) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls.

Stat. Auth.: ORS Ch. 468

Hist: DEQ 96, f.9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82

General Provisions

340-25-460(1) Applicability. The provisions of these rules shall apply to any source which emits air contaminants for which a hazardous air contaminant standard is prescribed. Compliance with the provisions of these rules shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Implementation Plan.

(2) Prohibited activities:

(a) No person shall construct, install, establish, develop or operate any source of emissions subject to these rules without first [registering such source with the Department following procedures established by ORS 468.320 and OAR 340-20-005 through 340-20-015. Such registration shall be accomplished within ninety (90) days following the effective date of these rules.] obtaining an Air Contaminant Discharge Permit in accordance with OAR 340-20-140 through 340-20-185.

(b) After the effective date of these rules, no person shall [construct a new source or] modify any existing source [so as to cause or increase] such that emissions of contaminants subject to these rules are significantly increased

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without first [obtaining written approval from the Department.] applying for and obtaining a modified permit.

(c) No person subject to the provisions of these emission standards shall fail to provide reports or report revisions as required in these rules.

(3) Application for approval of construction or modification. All applications for construction or modification shall comply with the requirements of rules [340-20-020 through 340-20-030] 340-20-140 through 340-20-185 and the requirements of the standards set forth in these rules.

(4) Notification of startup. Notwithstanding the requirements of rules [340-20-020 through 340-20-030] 340-20-140 through 340-20-185, any person owning or operating a new source of emissions subject to these emission standards shall furnish the Department written notification as follows:

(a) Notification of the anticipated date of startup of the source not more than sixty (60) days nor less than thirty (30) days prior to the anticipated date.

(b) Notification of the actual startup date of the source within fifteen (15) days after the actual date.

(5) Source reporting and approval request. Any person operating any existing source, or any new source for which a standard is prescribed in these rules which had an initial startup which preceded the effective date of these rules shall provide the following information to the Department within ninety (90) days of the effective date of these rules:

- (a) Name and address of the owner or operator.
- (b) Location of the source.

(c) A brief description of the source, including nature, size, design, method of operations, design capacity, and identification of emission points of hazardous contaminants.

(d) The average weight per month of materials being processed by the source and percentage by weight of hazardous contaminants contained in the processed materials, including yearly information as available.

(e) A description of existing control equipment for each emission point, including primary and secondary control devices and estimated control efficiency of each control device.

(6) Source emission tests and ambient air monitoring:

(a) Emission tests and monitoring shall be conducted using methods set forth in 40 CFR, Part 61, Appendix B, as published in the Code of Federal

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Regulations last amended by the Federal Register, [June 8, 1982, pages 24703 to 24716.] June 1, 1987, at 52 FR 20398. The methods described in 40 CFR, Part 61, Appendix B, are adopted by reference and made a part of these rules. Copies of these methods are on file at the Department of Environmental Quality.

(b) At the request of the Department, any source subject to standards set forth in these rules may be required to provide emission testing facilities as follows:

(A) Sampling ports, safe sampling platforms, and access to sampling platforms adequate for test methods applicable to such source.

(B) Utilities for sampling and testing equipment.

(c) Emission tests may be deferred if the Department determines that the source is meeting the standard as proposed in these rules. If such a deferral of emission tests is requested, information supporting the request shall be submitted with the request for written approval of operation. Approval of a deferral of emission tests shall not in any way prohibit the Department from canceling the deferral if further information indicates that such testing may be necessary to insure compliance with these rules.

(7) Delegation of authority. The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality in Portland.

Stat. Auth.: ORS Ch. 468

Hist: DEQ 96, f. 9-2-75, ef. 9-25-75; DEQ 22-1982, f. & ef. 10-21-82

Emission Standards and Procedural Requirements for Asbestos

340-25-465(1) Emission standard for asbestos mills. No person shall cause to be discharged into the atmosphere any visible emissions from any asbestos milling operation except as provided under section (10) of this rule. For purposes of these rules, the presence of uncombined water in the emission plume shall not be cause for failure to meet the visible emission requirement. Outside storage of asbestos materials is not considered a part of an asbestos mill.

(2) Roadways and Parking Lots. The surfacing of roadways, parking lots or any other surface covering on which vehicle traffic might reasonably be expected to occur, with asbestos tailings or asbestos material is prohibited, except for

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temporary roadways on an area of asbestos ore deposits. For purposes of these rules, the deposition of asbestos tailings on roadways covered by snow or ice is considered surfacing.

(3) Manufacturing. No person shall cause to be discharged into the atmosphere any visible emissions, except as provided in section (10) of this rule, from any building or structure in which manufacturing operations utilizing commercial asbestos are conducted, or directly from any such manufacturing operations if they are conducted outside buildings or structures. Visible emissions from boilers or other points not producing emissions directly from the manufacturing operation ;and having no possible asbestos material in the exhaust gases shall not be considered for purposes of this rule. The presence of uncombined water in the exhaust plume shall not be cause for failure to meet the visible emission requirements. Manufacturing operations considered for purposes of these rules are as follows:

- (a) The manufacture of cloth, cord, wicks, tubing, tape, twine, rope, thread, yarn, roving, lap, or other textile materials.
- (b) The manufacture of cement products.
- (c) The manufacture of fireproofing and insulating materials.
- (d) The manufacture of friction products.
- (e) The manufacture of paper, millboard, and felt.
- (f) The manufacture of floor tile.
- (g) The manufacture of paints, coatings, caulks, adhesives, or sealants.
- (h) The manufacture of plastics and rubber materials.
- (i) The manufacture of chlorine.
- (j) The manufacture of shotgun shells.
- (k) The manufacture of asphalt concrete.
- (l) Any other manufacturing operation which results or may result in the release of asbestos material to the ambient air.

[(4) Demolition and renovation. All persons, both the contractor and the owner, intending to demolish any institutional, commercial, or industrial building, including apartment buildings having four or more dwelling units, structure, facility, installation, or any vehicle or vessel including, but not limited to, ships; or any portion thereof which contains any boiler, pipe, duct, tank, reactor, turbine, furnace, or structural member that is insulated or

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fireproofed with friable asbestos material shall comply with the requirements set forth in this rule:

(a) Notice of intention to demolish and/or renovate shall be provided to the Department prior to commencement of such demolition and/or renovation. Such notice shall include the following information:

(A) Name and address of person intending to engage in demolition.

(B) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the demolition is to be accomplished.

(C) Schedule starting and completion dates of demolition.

(D) Method of demolition and/or renovation to be employed.

(E) Procedures to be employed to insure compliance with provisions of this section.

(F) Name and address or location of the waste disposal site where the friable asbestos waste will be deposited.

(G) Name and address of owner of facility to be demolished or renovated.

(b) The following procedures shall be employed to prevent emissions of particulate asbestos material into the ambient air:

(A) Friable asbestos materials used to insulate or fireproof any boiler, pipe, duct, or structural member shall be wetted and removed from any building, structure, facility, installation, or vehicle or vessel before demolition of structural members is commenced. Boilers, pipe, duct, or structural members that are insulated or fireproofed with friable asbestos materials may be removed as units or in sections without stripping or wetting, except that where the boiler, pipe, duct, or structural member is cut or disjointed the exposed friable asbestos material shall be wetted. Friable asbestos debris shall be wetted adequately to insure that such debris remains wet during all stages of demolition and related handling operations.

(B) No pipe, duct, or structural member that is covered with asbestos material shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, but shall be carefully lowered or taken to ground level in such a manner as to insure that no particulate asbestos material is released to the ambient air.

(C) No friable asbestos debris shall be dropped or thrown to the ground from any building structure, facility, installation, vehicle, or vessel subject to this section, or from any floor to any floor below. Any debris generated as a result of demolition occurring fifty (50) feet (15.24 meters) or greater above ground level shall be transported to the ground via dust-tight chutes or containers.

(D) For renovation operations, local exhaust ventilation and collection systems may be used, instead of wetting; these systems shall comply with section (7) of this rule.

(c) Any person intending to demolish a building, structure, facility, or installation subject to the provisions of this section, but which has been declared by proper state or local authorities to be structurally unsound and which is in danger of imminent collapse is exempt from the requirements of this section, other than the reporting requirements specified in subsection (4)(a) of

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this rule, and the wetting of friable asbestos debris as specified in paragraph (4)(b)(A) of this rule.

(d) Sources located in cities or other areas of local jurisdiction having demolition regulations or ordinances no less restrictive than those of this rule may be exempted from the provisions of this section. Such local ordinance or regulation must be filed with and approved by the Department before an exemption from these rules may be issued. Any authority having such local jurisdiction shall annually submit to the Department a list of all sources subject to this section operating within the local jurisdictional area and a list of those sources observed by the local authority during demolition operations.]

(4) Asbestos abatement projects. All persons intending to conduct or provide for the conduct of an asbestos abatement project shall comply with the requirements set forth in OAR 340-25-465(5), (6), and (7). The following asbestos abatement projects are exempt from these requirements:

(a) Asbestos abatement conducted in a private residence which is occupied by the owner and the owner-occupant performs the asbestos abatement.

(b) Removal of vinyl asbestos floor tile that is not attached by asbestos-containing cement, exterior asbestos roofing shingles, exterior asbestos siding, asbestos-containing cement pipes and sheets, and other materials approved by the Department provided that the materials are not caused to become friable or to release asbestos fibers. Precautions taken to ensure that this exemption is maintained may include but are not limited to:

(A) Asbestos-containing materials are not sanded, or power sawn or drilled;

(B) Asbestos-containing materials are removed in the largest sections practicable and carefully lowered to the ground;

(C) Asbestos-containing materials are handled carefully to minimize breakage throughout removal, handling, and transport to an authorized disposal site.

(D) Asbestos-containing materials are wetted prior to removal and during subsequent handling, to the extent practicable.

(c) Removal of less than 0.5 square feet of friable asbestos-containing material provided that the removal of asbestos is not the primary objective and the following conditions are met:

(A) The generation of particulate asbestos material is minimized.

(B) No vacuuming or local exhaust ventilation and collection is conducted with equipment having a collection efficiency lower than that of a HEPA filter.

(C) All asbestos-containing waste materials shall be cleaned up using HEPA filters or wet methods.

(D) Asbestos-containing materials is wetted prior to removal and during subsequent handling, to the extent practicable.

(E) An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.

(d) Removal of asbestos-containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.

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Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

(5) Notification Requirements. Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in subsection (a), (b), or (c) below except as provided in subsections (e), (f), and (g) below.

(a) Submit the notifications as specified in subsection (d) below and the project notification fee to the Department at least ten days before beginning any asbestos abatement project.

(A) The project notification fee shall be:

(i) Twenty-five dollars (\$25) for each small-scale asbestos abatement project.

(ii) Fifty dollars (\$50) for each project greater than a small-scale asbestos abatement project and less than 260 linear feet or 160 square feet.

(iii) Two-hundred dollars (\$200) for each project greater than 260 linear feet or 160 square feet, and less than 2600 linear feet or 1600 square feet.

(iv) Five hundred dollars (\$500) for each project greater than 2600 linear feet or 1600 square feet.

(B) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.

(C) Notification of less than ten days is permitted in case of an emergency involving protection of life, health or property. Notification shall include the information contained in subsection (d) below, and the date of the contract if applicable. If original notification is provided by phone, written notification and the project notification fee shall be submitted within three (3) days after the start of the emergency abatement.

(D) The Department must be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.

(b) For small-scale asbestos abatement projects conducted at one facility, the notification may be submitted as follows:

(A) Establish eligibility for use of this notification procedure with the Department prior to use;

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(B) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (d)(A) through (d)(I) below, to the extent possible;

(C) Provide to the Department a summary report of all small-scale asbestos abatement projects conducted at the facility in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (d)(J) through (d)(M) below for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter;

(D) Submit a project notification fee of two-hundred dollars per year (\$200/year) prior to use of this notification procedure and annually thereafter while this procedure is in use.

(E) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.

(c) For small-scale asbestos abatement projects conducted by a contractor at one or more facilities, the notification may be submitted as follows:

(A) Establish eligibility for use of this procedure with the Department prior to use;

(B) Maintain on file with the Department a general asbestos abatement plan containing the information specified in subsections (d)(A) through (d)(G), to the extent possible;

(C) Provide to the Department a monthly summary of all small-scale projects performed by the 15th day of the following month including the information specified in subsections (d)(H) through (d)(M) below and a description of any significant variations from the general asbestos abatement plan for each project;

(D) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request; and

(E) Submit a notification fee of \$25 per monthly summary prior to the use of this notification procedure.

(F) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.

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(d) The following information shall be provided for each notification:

(A) Name and address of person intending to engage in asbestos abatement.

(B) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for full-scale asbestos abatement or certification number of the trained worker for a project which does not have a certified supervisor.

(C) Method of asbestos abatement to be employed.

(D) Procedures to be employed to insure compliance with OAR 340-25-465.

(E) Names, addresses, and phone numbers of waste transporters.

(F) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.

(G) Description of asbestos disposal procedure.

(H) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the asbestos abatement project is to be accomplished.

(I) Facility owner's or operator's name, address and phone number.

(J) Scheduled starting and completion dates of asbestos abatement work.

(K) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.

(L) Amount of asbestos to be abated: linear feet, square feet, thickness.

(M) Any other information requested on the Department form.

(e) No project notification fee shall be assessed for asbestos abatement projects conducted in the following residential buildings: site-built homes, modular homes constructed off site, condominium units, mobile homes, and duplexes or other multi-unit residential buildings consisting of four units or less. Project notification for a full-scale asbestos abatement project, as defined in OAR 340-33-020(14), in any of these residential buildings shall otherwise be in accordance with subsection (5)(a) of this section. Project notification for a small-scale asbestos abatement project, as defined in OAR 340-33-020(17), in any of these residential buildings is not required.

(f) The project notification fees specified in this section shall be

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increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee.

(g) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.

(h) Pursuant to ORS 468.535, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.

(6) Work practices and procedures. The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:

(a) Remove friable asbestos materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, friable asbestos materials need not be removed before demolition if:

(A) They are on a facility component that is encased in concrete or other similar material; and

(B) These materials are adequately wetted whenever exposed during demolition.

(b) Adequately wet friable asbestos materials when they are being removed. In renovation, maintenance, repair, and construction operations, wetting that would unavoidably damage equipment is not required if the owner or operator:

(A) Demonstrates to the Department that wetting would unavoidably damage equipment, and

(B) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.

(c) When a facility component covered or coated with friable asbestos materials is being taken out of the facility as units or in sections:

(A) Adequately wet any friable asbestos materials exposed during cutting or disjointing operation; and

(B) Carefully lower the units or sections to ground level, not dropping them or throwing them.

(d) For friable asbestos materials being removed or stripped:

(A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-25-465(13); and

(B) Carefully lower the materials to the floor, not dropping or throwing them; and

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(C) Transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.

(e) If a facility is being demolished under an order of the State or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of subsections (a), (b), (c), (d), and (f) of this section shall not apply, provided that the portion of the facility that contains friable asbestos materials is adequately wetted during the wrecking operation.

(f) None of the operations in subsections (a) through (d) of this section shall cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

(g) Contractors licensed and workers certified to conduct only small-scale asbestos abatement projects under OAR 340-33 may use only those work practices and engineering controls specified by OAR 437 Appendix 83-G (Asbestos) (9/17/87) unless the Department authorizes other methods on a case-by-case basis.

(h) The Director may approve, on a case-by-case basis, requests to use an alternative to a specific worker or public health protection requirement as provided by these rules for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides worker and public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.

(7) Related Work Practices and Controls

Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Accident Prevention Division shall comply with the subsections of OAR Chapter 437 Division 83 which limit the release of asbestos-containing material or exposure of other persons. As used in this subsection the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.

[(5)](8) Spraying:

(a) No person shall cause to be discharged into the atmosphere any visible emissions from any spray-on application of materials containing more than one (1) percent asbestos on a dry weight basis used to insulate or fireproof equipment or machinery, except as provided in section (10) of this rule. Spray-on materials used to insulate or fireproof buildings, structures, pipes, and conduits shall

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contain less than one (1) percent asbestos on a dry weight basis. In the case of any city or area of local jurisdiction having ordinances or regulations for spray application materials more stringent than those in this section, the provisions of such ordinances or regulations shall apply.

(b) Any person intending to spray asbestos materials to insulate or fireproof buildings, structures, pipes, conduits, equipment, or machinery shall report such intention to the Department prior to the commencement of the spraying operation. Such report shall contain the following information:

(A) Name and address of person intending to conduct the spraying operation.

(B) Address or location of the spraying operation.

(C) The name and address of the owner of the facility being sprayed.

(c) The spray-on application of materials in which the asbestos fibers are encapsulated with a bituminous or resinous binder during spraying and which are not friable after drying is exempted from the requirements of subsections (8)(a) and (b) of this rule.

[(6)](9) Options for air cleaning. Rather than meet the no visible emissions requirements of sections (1) and (3) of this rule, owners and operators may elect to use methods specified in section (10) of this rule.

[(7)](10) Air cleaning. All persons electing to use air cleaning methods rather than comply with the no visible emission requirements must meet all provisions of this section:

(a) Fabric filter collection devices must be used, except as provided in subsections (b) and (c) of this section. Such devices must be operated at a pressure drop of no more than four (4) inches (10.16 cm) water gauge as measured across the filter fabric. The air flow permeability, as determined by ASTM Method D737-69, must not exceed 30 ft.³/min./ft.² (9.144 m³/min./m²) for woven fabrics or 35 ft.³/min./ft.² (10.67 m³/min./m²) for felted fabrics with the exception that airflow permeability for 40 ft.³/min./ft.² (12.19 m³/min./m²) for woven and 45 ft.³/min./ft.² (13.72 m³/min./m²) for felted fabrics shall be allowed for filtering air emissions from asbestos ore dryers. Each square yard (square meter) of felted fabric must weigh at least 14 ounces (396.9 grams) and be at least one-sixteenth (1/16) inch (1.50 mm) thick throughout. Any synthetic fabrics used must not contain fill yarn other than that which is spun.

(b) If the use of fabric filters creates a fire or explosion hazard, the Department may authorize the use of wet collectors designed to operate with a unit contacting energy of at least forty (40) inches (101.6 cm) of water gauge pressure.

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(c) The Department may authorize the use of filtering equipment other than that described in subsections (10)(a) and (b) of this rule if such filtering equipment is satisfactorily demonstrated to provide filtering of asbestos material equivalent to that of the described equipment.

(d) All air cleaning devices authorized by this section must be properly installed, operated, and maintained. Devices to bypass the air cleaning equipment may be used only during upset and emergency conditions, and then only for such time as is necessary to shut down the operation generating the particulate asbestos material.

(e) All persons operating any existing source using air cleaning devices shall, within ninety (90) days of the effective date of these rules, provide the following information to the Department:

(A) A description of the emission control equipment used for each process.

(B) If a fabric is utilized, the following information shall be reported:

(i) The pressure drop across the fabric filter in inches water gauge and the airflow permeability in $\text{ft.}^3/\text{min.}/\text{ft.}^2$ ($\text{m}^3/\text{min.}/\text{m}^2$).

(ii) For woven fabrics, indicate whether the fill yarn is spun or not spun.

(iii) For felted fabrics, the density in ounces/yard³ (gms/m^3) and the minimum thickness in inches (centimeters).

(C) If a wet collector is used the unit contact energy shall be reported in inches of pressure, water gauge.

(D) All reported information shall accompany the information required in paragraph 340-25-460(8)(a)(E).

[(8)](11) Fabricating: No person shall cause to be discharged into the atmosphere any visible emissions except as provided in section (10) of this rule, from any fabricating operations including the following, if they use commercial asbestos or, from any building or structure in which such operations are conducted.

(a) The fabrication of cement building products.

(b) The fabrication of friction products, except those operations that primarily install asbestos friction materials on motor vehicles.

(c) The fabrication of cement or silicate board for ventilation hoods; ovens; electrical panels; laboratory furniture; bulkheads, partitions and

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ceilings for marine construction; and flow control devices for the molten metal industry.

[(9)](12) Insulation: Molded insulating materials which are friable and wet-applied insulating materials which are friable after drying, installed after the effective date of these regulations, shall contain no commercial asbestos. The provisions of this section do not apply to insulating materials which are spray applied: such materials are regulated under section (3) of this rule.

[(10)](13) [Waste disposal for manufacturing, fabricating, demolition, renovation and spraying operations:] Disposal of asbestos-containing waste material: The owner or operator of any source covered under the provisions of sections (3), (4), [(5)], (8) or [(8)] (11) of this rule or any other source of friable asbestos-containing waste material shall meet the following standards

(a) There shall be no visible emissions to the outside air, except as provided in subsection [(10)] (13)(c) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.

(b) All asbestos-containing waste material shall be disposed of at a disposal site authorized by the Department. Records of disposal at an authorized landfill shall be maintained by the source for a minimum of three years and shall be made available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-33-040, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.

(A) Persons intending to dispose of [waste-containing] asbestos-containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.

(B) All [waste-containing] asbestos-containing waste material shall be wetted and stored and transported to the authorized disposal site in leak-tight containers such as two plastic bags each with a minimum of a thickness of 6 mil., or fiber or metal drums.

(C) The waste transporter shall immediately notify the landfill operator upon arrival of the waste at the disposal site. Off-loading of [waste-containing] asbestos-containing waste material shall be done under the direction and supervision of the landfill operator.

(D) Off-loading of [waste-containing] asbestos-containing waste material shall occur at the immediate location where the waste is to be buried. The waste burial site shall be selected in an area of minimal work activity that is not subject to future excavation.

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(E) Off-loading of [waste-containing] asbestos-containing waste material shall be accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.

(F) [Immediately after waste-containing a] Asbestos-containing waste material [is] deposited at a disposal site [, it] shall be covered with at least 2 feet of soil or 1 foot of soil plus 1 foot of other waste before compacting equipment runs over it but not later than the end of the operating day. [If other waste is used to cover the asbestos-containing material prior to compaction, the disposal area shall be covered with 1 foot of soil before the end of the operating day.]

(c) Rather than meet the requirements of this section, an owner or operator may elect to use an alternative disposal method which has received prior approval by the Department in writing.

(d)(A) All asbestos-containing waste material shall be sealed into containers labeled with a warning label that states:

[Caution

Contains Asbestos
Avoid Opening or Breaking Container
Breathing Asbestos is Hazardous to Your Health]

DANGER

Contains Asbestos Fibers
Avoid Creating Dust
Cancer and Lung Disease Hazard
Avoid Breathing Airborne
Asbestos Fibers

(B) Alternatively, warning labels specified by [Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA) under 29 CFR 1910-93a(g)(2)(ii) may be used, or its Oregon State equivalent OAR 437-115-040(2)(b).] the U.S. Environmental Protection Agency under 40 CFR 61.152(b)(1)(iv) (3/10/86) may be used.

(14) Any waste which contains nonfriable asbestos-containing material and which is not subject to subsection (13) of this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.

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[(e)](15) Open storage or accumulation of friable asbestos material or asbestos-containing waste material is prohibited.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality in Portland.]

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Hist: DEQ 96, f. 9-2-75; DEQ 22-1982, f. & Ef. 10-21-82

(February, 1983)

OREGON ADMINISTRATIVE RULES
LICENSING AND CERTIFICATION REQUIREMENTS

ASBESTOS REQUIREMENTS

AUTHORITY, PURPOSE, & SCOPE

340-33-010 (1) Authority. These rules are promulgated in accordance with and under the authority of ORS 468.893.

(2) Purpose. The purpose of these rules is to provide reasonable standards for:

(a) training and licensing of asbestos abatement project contractors,

(b) training and certification of asbestos abatement project supervisors and workers,

(c) accreditation of providers of training of asbestos contractors, supervisors, and workers,

(d) administration and enforcement of these rules by the Department.

(3) Scope

(a) OAR 340-33-000 through -100 is applicable to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any material which could potentially release asbestos fibers into the air; except as provided in (b) and (c) below.

(b) OAR 340-33-000 through -100 do not apply to an asbestos abatement project which is exempt from OAR 340-25-465(4).

(c) OAR 340-33-010 through -100 do not apply to persons performing vehicle brake and clutch maintenance or repair.

(d) Full-scale asbestos abatement projects are differentiated from smaller projects. Small-scale asbestos abatement projects as defined by OAR 340-33-020(17) are limited by job size and include projects,

(A) where the primary intent is to disturb the asbestos-containing material and prescribed work practices are used, and

(B) where the primary intent is not to disturb the asbestos-containing material.

(e) OAR 340-33-000 through -100 provide training, licensing, and certification standards for implementation of OAR 340-25-465, Emission Standards and Procedural Requirements for Asbestos.

DEFINITIONS

340-33-020 As used in these rules,

(1) "Accredited" means a provider of asbestos abatement training courses is authorized by the Department to offer training courses that satisfy requirements for contractor licensing and worker training.

(2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or

disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos containing material into the air.

Note: Emergency fire fighting is not an asbestos abatement project.

(5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight, including particulate asbestos material.

(6) "Certified" means a worker has met the Department's training, experience, and/or quality control requirements and has a current certification card.

(7) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(8) "Commission" means the Environmental Quality Commission.

(9) "Department" means the Department of Environmental Quality.

(10) "Director" means the Director of the Department of Environmental Quality.

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(13) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(14) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale project as defined by (17) below.

(15) "Licensed" means a contracting entity has met the Department's training, experience, and/or quality control requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license.

(16) "Persons" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(17) "Small-scale asbestos abatement project" means small-scale, short-duration projects as defined by (18) below, and/or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos containing material from releasing fibers into the air and which:

(a) Remove, encapsulate, repair or maintain less than 40 linear feet or 80 square feet of asbestos-containing material;

(b) Do not subdivide an otherwise full-scale asbestos abatement project into smaller sized units in order to avoid the requirements of these rules;

(c) Utilize all practical worker isolation techniques and other control measures; and

(d) Do not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air calculated as an eight (8) hour time weighted average.

(18) "Small-scale, short-duration renovating and maintenance activity"

means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

- (a) Removal of quantities of asbestos-containing insulation on pipes;
- (b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
- (c) Replacement of an asbestos-containing gasket on a valve;
- (d) Installation or removal of a small section of drywall; or
- (e) Installation of electrical conduits through or proximate to asbestos-containing materials.

Small-scale, short duration activities shall be limited to no more than 40 linear feet or 80 square feet of asbestos containing material. An asbestos abatement activity that would otherwise qualify as a full-scale abatement project shall not be subdivided into smaller units in order to avoid the requirements of these rules.

(19) "Trained worker" means a person who has successfully completed specified training and can demonstrate knowledge of the health and safety aspects of working with asbestos.

(20) "Worker" means an employe or agent of a contractor or facility owner or operator.

GENERAL PROVISIONS

340-33-030 (1) Persons engaged in the removal, encapsulation, repair, or enclosure of any asbestos-containing material which has the potential of releasing asbestos fibers into the air must be licensed or certified, unless exempted by OAR 340-33-010(3).

(2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.

(3) Any contractor engaged in a full-scale asbestos abatement project must be licensed by the Department under the provisions of OAR 340-33-040.

(4) Any person acting as the supervisor of any full-scale asbestos abatement project must be certified by the Department as a Supervisor for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050.

(5) Any worker engaged in or working on any full-scale asbestos abatement project must be certified by the Department as a Worker for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050, or as a Supervisor for Full-Scale Asbestos Abatement.

(6) Any contractor or worker engaged in any small-scale asbestos abatement project but not licensed or certified to perform full-scale asbestos abatement projects, must be licensed or certified by the Department as a Small-Scale Asbestos Abatement Contractor or a Worker for Small-Scale Asbestos Abatement, respectively under the provisions of OAR 340-33-040 and -050.

(7) Any provider of training which is intended to satisfy the licensing and certification training requirements of these rules must be accredited by the Department under the provisions of OAR 340-33-060.

(8) Any person licensed, certified, or accredited by the Department under the provisions of these rules shall comply with the appropriate provisions of OAR 340-25-465 and OAR 340-33-000 through -100, or be subject to suspension or revocation of license, or certification, or accreditation.

(9) Asbestos abatement contractors and workers may perform asbestos abatement projects without a license or certificate until January 1, 1989. Thereafter, any contractor or worker engaged in an asbestos abatement project must be licensed or certified by the Department.

(10) The Department may accept evidence of violations of these rules from representatives of other federal, state, or local agencies.

(11) A regional air pollution authority which has been delegated authority under OAR 340-25-460(7) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.

(12) An extension of time beyond January 1, 1989, for mandatory contractor licensing, supervisor certification or worker certification may be approved by the Commission if:

(a) Adequate accredited training as required for any of the categories of licensing or certification is not available in the State, and

(b) There is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.

(13) Variances from these rules may be granted by the Commission under ORS 468.345.

CONTRACTOR LICENSING

340-33-040 (1) Contractors may be licensed to perform either of the following categories of asbestos abatement projects:

(a) Full-Scale Asbestos Abatement Contractors: All asbestos abatement projects, regardless of project size or duration, or

(b) Small-Scale Asbestos Abatement Contractor: Small-scale asbestos abatement projects.

(2) Application for licenses shall be submitted on forms prescribed by the Department and shall be accompanied by:

(a) Documentation that the contractor, or contractor's employee representative, is certified at the appropriate level by the Department:

(A) Full-scale Asbestos Abatement Contractor license: Certified Supervisor for Full-Scale Asbestos Abatement.

(B) Small-Scale Asbestos Abatement Contractor: Certified Worker for Small-Scale Asbestos Abatement.

(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

(c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past one (1) year, and a list of any asbestos-related enforcement actions taken against the contractor during the past one (1) year.

(d) List any additional project supervisors for full-scale projects and their certification numbers as Supervisors for Full-Scale Asbestos Abatement.

(e) Summary of asbestos abatement projects conducted by the contractor during the past 12 months.

(f) A license application fee.

(3) The Department will review the application for completeness. If the

application is incomplete, the Department shall notify the applicant in writing of the deficiencies.

(4) The Department shall deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(5) The Department shall issue a license to the applicant after the license is approved.

(6) The Department shall grant a license for a period of 12 months. Licenses may be extended during Department review of a renewal application.

(7) Renewals:

(a) License renewals must be applied for in the same manner as is required for an initial license.

(b) For renewal, the contractor or employee representative must have completed at least the appropriate annual refresher course.

(c) The complete renewal application shall be submitted no later than 60 days prior to the expiration date.

(8) The Department may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or comply with the rules adopted by the Commission.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained or uncertified worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

(9) A contractor who has a license revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

WORKER CERTIFICATION

340-33-050 (1) Workers on asbestos abatement projects shall be certified at one or more of the following levels:

(a) Certified Supervisor for Full-Scale Asbestos Abatement.

(b) Certified Worker for Full-Scale Asbestos Abatement.

(c) Certified Worker for Small-Scale Asbestos Abatement.

(2) Application for Certification-General Requirements

(a) Applications shall be submitted to the provider of the accredited training course within thirty (30) days of completion of the course.

(b) Applications shall be submitted on forms prescribed by the Department and shall be accompanied by the certification fee.

(3) Application to be a Certified Supervisor for Full-Scale Asbestos Abatement shall include:

(a) Documentation that the applicant has successfully completed the Supervisor for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document, and

(b) Documentation that the applicant has been certified as a Worker for Full-Scale Asbestos Abatement and has at least 3 months of full-scale asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects. The Department shall have the authority to determine if any applicant's experience satisfies those requirements. Applications for licenses submitted prior to January 1, 1989 shall not be required to include documentation of certification as a worker.

(4) Application to be a Certified Worker for Asbestos Abatement shall include:

(a) Documentation that the applicant to be a Certified Worker for Full-Scale Asbestos Abatement has successfully completed the Worker for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(b) Documentation that the applicant to be a Certified Worker for Small-Scale Asbestos Abatement has successfully completed the Worker for Small-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(5) Training course providers shall issue certification to an applicant who has fulfilled the requirements of certification.

(6) Certification at all levels is valid for a period of twenty-four (24) months after the date of issue.

(7) Renewals

(a) Certification renewals must be applied for in the same manner as application for original certification.

(b) To gain renewal of certification, the worker must complete the appropriate annual refresher course no sooner than nine (9) months and no later than twelve (12) months after the issuance date of the certificate, and again no sooner than three (3) months prior to the expiration date of the certificate.

(8) The Department may suspend or revoke a worker's certificate for failure to comply with any state or federal asbestos abatement rule or regulation.

(9) If a certification is revoked, the worker may reapply for another initial certification only after twelve (12) months from the revocation date.

(10) A current worker certification card shall be available for inspection at each asbestos abatement project site for each worker conducting asbestos abatement activities on the site.

TRAINING PROVIDER ACCREDITATION

340-33-060 (1) General

(a) Asbestos training courses required for licensing or certification under these rules may be provided by any person.

(b) Any training provider offering training in Oregon to satisfy these certification and licensing requirements must be accredited by the Department.

(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department.

(d) The training provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examination materials, equipment inventory, and performance during on-site course audits by Department representatives that the provider meets the minimum requirements established by the Department.

(e) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the Department. The student to instructor ratio for hands-on training shall be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed thirty, the course sponsor must submit the following information in writing to the Department for evaluation and approval prior to expanding the class size.

(A) The new class size limit,

(B) The teaching methods and techniques for training the proposed

larger class,

(C) The protocol for conducting the written examination, and

(D) Justification for a larger class size.

(f) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(g) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.

(h) Training providers seeking accreditation for courses conducted since January 1, 1987, may apply for accreditation of those course offerings as though they were applying for initial accreditation. Contractors and workers trained by these providers since January 1, 1987 may be eligible to use this prior training as satisfaction of the initial training required by these licensing and certification rules.

(i) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with these regulations. This condition shall be an addition to the standard accreditation application fee.

(2) Application for Accreditation.

(a) Application for accreditation shall be submitted to the Department in writing on forms provided by the Department and attachments. Such applications shall, as a minimum, contain the following information:

A. Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training.

B. The type of course(s) for which approval is requested.

C. A detailed course outline showing topics covered and the amount of time given to each topic, including the hands-on skill training.

D. A copy of the course manual, including all printed material to be distributed in the course.

E. A description of teaching methods to be employed, including description of audio-visual materials to be used. The Department may, at its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the Department will be returned to the applicant.

F. A description of the hands-on facility to be utilized including protocol for instruction, number of students to be accommodated, the number of instructors, and the amount of time for hands-on skill training.

G. A description of the equipment that will be used during both classroom lectures and hands-on training.

H. A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each.

I. A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination.

J. A list of the tuition or other fees required.

K. A sample of the certificate of completion and certification card label.

L. A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination.

M. A list of any states or accrediting systems that approve the

training course.

N. A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training, as applicable.

O. A description of course evaluation methods used by students.

P. Any restriction on attendance such as class size, language, affiliation, and/or target audience of class.

Q. A description of the procedure for issuing replacement certification cards to workers who were issued a certification card or certification card label by the training provider within the previous 12 months and whose cards have been lost or destroyed.

R. Any additional information or documentation as may be required by the Department to evaluate the adequacy of the application.

S. Accreditation application fee.

(b) Application for initial training course accreditation and course materials shall be submitted to the Department at least 45 days prior to the requested approval date.

(c) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(d) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the twelve (12) months prior to renewal.

(3) Denial, Suspension or Revocation of Certificate of Accreditation. The Director may deny, revoke or suspend an application or current accreditation upon finding of sufficient cause. Applicants and certificate holders shall also be advised of the duration of suspension or revocation and any conditions that must be met before certificate reinstatement. Applicants shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of OAR Chapter 340 Division 11. The following may be considered grounds for denial, revocation or suspension:

(a) False statements in the application, omission of required documentation or the omission of information.

(b) Failure to provide or maintain the standards of training required by these regulations.

(c) Failure to provide minimum instruction required by these regulations.

(d) Failure to report to the Department any change in staff or program which substantially deviates from the information contained in the application.

(e) Failure to comply with the administrative tasks and any other requirement of these regulations.

(4) Training Provider Administrative Tasks. Accredited training providers shall perform the following as a condition of accreditation:

(a) Administer the training course examination only to those students who successfully complete the training course.

(b) Issue a numbered certificate to each students who successfully passes the training course examination. Each certificate shall include the name of the student, name of the course completed, the dates of the course and the examination, name of the training provider, a unique certificate number, and a statement that the student passed the examination.

(c) Issue a photo identification card to each student seeking initial or

renewal certification who successfully completes the training course examination and meets all other requirements for certification. The photo identification card shall meet the Department specifications.

(d) Place a label on the back of the photo identification card of each student who successfully completes a refresher training course and examination as required to maintain certification. The label shall meet Department specifications.

(e) Provide to the Department within ten (10) calendar days of the conclusion of each course offering the name, address, telephone number, Social Security Number, course title and dates given, attendance record, exam scores, and course evaluation form of each student attending the course and the certification number, certification fee, and a photograph for each student certified. Record of the information shall be retained by the training provider for a period of three (3) years.

(f) Obtain advance approval from the Department for any changes in the course instructional staff, content, training aids used, facility utilized or other matters which would alter the instruction from that described in the approval application.

(e) Utilize and distribute as part of the course information or training aides furnished by the Department.

(f) Notify the Department in writing at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(g) Establish and maintain course records and documents relating to course accreditation application. Accredited training providers shall make records and documents available to the Department upon request. Training providers whose principle place of business is outside of the State of Oregon shall provide a copy of such records or documents within ten (10) business days of receipt of such a written request from the Department.

(h) Notify the Department prior to issuing a replacement certification card.

(i) Accredited training providers must have their current accreditation certificates at the location where they are conducting training.

GENERAL TRAINING STANDARDS

340-33-070 (1) Courses of instruction required for certification shall be specific for each of the certificate categories and shall be in accordance with Department guidelines. The topics or subjects of instruction which a person must receive to meet the training requirements must be presented through a combination of lectures, demonstrations, and hands-on practice.

(2) Courses requiring hands-on training must be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation shall not substitute for hands-on training.

(3) Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least four days as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. Successful completion of the training shall be demonstrated by achieving a passing score

on the examination, course attendance, and full participation in the hands-on training.

(4) Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training. The course shall adequately address the following topics:

(5) Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a two day approved training course as outlined in the DEQ Asbestos Training Guidance Document. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.

(6) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement and at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement. The refresher courses shall include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the DEQ Asbestos Training Guidance Document. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in any hands-on training.

(7) One training day shall consist of at least seven hours, of actual classroom instruction and hands-on practice.

PRIOR TRAINING

340-33-080 Successful completion of an initial training course not accredited by the Department may be used to satisfy the training and examination requirements of OAR 340-33-050 and OAR 340-33-060 provided that all of the following conditions are met.

(1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-33-050 and 340-33-060 and the asbestos training guidance document, for the level of certification sought. State and local requirements may vary.

(2) If the training was completed prior to January 1, 1987, the applicant must demonstrate to the Department that additional experience sufficient to maintain knowledge and skills in asbestos abatement has been obtained in the interim.

(3) The applicant who has received recognition from the Department for alternate initial training successfully completes an Oregon accredited refresher course and refresher course examination for the level of certification sought.

RECIPROCITY

340-33-090 The Department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and/or certification if the Department finds that the training, licensing and/or

certification standards of the other jurisdiction are at least as stringent as those required by these rules.

FEES

340-33-100 (1) Fees shall be assessed to provide revenues to operate the asbestos control program. Fees are assessed for the following:

- (a) Contractor Licenses
- (b) Worker Certifications
- (c) Training Provider Accreditation
- (d) Asbestos Abatement Project Notifications

(2) Contractors shall pay a non-refundable license application fee of:

(a) Three hundred dollars (\$300) for a one year Full-Scale Asbestos Abatement Contractor license.

(b) Two hundred dollars (\$200) for a one year Small-Scale Asbestos Abatement Contractor license.

(3) Workers shall pay a non-refundable certification fee of:

(a) One hundred dollars (\$100) for a two year certification as a certified Supervisor for Full-Scale Asbestos Abatement.

(b) Eighty dollars (\$80) for a two year certification as a Certified Worker for Full-Scale Asbestos Abatement.

(c) Fifty dollars (\$50) for a two year certification as a Certified Worker for Small-Scale Asbestos Abatement.

(4) Training Providers shall pay a non-refundable accreditation application fee of:

(a) One thousand dollars (\$1000) for a one year accreditation to provide a course for training supervisors on Full-Scale projects.

(b) Eight hundred dollars (\$800) for a one year accreditation to provide a course for training workers on Full-Scale projects.

(c) Five hundred dollars (\$500) for a one year accreditation to provide a course for training workers on Small-Scale projects.

(d) Two hundred and fifty dollars (\$250) for a one year accreditation to provide a course for refresher training for any level of certification.

(5) Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

(6) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(7) "Facility" means all or part of any public or private building, structure, installation, equipment, vehicle or vessel, including but not limited to ships.

(8) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(9) "Person" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(10) "Trained worker" means a person who has successfully completed specified training in and can demonstrate knowledge of the health and safety aspects of working with asbestos.

(11) "Worker" means an employe or agent of a contractor or facility owner or operator. [1987 c.741 §2]

ASBESTOS ABATEMENT PROJECTS

468.875 Definitions for ORS 468.875 to 468.899. As used in ORS 468.875 to 468.899:

(1) "Accredited" means a provider of asbestos abatement training courses is authorized by the department to offer training courses that satisfy department requirements for contractor licensing and worker training.

(2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.

(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, inclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air.

(5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight.

468.877 Findings. The Legislative Assembly finds and declares that:

(1) Asbestos-containing material in a friable condition, or when physically or chemically altered, can release asbestos fibers into the air. Asbestos fibers are respiratory hazards proven to cause lung cancer, mesothelioma and asbestosis and as such, are a danger to the public health.

(2) There is no known minimal level of exposure to asbestos fibers that guarantees the full protection of the public health.

(3) Asbestos-containing material found in or on facilities or used for other purposes within the state is a potential health hazard.

(4) The increasing number of asbestos abatement projects increases the exposure of contractors, workers and the public to the hazards of asbestos.

(5) If improperly performed, an asbestos abatement project creates unnecessary health and safety hazards that are detrimental to citizens and to the state in terms of health, family life, preservation of human resources, wage loss, insurance, medical expenses and disability compensation payments.

(6) It is in the public interest to reduce exposure to asbestos caused by improperly performed asbestos abatement projects through the upgrading of contractor and worker knowledge, skill and competence. [1987 c.741 §3]

468.879 License required for asbestos abatement project. (1) Except as provided in paragraph (c) of subsection (1) and subsection (3) of section 4, chapter 741, Oregon Laws 1987, after the commission adopts rules under ORS 468.893 and section 4, chapter 741, Oregon Laws 1987, no contractor shall work on an asbestos abatement project unless the contractor holds a license issued by the department under ORS 468.883.

(2) A contractor carrying out an asbestos abatement project shall be responsible for the safe and proper handling and delivery of waste that includes asbestos-containing material to a landfill authorized to receive such waste. [1987 c.741 §5]

468.881 Licensed contractor required; exception. (1) Except as provided in subsection (2) of this section, an owner or operator of a facility containing asbestos shall require only licensed contractors to perform asbestos abatement projects.

(2) A facility owner or operator whose own employees maintain, repair, renovate or demolish the facility may allow the employees to work on asbestos abatement projects only if the employees comply with the training and certification requirements established under ORS 468.887. [1987 c.741 §6]

468.883 Qualifications for license; application. (1) The department shall issue an asbestos abatement license to a contractor who:

(a) Successfully completes an accredited training course for contractors.

(b) Requires each employe or agent of the contractor who works on or is directly responsible for an asbestos abatement project to be certified under ORS 468.887.

(c) Certifies that the contractor has read and understands the applicable state and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

(2) A contractor shall apply for a license or renewal of a license according to the procedures established by rule by the Environmental Quality Commission. [1987 c.741 §7]

468.885 Grounds for license suspension or revocation. (1) The department may suspend or revoke an asbestos abatement license issued to a contractor under ORS 468.883 if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or to comply with rules adopted by the commission under ORS 468.875 to 468.899.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

(2) In addition to any penalty provided by ORS 468.140, the department may suspend or revoke the license or certification of any person who violates the conditions of ORS 468.875 to 468.897 or rules adopted under ORS 468.875 to 468.897. [1987 c.741 §§8, 17]

468.887 Worker certificate required; qualifications; renewal application; suspension or revocation. (1) Except as provided in paragraph (c) of subsection (1) and subsection (3) of section 4, chapter 741, Oregon Laws 1987, after the commission adopts rules under ORS 468.893, no worker shall work on an asbestos abatement project unless the person holds a certificate issued by the Department of Environmental Quality or the department's authorized representative under subsection (2) of this section.

(2) The department or an authorized representative of the department shall issue an asbestos abatement certificate to a worker who successfully completes an accredited asbestos abatement training course approved by the department.

(3) If the commission determines there is a need for a category of workers to update the workers' training in order to meet new or changed conditions, the commission may require the worker, as a condition of certificate renewal, to successfully complete an accredited asbestos abatement review course.

(4) A worker or the facility owner or operator shall submit an application for an asbestos abatement certificate and renewal of a certificate according to procedures established by rule by the Environmental Quality Commission.

(5) The department may suspend or revoke a certificate if a worker fails to comply with applicable health and safety rules or standards. [1987 c.741 §9]

468.889 Alternatives to protection requirements; approval. Subject to the direction of the Environmental Quality Commission, the director may approve, on a case-by-case basis, an alternative to a specific worker and public health protection requirement for an asbestos abatement project if the contractor or facility owner or operator submits a written description of the alternative procedure and demonstrates to the director's satisfaction that the proposed alternative procedure provides worker and public health protection equivalent to the protection that would be provided by the waived provisions. [1987 c.741 §10]

468.891 Accreditation requirements.

(1) The commission by rule shall provide for accreditation of courses that satisfy training requirements contractors must comply with to qualify for an asbestos abatement license under ORS 468.883 and courses that workers must successfully complete to become certified under ORS 468.887.

(2) The accreditation requirements established by the commission under subsection (1) of this section shall reflect the level of training that a course provider must offer to satisfy the licensing requirements under ORS 468.883 and the certification requirements under ORS 468.887.

(3) In order to be accredited under subsection (1) of this section, a training course shall include at a minimum material relating to:

(a) The characteristics and uses of asbestos and the associated health hazards;

(b) Local, state and federal standards relating to asbestos abatement work practices;

(c) Methods to protect personal and public health from asbestos hazards;

(d) Air monitoring;

(e) Safe and proper asbestos abatement techniques; and

(f) Proper disposal of waste containing asbestos.

(4) In addition to the requirements under subsection (3) of this section, the person providing a training course for which accreditation is sought shall demonstrate to the department's satisfaction the ability and proficiency to conduct the training.

(5) Any person providing accredited asbestos abatement training shall make available to the department for audit purposes, at no cost to the department, all course materials, records and access to training sessions.

(6) Applications for accreditation and renewals of accreditation shall be submitted according to procedures established by rule by the commission.

(7) The department may suspend or revoke training course accreditation if the provider fails to meet and maintain any standard established by the commission.

(8) The commission by rule shall establish provisions to allow a worker or contractor trained in another state to use training in other states to satisfy Oregon licensing and certification requirements, if the commission finds that the training received in the other state would meet the requirements of this section. [1987 c.741 §11]

468.893 Rules; variances; training; standards; procedures. The Environmental Quality Commission shall adopt rules to carry out its duties under ORS 279.025, 468.125, 468.535 and 468.875 to 468.899. In addition, the commission may:

(1) Allow variances from the provisions of ORS 468.875 to 468.897 in the same manner variances are granted under ORS 468.345.

(2) Establish training requirements for contractors applying for an asbestos abatement license.

(3) Establish training requirements for workers applying for a certificate to work on asbestos abatement projects.

(4) Establish standards and procedures to accredit asbestos abatement training courses for contractors and workers.

(5) Establish standards and procedures for licensing contractors and certifying workers.

(6) Issue, renew, suspend and revoke licenses, certificates and accreditations.

(7) Determine those classes of asbestos abatement projects for which the person undertaking the project must notify the department before beginning the project.

(8) Establish work practice standards, compatible with standards of the Accident Prevention Division of the Department of Insurance and Finance, for the abatement of asbestos hazards and the handling and disposal of waste materials containing asbestos.

(9) Provide for asbestos abatement training courses that satisfy the requirements for contractor licensing under ORS 468.883 or worker certification under ORS 468.887. [1987 c.741 §12]

Note: Section 4, chapter 741, Oregon Laws 1987, provides:

Sec. 4. (1) Not later than July 1, 1988, the Environmental Quality Commission by rule shall:

(a) Establish an asbestos abatement program that assures the proper, and safe abatement of asbestos hazards through contractor licensing and worker training.

(b) Establish the date after which a contractor must be licensed under section 7 of this 1987 Act [ORS 468.883] and a worker must hold a certificate under section 9 of this 1987 Act [ORS 468.887]. Such date shall be not later than December 31, 1988.

(c) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification, which may consider the number of workers and the availability of accredited training courses.

(2) The program established under subsection (1) of this section shall include at least:

(a) Criteria for contractor licensing and training;

(b) Criteria for worker certification and training;

(c) Standardized training courses; and

(d) A procedure for inspecting asbestos abatement projects.

(3) In establishing the training requirements under subsections (1) and (2) of this section, the commission shall adopt different training requirements that reflect the different levels of responsibility of the contractor or worker, so that within the category of contractor, sublevels shall be separately licensed or exempted and within the category of worker, sublevels shall be separately certified or exempted. The commission shall specifically address as a separate class, those contractors and workers who perform small scale, short duration renovating and maintenance activity. As used in this subsection, "small scale, short duration renovating and maintenance activity" means a task for which the removal of asbestos is not the primary objective of the job, including but not limited to:

(a) Removal of asbestos-containing insulation on pipes;

(b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;

(c) Replacement of an asbestos-containing gasket on a valve;

(d) Installation or removal of a small section of drywall; or

(e) Installation of electrical conduits through or proximate to asbestos-containing materials.

(4) The department, on behalf of the commission, shall consult with the Accident Prevention Division of the Department of Insurance and Finance and the Health Division about proposed rules for the asbestos abatement program to assure that the rules are compatible with all other state and federal statutes and regulations related to asbestos abatement.

(5) The department shall cooperate with the Accident Prevention Division of the Department of Insurance and Finance and the Health Division to promote proper and safe asbestos abatement work practices and compliance with the provisions of this 1987 Act [ORS 279.025, 468.125, 468.535 and 468.875 to 468.899]. [1987 c.741 §4]

468.895 Fee schedule; waiver; disposition. (1) By rule and after hearing, the Environmental Quality Commission shall establish a schedule of fees for:

(a) Licenses issued under ORS 468.883;

(b) Worker certification under ORS 468.887;

(c) Training course accreditation under ORS 468.891; and

(d) Notices of intent to perform an asbestos abatement project under ORS 468.893 (8).

(2) The fees established under subsection (1) of this section shall be based upon the costs of the Department of Environmental Quality in carrying out the asbestos abatement program established under section 4, chapter 741, Oregon Laws 1987.

(3) In adopting the schedule of fees under this section the commission shall include provisions and procedures for granting a waiver of a fee.

(4) The fees collected under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Department of Environmental Quality. Such moneys are continuously appropriated to the Department of Environmental Quality to pay the department's expenses in administering and enforcing the asbestos abatement program. [1987 c.741 §13]

468.897 Exemptions. (1) Except as provided in subsection (2) of this section, ORS 468.875 to 468.895 do not apply to an asbestos abatement project in a private residence if:

(a) The residence is occupied by the owner; and

(b) The owner occupant is performing the asbestos abatement work.

(2) Any person exempt from ORS 468.875 to 468.895 under subsection (1) of this section shall handle and dispose of asbestos-containing material in compliance with standards established by the commission under ORS 468.893. [1987 c.741 §14]

468.899 Content of bid advertisement. Any public agency requesting bids for a proposed project shall first make a determination of whether or not the project requires a contractor licensed under ORS 468.883. The public agency shall include such requirement in the bid advertisement under ORS 279.025. [1987 c.741 §16]

Note: Sections 15, 21 and 22, chapter 741, Oregon Laws 1987, provide:

Sec. 15. (1) There is established an Asbestos Advisory Board to:

(a) Review and advise the commission on proposed rules related to the asbestos abatement program, including but not

limited to criteria for training, certification, licensing and accreditation, fees and waivers.

(b) Make recommendations to provide for and facilitate interagency coordination and cooperation in asbestos abatement.

(c) Prepare recommendations on methods of providing for reciprocity with other states in the training, licensing and certification of asbestos contractors and workers.

(2) The Asbestos Advisory Board shall consist of 11 members as follows:

(a) The director or designee of the Director of the Department of Environmental Quality;

(b) The administrator or a designee of the Administrator of the Accident Prevention Division of the Workers' Compensation Department;

(c) The Assistant Director for Health, or designee;

(d) The Superintendent of Public Instruction, or designee;

(e) The Chair of the Builders Board, or designee;

(f) The State Director of Apprenticeship and Training of the Bureau of Labor and Industries, or designee;

(g) Two representatives of business appointed by the director one of whom is a representative of small business as defined in ORS 183.310;

(h) One representative of organized labor, appointed by the director; and

(i) Two members of the public, appointed by the director.

(3) Each member of the board appointed by the director shall serve a two-year term, commencing on July 1 of the year of appointment, and until a successor is appointed and qualified.

(4) The board shall elect its own presiding officer, adopt rules for its procedure and meet on call of the presiding officer or a majority of the members. A majority of the members shall constitute a quorum to do business. The director shall provide administrative facilities and services for the board.

(5) Members of the Asbestos Advisory Board appointed by the director shall be entitled to expenses as provided in ORS 292.495. [1987 c.741 §15]

Sec. 21. The Department of Environmental Quality shall present to the Sixty-fifth Legislative Assembly a report on the implementation of the asbestos abatement program developed under this Act [ORS 279.025, 468.125, 468.535, 468.875 to 468.899]. [1987 c.741 §21]

Sec. 22. Section 15 of this Act is repealed July 1, 1991. [1987 c.741 §22]

468.900 [1977 c.867 §23; 1983 c.740 §183; renumbered 468.505]

468.901 [1985 c.737 §2; repealed by 1987 c.539 §1 (466.705 enacted in lieu of 468.901)]

468.902 [1985 c.737 §3; repealed by 1987 c.539 §3 (466.715 enacted in lieu of 468.902)]

468.903 [1977 c.867 §24; renumbered 466.510]

468.904 [1985 c.737 §4; repealed by 1987 c.539 §7 (466.725 enacted in lieu of 468.904)]

468.905 [1985 c.737 §5; repealed by 1987 c.539 §19 (466.765 enacted in lieu of 468.905)]

468.906 [1977 c.867 §25; renumbered 466.515]

468.907 [1985 c.737 §6; repealed by 1987 c.539 §29 (466.805 enacted in lieu of 468.907)]

468.908 [1985 c.737 §7; repealed by 1987 c.539 §12 (466.745 enacted in lieu of 468.908)]

468.909 [1977 c.867 §26; renumbered 466.520]

468.910 [1985 c.737 §8; 1987 c. 539 §31; renumbered 466.800 in 1987]

468.911 [1985 c.737 §9; 1987 c.539 §18; renumbered 466.710 in 1987]

468.912 [1977 c.867 §27; renumbered 466.525]

468.913 [1985 c.737 §10; 1987 c.539 §40; renumbered 466.720 (2) in 1987]

468.914 [1985 c.737 §11; repealed by 1987 c.539 §33; 466.820 enacted in lieu of 468.914]

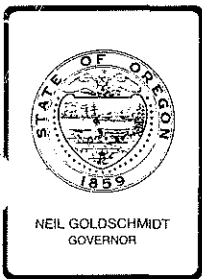
468.915 [1977 c.867 §28; repealed by 1979 c.32 §1]

468.916 [1985 c.737 §12; repealed by 1987 c.539 §45]

468.917 [1985 c.737 §13; repealed by 1987 c.539 §45]

468.918 [1977 c.867 §29; repealed by 1979 c.32 §1]

468.921 [1977 c.867 §30; renumbered 466.530]



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, January 22, 1988, EQC Meeting

Request for Authorization to Conduct Public Hearings
Concerning Proposed Rules Relating to Asbestos Control and
Proposed Amendments to the Hazardous Air Contaminant Rules
for Asbestos, OAR Chapter 340, Division 25, Section 465.

Background and Problem Statement

The Department is proposing the adoption of new asbestos abatement rules, and the adoption of amendments to existing asbestos control rules.

Asbestos is a naturally occurring mineral that separates into strong, very fine fibers. The fibers are heat resistant and extremely durable. These qualities have made asbestos very useful for strengthening materials, thermal and acoustical insulation, and fire protection. Asbestos has been widely used in the U.S. in over 2,000 commercial products, and can be found in industrial, commercial, institutional, and residential facilities built between the 1920's and mid-1970's.

There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided, if possible. Even a single low-concentration exposure can trigger mesothelioma, an incurable form of cancer. In order for asbestos to be a health hazard, it must be released from a product or material into the air people breathe. Once inhaled, fibers can be transported throughout the body via the respiratory and circulatory systems, and can become permanently lodged in body tissues, especially the lungs. Symptoms of asbestos-related diseases generally do not appear for 15 years or longer after the first exposure, and may include lung cancer, mesothelioma, asbestosis, and other cancers of the esophagus, colon, and gastrointestinal system.

There is still no consensus among health officials on the health effects of eating or drinking asbestos-contaminated food or liquid, and no specific standards have yet been set by government agencies to limit the levels of contamination. Likewise, asbestos contact with the skin has not been proven to cause debilitating health effects. However, asbestos fibers may be carried on workers' clothing from a work site to other clean work areas, public areas, or to the workers' homes. These fibers may then be released from the clothes to the local atmosphere, thereby unnecessarily subjecting other workers, the public, and family members to airborne asbestos fibers.

In Oregon, the primary cause of high concentration asbestos releases to the environment has been determined to be the improper removal of asbestos-containing materials during building renovation and demolition activities, and improper waste handling methods. DEQ field inspections have determined that many contractors, and their workers, do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material. Proper training of these workers and a strong compliance assurance program should provide the knowledge, skills, and incentive to protect the workers and their families, and also protect facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers. The proposed rules are intended to minimize asbestos releases from these sources.

ORS Chapter 741, Oregon Laws 1987, the enabling legislation for this program, focused on training workers to use proper work practices as a way to minimize asbestos fiber releases. Workers using the proper worker protection, work practices and engineering controls when disturbing asbestos-containing materials, would also protect the public from exposure to the fibers.

On October 22, 1986, the President signed into law the Asbestos Hazard Emergency Response Act (AHERA) of 1986 that requires, among other things, states to adopt rules requiring contractors and workers conducting asbestos abatement projects in any public or private K-12 school in the U.S. to be trained and accredited to USEPA and/or state standards prior to performing abatement work. These proposed rules would satisfy part of the state requirements under AHERA.

In addition, under AHERA, schools must inspect their facilities for asbestos-containing material, develop an asbestos management plan, and submit the plan to the state for approval by October 12, 1988. The state (in Oregon, the Department of Education) is required to approve or disapprove the plans within 60 days of receipt. Schools must then begin implementation of their plans by July 1989. Federal legislation (SB 981) is pending that would require many of the AHERA requirements for all publicly accessed buildings.

The 1987 Oregon Legislature adopted ORS Chapter 741 requiring the Commission to adopt rules relating to asbestos control by July 1, 1988. The Commission is required to:

1. Establish an asbestos abatement control program through contractor training and licensing, and worker training and certification, to include:
 - a. Criteria for contractor training and licensing
 - b. Criteria for worker training and certification
 - c. Standardized training courses
 - d. Procedure for inspecting asbestos abatement projects

The Commission must specifically address as a separate class, those contractors and workers who perform small scale, short duration renovating and maintenance tasks.

2. Establish the date, not later than December 31, 1988, after which a contractor or worker must be licensed or certified.
3. Establish criteria for granting extensions beyond December 31, 1988, for mandatory licensing and certification.
4. Establish a schedule for fees to support the asbestos control program.

The proposed rules are intended to establish an asbestos abatement control program that is compatible with other related federal and state asbestos regulations. To gain federal approval under AHERA of the Oregon contractor and worker training, licensing and certification program, the Department proposes to use the minimum training and licensing requirements established by USEPA under AHERA. To maintain compatibility with Oregon Accident Prevention Division (APD) rules, the Department proposes to update asbestos project work practice and engineering control standards to include contractors not presently regulated by APD. Additional program elements are being developed in consultation with the Oregon Asbestos Advisory Board (OAAB).

The OAAB was created by ORS Chapter 741, Oregon State Laws 1987, to:

1. Review and advise the Commission on proposed rules relating to the training, licensing and certification program,
2. Recommend methods of reciprocity with other states' programs,
3. Recommend methods to facilitate interagency coordination in asbestos-related manners.

The Board consists of 11 members: six from state agencies, two representing business, two from the public, and one from organized labor. The Board has met six times since October to advise the Department on the practicality of the program design.

To date, the Board has specifically addressed and made recommendations to the Department on the following topics: affected projects, affected persons, and training requirements. The Board has generally addressed but has not made formal recommendations to the Department on the following topics: training provider accreditation, grandfathering of prior training and reciprocity with other states, work practices and engineering controls, project inspections, and fees. The Board has not yet held discussions or provided recommendations to the Department on the following topics: effective dates and extensions, amendments to the Oregon NESHAPS rules, or the role of Regional Air Pollution Authorities.

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The Board is expected to review the draft rules at a meeting on January 12, 1988.

The Department is requesting authorization to conduct public hearings even though the Draft Administrative Rules are still being reviewed by the Advisory Board. The Department will submit a copy of the draft rules to the Commission members at the time the draft rules are made available to the public as part of the public hearing notice.

By statute, the Commission has until July 1, 1988, to adopt the proposed rules. The Department would like to move toward an April 29, 1988, adoption. This would provide as much time as possible for affected parties to become trained and licensed or certified by the December 31, 1988, mandatory date.

The proposed rule adoption schedule would then be as follows:

- o Request Authorization for Public Hearings on January 22.
- o Hold Public Hearings on Proposed Rules during first week of March 1988.
- o Request Legislative Emergency Board approval of additional asbestos staffing on March 24, 1988.
- o Request Rule Adoption by Commission on April 29, 1988.

The Department plans to go to the Legislative Emergency Board for two purposes:

- (1) Provide information on the possible program fee schedule, and
- (2) Request authorization to expand asbestos program by adding more field inspectors to the staff.

The Department is, therefore, requesting authorization to conduct public hearings concerning the proposed adoption of new asbestos control rules and the proposed adoption of amendments to the existing Hazardous Air Contaminant Rules for Asbestos. A Statement of Need and Statement of Land Use consistency are attached.

The Commission is authorized to adopt asbestos abatement control rules by ORS Chapter 741, Oregon State Laws 1987 (House Bill 2367, 1987 Oregon Legislature).

A brief summary of the proposed new rules and amendments follows:

Summary of Proposed Rules and Alternatives

A. Affected Projects

The proposed rules would apply to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the removal, encapsulation, repair, enclosure, salvage, handling, or disposal of any asbestos-containing material which could potentially release asbestos fibers into the air.

The statute exempts projects performed in private residences if the project is performed by the owner/occupant. The rule will propose to exempt vehicle brake and clutch repair projects because the Accident Prevention Division already has a specific program that addresses these sources of asbestos fiber releases.

Asbestos abatement projects would be categorized into full-scale projects and small-scale projects. Small-scale projects would be those asbestos removal, renovation, encapsulation, repair, or maintenance procedures that disturb small amounts (for example: less than 10 linear feet or 11 square feet) of asbestos-containing material, and that are not large projects subdivided into smaller units in order to avoid the more rigorous work practices associated with large-scale projects. Examples of small scale projects are removal of small quantities of asbestos-containing insulation on pipes prior to a pipe valve repair task, and the removal of a small quantity of dry wall that contains asbestos. Persons performing small-scale projects may use less costly and less complex work practices.

The Commission, by statute, must address separately the training and licensing requirements placed on those persons performing small-scale projects. The QAAB is addressing this issue and will make recommendations to the Commission concerning the cut-off between large and small-scale projects and the training and licensing requirements linked to each category.

Establishing the cutoff between large and small-scale projects is an important issue. The issue is important because it will drive the decision that sets the level of training required for persons performing small-scale projects.

There are potentially over 1,000 persons who might choose to work on small-scale projects as a part of their trade and, therefore, will require training. The length, type and availability of training for these people will be an issue in terms of cost and practicality.

The Board, at this point, is in favor of requiring two days of formal training and licensing/certification for anyone conducting these small-scale projects. Two days' training is required under federal AHERA standards, for persons working in schools, however, the training providers need not be formally accredited by EPA or the states, nor do the trainees need formal certification.

The Department is exploring, with the Board, other ways of minimizing fiber releases from these small-scale projects that do not necessarily rely upon formally approved training certification.

B. Affected Persons

The rules would require contractors performing asbestos abatement projects to be licensed. Separate licenses may be required for contractors performing only small-scale projects. Supervisors and workers involved in large-scale projects would be certified. Workers on small-scale projects could also be certified. Facility owners intending to perform an asbestos abatement project would be required to either hire a licensed contractor or use appropriately trained and certified employees to conduct an abatement project.

The Department projects the following number of persons would be licensed or certified by 1988-89:

<u>Large Projects</u>		<u>Small-Scale Projects</u>	
Contractors	40	Contractors	30
Supervisors	100	Workers	1000
Workers	500		

To gain a license or certificate, a person would have to successfully complete a training course approved by the Department.

The Department and OAAB agree upon the proposed method (training, licensing, and certifying) of regulating those contractors, supervisor, and workers performing large-scale abatement projects. However, as described in A above, the method of regulating those persons performing small-scale projects has not yet been settled.

In Oregon alone, there are approximately 100,000 trades people who in the course of their normal work might disturb asbestos-containing material. If they choose to work with asbestos-containing material, they must first be able to identify the material. If they decide to proceed with a small-scale asbestos abatement project, would they fall into the regulated group that would need to be trained and licensed or certified.

Liability issues, regulatory compliance, and health considerations may keep most of the tradespeople from choosing to perform these projects. They would then call in a trained and licensed abatement contractor to handle the asbestos-containing material prior to beginning their own work.

C. Effective Dates and Extensions

The Commission must establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing an asbestos abatement task. The proposed rules would establish December 31, 1988, as that date, which would provide six to eight months for training courses to be approved, and persons to be trained, certified and licensed.

The Commission must establish criteria for granting extensions beyond December 31, 1988, for mandatory licensing and certification. The proposed rules would allow the Commission to grant a time extension if:

- (a) Accredited training required for any of the categories of licensing or certification is not available in the State, and
- (b) There is a public health or worker danger created due to the lack of appropriately licensed or certified persons to properly perform asbestos abatement activities.

D. Training Requirements

Training requirements would be specified for each category of contractor or worker. The training standards the Department is proposing are the minimum standards required by EPA under AHERA for asbestos abatement activities in schools. These requirements are becoming the national training standards. The Department proposes to adopt these standards as guidelines, so that as the national AHERA standards change, adjustment of training curriculum may proceed quickly without formal amendments to the rules. The standards would be compatible with the training required by the Oregon Accident Prevention Division (APD) regulations (OAR Chapter 437).

Training would range from two days for small-scale project workers to a minimum of four days for contractors and supervisors on large projects. Each training course would be required to provide hands-on skill training and an examination. Upon successful completion of the training, a worker would be certified by the course provider, and a contractor would be eligible to apply to the Department for a license.

Under AHERA, annual refresher training is required for large-scale project contractors, supervisors, and workers. The Department would adopt this requirement. Licenses and certifications would expire every year or every two years, respectively.

The OAAB and the Department have addressed the training requirements and have agreed upon the requirements for contractors, supervisors, and workers on large-scale projects. The primary unresolved issue related to training requirements is the amount of training that should be required for contractors and workers performing the small-scale projects.

Presently, the OAAB has recommended a formal two-day minimum training course that would be generally patterned after the federal AHERA standards. At least one of the two days would be devoted to hands-on skill training. The primary factors guiding the training requirements are practicality, cost, and availability of the training for the people who may choose to be licensed/certified at the small-scale level.

The Department recognizes a need for a strong awareness and education effort for the thousands of tradespeople who may encounter asbestos, but is not yet convinced that a full two-day training session is necessary for all tradespeople who will encounter asbestos-containing material.

E. Training Provider Accreditation

Training could be provided by any person, consulting firm, union or trade association, educational institution, public health organization or other entity accredited by the Department. The provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examinations, equipment inventory, and performance during on-site audits by the Department that the minimum training provider requirements are met. Upon approval of a training course, the provider would be granted accreditation by the Department. Only those persons attending an accredited course would be eligible for licensing or certification.

F. Grandfathering of Prior Training, and Reciprocity with Other States

The 1987 Legislature suggested that training received prior to the adoption of these rules, if the training was adequate, should be recognized by the Department for licensing and certification purposes in order to avoid duplicate training and to minimize training costs to affected parties. Therefore, the proposed rules would allow a contractor or worker who successfully completed training between January 1, 1987, and rule adoption to seek approval of the prior training to satisfy licensing and certification requirements. The Department must first determine that the training received would meet the minimum initial training requirements set for Oregon under these proposed rules. The person would then be required to complete the appropriate refresher course in order to gain knowledge of Oregon laws and regulations relating to asbestos.

These rules, if adopted, would also allow the Department to establish reciprocity with other states for purposes of training, licensing, or certification. The Department would first have to determine that the standards of the other states were at least as stringent as those required in Oregon.

G. Work Practices and Engineering Controls

The Department is proposing to update the asbestos abatement project work practices and engineering controls to be consistent with the Oregon Accident Prevention Division (APD) regulations in OAR Chapter 437, Divisions 83 (Construction) and 115 (Asbestos). These work practices are national Occupational Safety and Health Administration regulations adopted by Oregon. APD regulations affect only those situations where there is an employer-employee relationship. Self-employed contractors and partnerships without employees are, therefore, unregulated by APD and, thus, are exempt from complying with these work practices. This group includes many of the small HVAC, electrical, and home remodeling contractors that frequently disturb asbestos-containing material in the course of their work.

Many of the asbestos abatement projects are conducted by people not subject to the APD regulations, therefore, they are not required to use the state-of-the-art asbestos project work practices and engineering controls that were developed to protect workers, their families, and the public health from asbestos exposure.

EPA adopted the same standards for government employees performing asbestos abatement. The Department proposes to adopt these same standards so that anyone performing this work would be required to employ at least the minimum work practices and engineering controls that are required to protect public health.

H. Amendments to Hazardous Air Contaminant Rules for Asbestos (OAR 340-25-465, National Emission Standards for Hazardous Air Pollutants, NESHAPS)

The Department proposes to amend the existing regulations (NESHAPS) that were delegated by the USEPA to the Department in 1975. The proposed amendments would update the rules to meet EPA requirements and provide consistency with the proposed asbestos rules for contractor licensing and worker training.

The definitions of "asbestos," "asbestos material," and "friable asbestos material" would be amended to reflect the most current EPA definitions of these terms.

The existing regulations require advance notification to the Department of intended demolition or renovation activities so that related asbestos abatement activities are known to the Department. The proposed amendments would specify a 10-day minimum advance notice where no time requirement is now specified. This notice requirement is consistent with federal

guidelines. Facility owners that now must report each time they intend to perform even a small-scale project would be allowed to report past quarter activities and upcoming quarter plans for performing these projects.

The proposed amendments would also reduce the number of facilities in which asbestos abatement is exempt from compliance with existing regulations. Presently, residences with three units and fewer are exempt. Proposed amendments would exclude only those projects conducted by owner occupants in their own residence.

I. Project Inspections

The proposed rules would allow the Department to conduct compliance inspections by entering training course classrooms, and abatement project work areas as needed. In addition, the Department would be able to accept evidence of violations of the rules from representatives of other agencies, specifically the APD and Regional Air Pollution Authorities. Inspections could include a request for proof that a training provider, contractor or worker is properly accredited, licensed or certified, as required.

Violators may be penalized by revocation or suspension of accreditation, licenses or certificates, and/or by civil penalty fines.

J. Fees

The Commission is authorized to establish a fee system to support administrative and compliance assurance activities by the Department. The Commission may set fees for training course accreditation, licensing and certification, and project notices. The fee structure contained in the proposed rules is based upon the revenues required to operate the program.

Fees have not yet been determined. The actual dollar values will depend upon the extent of regulation of the small-scale, short-duration contractors and workers. However, the Department informed the Legislature that accreditation fees would not exceed \$1000/yr; license fees would not exceed \$300/yr; and certification fees would not exceed \$50/yr. Project notification fees were not specified but would probably not exceed \$1000/project, depending upon the size and scope of the project. Projects in single family residences would not be assessed a fee.

Total fee revenues required (in addition to available EPA grant money) to operate the asbestos program would be approximately \$465,000 for the 1988-1990 biennium.

K. Regional Air Pollution Authority

Regional Air Pollution Authorities may be delegated specific functions of this program. The proposed rules would allow Lane Regional Air Pollution Authority (LRAPA) (the only regional air pollution authority in Oregon) to establish, collect, retain, and expend project notification fees generated

in their jurisdiction. Regional Authorities would inspect for compliance and enforce the rules concerning project work practices and engineering controls, amended NESHAPS standards, and licensing and certification regulations. Regional Authorities would not have authority to approve, deny, suspend or revoke training accreditation, licenses, or certificates.

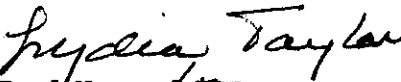
Summation

1. The 1987 Legislature created an asbestos abatement contractor and worker training, licensing and certification program that would be compatible with existing federal and Oregon regulations. This health protection-oriented program would satisfy part of the federal requirement for Oregon to adopt an asbestos abatement contractor and worker training and licensing program. The legislation requires the Commission to adopt the program rules by July 1, 1988.
2. The Oregon Asbestos Advisory Board (OAAB) created by the 1987 legislature is assisting the Department in developing rules to implement the program.
3. The Department is proposing new asbestos rules regarding: contractor and worker training, licensing and certification; training provider accreditation; training standards; asbestos abatement work practice standards; and fees. The Department is proposing to use the USEPA required minimum training standards, and Oregon APD work practice standards where applicable. The Department proposes that existing asbestos regulations be amended to update the rules and to maintain compatibility with the proposed contractor licensing and worker training requirements.
4. The effective date for mandatory licensing and certification would be January 1, 1989.
5. The Department requests authorization to conduct public hearings on these matters. Proposed rules will be available to the Commission and the public at least 30 days prior to public hearings. The public hearings would be held in early March 1988.
6. The Commission is authorized to adopt asbestos abatement control rules by Chapter 741, Oregon Laws 1987 (House Bill 2367, 1987 Oregon Legislature).

EQC Agenda Item H
January 22, 1988
Page 12

Director's Recommendation

Based upon the summation, it is recommended that the Commission authorize the Department to conduct public hearings to take testimony on proposed asbestos control rules concerning contractor licensing and worker training, and proposed amendments to the Hazardous Air Contaminant Rules, OAR Chapter 340, Division 25, Section 465.


Fred Hansen

Attachments: I. Statement of Need for Rulemaking
II. Statement of Land Use Consistency

Phil Ralston:
229-5517
January 7, 1988

PR:k
AK178 (1/88)

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING NEW)
RULES, AND AMENDING OAR CHAPTER) STATEMENT OF NEED FOR RULEMAKING
340; DIVISION 25)

STATUTORY AUTHORITY:

Chapter 741, Oregon Laws 1987 requires the Commission to adopt rules to:

- (1) Establish an asbestos abatement program that assures the proper and safe abatement of asbestos hazards through contractor licensing and worker training.
- (2) Establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing asbestos abatement tasks.
- (3) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification.
- (4) Establish a schedule for fees to support the asbestos control program.

NEED FOR THE RULES

Improper disturbance of asbestos-containing materials during facility renovation and demolition is a primary cause of high concentration asbestos fiber releases to the atmosphere. There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided if possible. Many contractors and workers do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material.

The 1987 Oregon Legislature recognized that proper training of people working with asbestos should provide the knowledge, skills, and incentive to protect the health of workers, their families, facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers.

The federal Asbestos Hazard Emergency Response Act (AHERA) of 1986 requires states to adopt, among other things, rules requiring training and accreditation for asbestos abatement contractors and workers in all public

and private K-12 schools. These proposed rules satisfy part of the state requirements under AHERA. The proposed rules would also provide work practice standards for asbestos abatement contractors and workers who are not presently regulated.

PRINCIPAL DOCUMENTS RELIED UPON

- o ORS Chapter 741, Oregon Laws 1987.
- o Federal Asbestos Hazard Emergency Response Act (AHERA) of 1986.
- o AHERA implementation rules, specifically the "Model Accreditation Plan" published in the Federal Register of April 30, 1987 (40 CFR, Part 763).
- o Existing Oregon Administrative Rules:
 - *Hazardous Air Contaminant Rules for Asbestos: OAR Chapter 340, Division 25, Section 465.
 - *Oregon Occupational Safety and Health Standards for Construction: OAR Chapter 437, Division 83.
 - *Oregon Occupational Safety and Health Standards for Asbestos: OAR Chapter 437, Division 115.

The proposed rules and principal documents are available to interested parties at any of the Department of Environmental Quality offices in the state.

FISCAL AND ECONOMIC IMPACT

The new, more stringent regulations will increase the costs of asbestos abatement in this state for both public and private entities. Therefore, the public will experience an increase in the cost of building renovation. However, costs associated with basic training, and work practice standards and engineering controls for persons conducting asbestos abatement in schools will occur regardless of the proposed rules because they are required by federal AHERA standards. Likewise, training and specific work practice standards are presently required of persons regulated by APD rules.

Training costs may range up to \$750, depending on the training course provider and level of training. Contractor licenses may range up to \$300/yr, depending upon the level of license sought. Worker certification may range up to \$50/yr, depending upon the level of certification sought. Project notification fees may range up to \$1,000/project, depending upon the type of facility and/or the size of the project. Training course accreditation may range up to \$1,000, depending upon the level of training offered. Laboratory analysis of materials suspected to contain asbestos

Attachment I
Agenda Item H
1/22/88 EQC Meeting

cost up to \$50 per sample. Asbestos abatement project work practice and engineering control costs are not affected by these rules since they are dependent upon the rules adopted by the Oregon Accident Prevention Division.

The Department encourages interested parties to comment on the Fiscal and Economic Impact Statement, as well as the proposed rules.

PR:k
AK178.1 (1/88)

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING NEW)
RULES, AND AMENDING OAR CHAPTER) LAND USE CONSISTENCY
340; DIVISION 25)

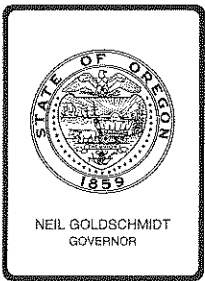
The Department has concluded that the proposal conforms with Statewide Planning Goals and Guidelines. Specifically, the proposed rules comply with Goal 6 because the proposal ensures the proper and safe management of asbestos abatement projects and thereby provides protection for air, water, and land resource quality.

Goal 11 (public facilities and services) is deemed unaffected by the proposed rules. The proposed rules do not appear to conflict with other goals.

Public comment on any land use issue involved is welcome and may be submitted in the manner described in the accompanying public notice of Rules Adoption.

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 thereby brought to its attention.

PR:k
AK178.2 (12/87)



Environmental Quality Commission

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

Agenda Item N
April 29, 1988
EQC Meeting
Attachment D

MEMORANDUM

TO: Environmental Quality Commission

FROM: Wendy L. Sims

DATE: April 6, 1988

Subject: Hearings Officer's Report on Testimony Concerning the Proposed Rules Relating to Asbestos Control and Proposed Amendments to the Hazardous Air Contaminant Rules for Asbestos

After due notice, hearings on proposed asbestos rules were conducted in Portland, Springfield, Medford, Pendleton, and Bend on March 2, 3, 7, 14, and 15, 1988 respectively. Hearings were held in the afternoon in Medford and Pendleton and in the evening in other locations. Wendy L. Sims of the Air Quality Division was the hearings officer. Summaries of all testimony given at those hearings and of all written testimony received by the Department follow.

The written material submitted at the hearings and received by the Department is being sent to the Commission under separate cover. The public may review this material at the DEQ Air Quality Division, 811 SW 6th, in Portland.

SUMMARY OF ORAL TESTIMONY

Oral testimony was presented by 13 persons involved in asbestos abatement in diverse ways. These persons were:

Stan Danielson representing the Asbestos Workers Union, Local #36 and also a member of the Oregon Asbestos Advisory Board,
Tom Donaca representing Associated Oregon Industries,
Glenn Havener for the Oregon State Homebuilders Association,
Randy Hall representing Envirocon,
Bill Duke, SW Washington Laborers Training School,
Ralph Johnston, Lane Regional Air Pollution Authority,
Jim Chartier, Weyerhaeuser Paper Company,
Dan Solitz representing himself,
Ken Cerotsky, Springfield Utility Board,
Roger Sinclair, consulting engineer,
Richard Carlin, Environmental Consulting Services,
Gene Rahencamp, Rahencamp Demolition,
Carroll Towler, Madras Seventh Day Adventist Church.

Testimony was generally supportive of the proposed regulations. Most of the people who testified had one or more specific requirements for which they sought clarification or recommended changes. Extensive question and answer sessions were held between the hearing attendees and the Department staff at each hearing.

The comments which were received addressed a range of topics. Most of the commenters complimented the Department for proposing the regulations. Several people were concerned that the definition of small-scale asbestos abatement job was too complex or too stringent. Several people testified that the rules could induce intentional avoidance if the small-scale definition or pre-notification period requirements are too stringent. Two people recommended that the exemption for properly handled nonfriable asbestos pipe be broadened to include pipe in water supply service which is hand sawn or drilled. Two people questioned the proposed fees; one requesting justification of the worker certification fee and one noting that the small-scale contractor fee was high relative to the full-scale fee.

One person supported limiting the number of certified workers; others opposed any such restriction.

Each of the remaining comments was submitted by only one person. Comments which were not also included in the written testimony raised the following points:

- the cutoff date for prior training accepted for grandfathering should be earlier.
- the quarterly procedure for notifying of small-scale jobs at a fixed facility should be extended to contractors.
- people doing removal should be required to notify others in the area.
- the number of regulations on asbestos is already excessive for the severity of the problem; increasing the cost of abatement won't help.

During the question and answer sessions conducted after each hearing, several topics were raised repeatedly. These included the intended use of the revenue, interpretation of the exemption provisions, explanation of the notification options, content and length of the training required for small-scale abatement, and provisions for "grandfathering" abatement workers who are already trained.

SUMMARY OF WRITTEN TESTIMONY

The Department received written testimony on the proposed rules from 15 persons. Two letters received after the close of the public comment period are included.

The written comments generally addressed specific subsections of the proposed rules. While few commenters raised the same points, comments on the revisions to the existing asbestos regulations in OAR 340 Division 25 were directed primarily at clarifying the definitions of some terms,

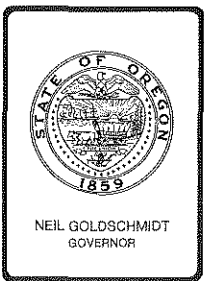
streamlining the notification procedures for asbestos abatement, altering or clarifying the proposed fees, and clarifying the authority to be delegated to regional authorities. With regard to the fees, two commenters recommended that the additional fees for projects exceeding three months in duration be eliminated or required at the time of initial notification. Other comments concerned distinguishing between facility owner requirements and contractor requirements, and strengthening the existing requirement prohibiting visible emissions from regulated sources. Several comments on disposal requirements were received; one requesting a reduction in the disposal requirements for nonfriable asbestos-containing materials, one encouraging flexibility in the determination of alternative disposal procedures, and one advocating requiring retention of disposal records. Comments on the proposed accreditation, licensing, and certification in OAR 340 Division 33 were also diverse yet specific. Some commenters recommended broadening the limitations of the exemptions for specific materials, to include TV cable installation through asbestos-containing materials and certain asbestos pipe operation, and simplifying the definition of small-scale asbestos abatement.

Several people had comments on the training requirements. Two commenters noted that annual refresher training can be required only upon a finding of need by the EQC. For small-scale workers, some people felt that two days of training is excessive, that an annual refresher class is not needed, or that certain topics were inappropriate and should be eliminated. Some commenters recommended that the exams be prepared or prepared and administered by the Department. One person requested that the Department certify any worker who has received training through the National Asbestos Council. One commenter asked if the refresher training could be conducted over more than one day.

Other comments on Division 33 included difficulty with the wording on eligible training providers, inconsistencies in some definitions, and need for specific DEQ notification forms. One person felt that adequate supervisor-level training may not be available to meet the January 1, 1989 implementation date; another felt that no extensions would be needed. One person questioned whether there would be any checking on disclosures made in contractor license applications. One person suggested that all certification fees be set at \$10.

Two people commented that the Economic and Fiscal Impact Statement was inadequate.

AD2469
Wendy L. Sims
229-6414



Environmental Quality Commission

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

Agenda Item N
April 29, 1988
EQC Meeting
Attachment E

MEMORANDUM

To: Environmental Quality Commission

From: Wendy L. Sims

Date: April 6, 1988

Subject: Response to Comment Summary
Proposed Asbestos Rules

COMMENT

DEFINITIONS. The definition of "small-scale asbestos abatement" is too complex and should be shortened. Terms used in the definition of "asbestos abatement project" should be defined. Inconsistent definitions are given for "asbestos abatement project" and "asbestos-containing material." The use of the term "source" is confusing.

RESPONSE

Definitions are derived from the authorizing legislation, the existing asbestos control regulations, and recommendations from the advisory board. Inconsistencies have been removed.

The definition of "asbestos abatement project" is the same as the statutory definition. This term is not dependent on project size and does cover almost all asbestos activity in regulated facilities. Renovation and demolition are individually defined in the statute and proposed regulations to clarify which operations are subject to the special regulations (carried over from existing regulations) on demolition.

The definition of "small-scale asbestos abatement" was developed in concert with the advisory board. It is necessarily complex. One category of the definition is the "small-scale short-duration renovating and maintenance activity" definition established by statute. This term applies to activities for which asbestos abatement is an incidental part of another operation. The other category applies to jobs for which asbestos abatement is the primary intent but which utilize appropriate work practices and do not generate high concentrations of airborne asbestos. In both cases, the maximum quantity of asbestos which can be abated is limited. The Board and the Department determined that both categories required similar training, work practices, and regulatory oversight. A single definition was developed to prevent further duplication of the two categories throughout the rules.

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The application of the term "source" is unchanged from existing rules. A clarification that an asbestos abatement project is not regulated as an industrial source or other point sources has been added to the rules.

COMMENT

REGIONAL AUTHORITY. What authority may be delegated to a regional authority?

RESPONSE

A regional authority should retain existing authority and be able to take enforcement action against a contractor for operating without a license or a worker for working without a certification. The regional authority will not be able to suspend or revoke a license, certificate, or accreditation; the Department will administer these programs. The Department intends to clarify this in the proposed rules.

COMMENT

NOTIFICATION REQUIREMENTS. 1. The option to provide quarterly reporting of small-scale asbestos abatement done at a single facility by certified workers employed at the facility should be extended to work done at a facility by a contractor.
2. Residential projects should not be exempt from notification.
3. Overly stringent notification requirements could lead to rule avoidance.

RESPONSE

1. The Department agrees and will recommend appropriate changes.
2. Residential projects would be exempt only when done by the owner-occupant.
3. Federal regulations require 10 day notification for asbestos removal projects which are subject to the National Emission Standards for Hazardous Air Pollutants (NESHAPs). Most full-scale projects are in this category. Changing the required notification period from the current "advance" to 10 days would make our notification period more consistent with the federal regulations. For small-scale jobs, which are not subject to NESHAPs, procedures were proposed for providing notification on a periodic basis, rather than prior to each job. The Department considers these requirements to be reasonable and necessary for minimizing the release of asbestos from regulated projects. The Department will prepare appropriate forms for filing notifications.

The Department recognizes that this requirement imposes responsibility on facility owners for determining, prior to the start of various activities, whether asbestos is present in the facility. It is appropriate for facility owners to have asbestos surveys performed in areas where asbestos may be disturbed. This can help in eliminating inadvertent exposures to asbestos. The proposed rules would allow waivers in emergency situations.

COMMENT

WORK PRACTICES. DEQ should require that people in the area of an asbestos abatement project be notified.

RESPONSE

APD requires that signs be posted at asbestos abatement jobs. The proposed rules would extend that requirement to work done by persons not subject to APD regulations.

COMMENT

DISPOSAL. 1. Extending the disposal requirements to nonfriable asbestos is too stringent.

2. Records of proper disposal should be kept for three years.

3. A Regional Authority should have flexibility in interpreting alternative disposal procedures, such as variations in the cover requirements.

RESPONSE

1. The Department considers that nonfriable asbestos can pose a hazard if handled improperly during transportation and disposal, yet agrees that the proposed rule may regulate the nonfriable materials too stringently. A revision will be proposed which would reflect the potential hazards of nonfriable asbestos. Nonfriable materials would have to be handled, transported, and covered in a landfill without creating friable asbestos. Any nonfriable material which would not be handled and disposed of without asbestos release would have to be handled as friable asbestos, including containing and labelling.

2. The Department agrees with this comment and will recommend appropriate changes. These records would enable the Department to confirm that the company which removed the asbestos had disposed of it properly. It is expected that companies already maintain landfill receipts for tax purposes, so the economic impact of this requirement would be minimal and would come primarily from having the records accessible to the Department. This is less burdensome than the manifesting process which is required for asbestos in some states and nationally for hazardous wastes.

3. The Department expects that alternative disposal practices would only be approved after a demonstration that the level of environmental protection was equivalent.

COMMENT

LICENSING. Would the disclosures made by contractors in license applications be checked?

RESPONSE

The Department intends to verify this information as necessary with other regulatory agencies. Failure to provide accurate information in the application would be grounds for license suspension or revocation.

COMMENT

FEES. What is the justification for the worker certification fees? All worker fees should be set at \$10. The fee for a small-scale contractor license is high relative to the fee for a full-scale license.

RESPONSE

The fees are structured to support the asbestos control program. This program does not receive any funding from the state general fund. All fees will be retained in the program and used to support additional enforcement activity and administration of the certification and licensing program. Significant support was expressed by the advisory board and by contractors, workers, and others at the public hearings for using the fees to provide additional enforcement.

The fee structure is proportional to the expected amount of work for the Department in administering and enforcing the regulations. The worker fees

must be adequate to cover reviewing work experience for supervisor certification, for reviewing prior training for acceptance, for recordkeeping and other administrative needs, and for providing other services.

COMMENT

EXAMINATIONS. DEQ should develop the certification exams; DEQ should develop the exams and administer the examination process.

RESPONSE

The proposed regulations would require that training providers prepare and administer the examinations. The training providers would be responsible for validating test questions. The Department would review the examinations in advance to ensure that the content of the questions is appropriate. However, the Department could require the inclusion of specific questions or the use of a Department exam. Auditing of training classes by Department staff would be done to verify that the requisite course material is being effectively taught.

COMMENT

REFRESHER TRAINING. 1. The annual refresher training is unnecessary, is not the legislative intent, and is unauthorized unless EQC determines that there are new or changed conditions.

2. Can the refresher training be distributed over more than one day?

RESPONSE

1. The Department recognizes that section 887(3) of Oregon Revised Statute 468 specifies that refresher training can be required if the EQC makes a determination that training is needed in order to meet new or changed conditions. The Department expects to document that such conditions exist so that EQC can make such a determination for the near future.

2. Yes, as long as it meets the total time requirements and all other requirements.

COMMENT

PRIOR TRAINING. 1. In "grandfathering in" workers who have already been trained through a program in another state, the Department should accept comparable training which was taken earlier than the proposed cutoff date of January 1, 1987 .

2. Any worker who was been trained in a course provided through a National Asbestos Council program should be certified.

RESPONSE

1. The Department is willing to accept earlier training provided that the worker can demonstrate suitable work experience in the intervening years. In any case, certification would be granted only after completion of an accredited refresher class, covering current work practices, Oregon regulations, and other topics as specified in the training guidance document.

2. The Department intends to allow "grandfathering" of workers who have completed training in courses which meet, except for state regulations, the basic requirements of the Oregon program. This includes classes accredited in Washington, other courses which meet the EPA model curriculum, and other courses approved by the Department.

COMMENT

OTHER TRAINING REQUIREMENTS. The requirements for small-scale workers are excessive.

RESPONSE

The 14 hour training class meets the federal training time and curriculum requirements for persons doing operations and maintenance work involving asbestos in schools. The Department believes that other small-scale work requires at least as much training. In comparison, the State of Washington requires completion of a four day training class by any worker, regardless of job size.

COMMENT

CERTIFICATION. 1. The Department should limit the number of certified workers; the Department should not impose any limits.

2. Adequate numbers of certified supervisors will not be available by January 1, 1989.

3. Workers employed at specific facilities should be regulated as a separate class from workers employed by contractors.

RESPONSE

1. Limiting the number of certified workers could make it more difficult for a building owner to abate asbestos properly and is not recommended.

2. Accredited courses should be available by July 1, 1988. The Department believes that this will be adequate time for training and certification of all classes of workers. The EQC may extend the date if the program does not proceed as rapidly as anticipated.

3. Development of separate certification categories for workers based upon employment would be a disadvantage to workers. Either worker mobility would decrease or the cost of achieving certification in the needed categories would increase. Furthermore, the techniques used to perform specific abatement activities would be common.

COMMENT

EXEMPTIONS. The exemptions are too stringent.

1. Water utility procedures which use drilling and sawing on asbestos pipe but do not release asbestos dust should be exempt. Hand sawing and drilling should be exempt.

2. Installation of wires through walls or other surfaces which contain asbestos, such as TV cable installation, should be exempt.

RESPONSE

1. The Department will propose revisions to the exemption section. The intent is to exempt any nonfriable asbestos material so long as the material is handled in a way which will not release asbestos fibers to the air.

2. Regulation of the removal or other abatement of very small quantities of asbestos has been a major topic during development of the rules. On one hand, a small quantity of material handled improperly can release more airborne asbestos than could a larger quantity which was handled properly. Some of the small quantity activities, such as cable TV installation, occur in homes. Release of asbestos in the home environment could expose small children, a high risk group, to asbestos which could remain in the air in the home for a minimum for several days. On the other hand, regulation of very small quantities could be burdensome for both the affected community and the Department.

The advisory board considered and decided against recommending a recommend a lower cutoff, below which asbestos abatement would be exempt from regulation. In releasing the proposed rules, the Department specifically requested input on cutoffs on notification for the removal of small quantities of material and possible changes in the worker categories included in the certification requirements. No comments were received which suggested a cutoff amount.

The Department has considered several options with respect to these comments. The options are discussed in the EQC staff report, with a recommendation to allow an exemption for limited quantities of friable asbestos-containing materials provided that some basic precautions are taken to prevent contamination.

COMMENT

OVER-REGULATION. The number of regulations on asbestos is already excessive; increasing the cost of abatement won't help.

RESPONSE

These regulations were proscribed by the Oregon Legislature in recognition of the serious problems often created by improper asbestos abatement. They are similar to requirements in many other states. The regulations should not significantly affect the cost of a properly done abatement job.

COMMENT

FISCAL AND ECONOMIC IMPACT STATEMENT. Two commenters felt that the statement did not reflect all costs and impacts associated with the proposed rules.

RESPONSE

More explanation of the expected impacts was added to the statement.

17

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF ADOPTING NEW)
RULES IN OAR 340 DIVISION 33 AND) STATEMENT OF NEED FOR RULEMAKING,
AMENDING EXISTING RULES IN OAR) FISCAL IMPACTS, AND LAND USE
CHAPTER 340 DIVISION 25)

STATUTORY AUTHORITY:

Oregon Revised Statute 468.893 requires the Commission to adopt rules to:

- (1) Establish an asbestos abatement program that assures the proper and safe abatement of asbestos hazards through contractor licensing and worker training.
- (2) Establish the date, no later than December 31, 1988, after which a contractor must be licensed and a worker must hold a certificate prior to performing asbestos abatement tasks.
- (3) Establish criteria and provisions for granting an extension of time beyond December 31, 1988, for contractor licensing and worker certification.
- (4) Establish a schedule for fees to support the asbestos control program.

NEED FOR THE RULES

Improper disturbance of asbestos-containing materials during facility renovation and demolition is a primary cause of high concentration asbestos fiber releases to the atmosphere. There is no known safe level of exposure to asbestos, therefore, all asbestos exposure should be avoided if possible. Many contractors and workers do not know how to identify asbestos-containing materials, and do not have the skills to properly work with and handle the material.

The 1987 Oregon Legislature recognized that proper training of people working with asbestos should provide the knowledge, skills, and incentive to protect the health of workers, their families, facility occupants, neighbors, and the public from inadvertent exposure to asbestos fibers.

The federal Asbestos Hazard Emergency Response Act (AHERA) of 1986 and Asbestos-Containing Materials in Schools rules of 1987 require states to adopt, among other things, rules requiring training and accreditation for

asbestos abatement contractors and workers in all public and private K-12 schools. These proposed rules satisfy part of the state requirements under AHERA.

The proposed rules would also provide revised work practice standards for all asbestos abatement contractors and workers to ensure safe abatement, handling, and disposal of asbestos materials.

PRINCIPAL DOCUMENTS RELIED UPON

- o ORS 468.875 to 468.899.
- o Federal Asbestos Hazard Emergency Response Act (AHERA) of 1986.
- o AHERA implementation rules, specifically the "Model Accreditation Plan" published in the Federal Register of April 30, 1987, and the final rules on Asbestos-Containing Materials in Schools of October 30, 1987, (40 CFR, Part 763).
- o Existing Oregon Administrative Rules:
 - *Hazardous Air Contaminant Rules for Asbestos: OAR Chapter 340, Division 25, Section 465.
 - *Oregon Occupational Safety and Health Standards for Construction: OAR Chapter 437, Division 83.
 - *Oregon Occupational Safety and Health Standards for Asbestos: OAR Chapter 437, Division 115.

The proposed rules and principal documents are available to interested parties at the Department of Environmental Quality offices in Portland.

FISCAL AND ECONOMIC IMPACT

These rules will increase the costs of asbestos abatement in this state for both public and private entities. Therefore, the public will experience an increase in the cost of building renovation. The amount of cost increase to other state agencies, municipalities, small business, and other business will depend on the amount and type of asbestos abatement conducted in their facilities and on whether the work is done in-house or by a contractor.

The revisions to OAR 340-25 will increase asbestos abatement costs because of the notification fees and the more stringent work practice requirements. The impact of project notifications fees on project costs will be low. The fees will be a small percentage of total project costs in almost all cases.

Since notification is already required for all asbestos removal projects, the revisions to the notification procedure are not expected to increase costs unless job delays are caused by the ten-day notification period. These delays can be avoided by surveying a facility prior to job commencement. While not required, such surveys are important for minimizing inadvertent release of asbestos fibers and avoiding the high cost of contamination clean-up.

The work practice requirements are based on industry-standard procedures, such as the use of glovebags for small-scale projects and HEPA filters for vacuuming and filtration. These practices are recognized as essential for protecting workers and preventing the release of airborne asbestos to building interiors or exteriors. They are also required by the Department of Insurance and Finance in some cases. Consequently, there will not be any significant cost increase for safe abatement. For the many small operators who may not currently be using safe practices, cost increases will be incurred for equipment procurement. The largest cost would be purchase of HEPA vacuum equipment, which starts at approximately \$1,000.

The certification program will have costs associated with training and application. Typical training cost for programs in other states are \$125 to \$150 per day of training, depending on the training course provider. This does not include the cost to the employer or worker of lost work time. For a full-scale worker certification, total costs may be around \$1,000. The application fees will range from \$25 to \$50 per year depending on certification level. The impact of the new program costs is offset by existing Department of Insurance and Finance requirements for worker training, the AHERA training and certification requirements for those working in schools, and the extent of prior training. Many full-scale workers in Oregon have already been trained and certified through the program in the state of Washington and will be able to obtain Oregon certification by completing a one-day refresher class.

The licensing program will impose application costs of \$200 to \$300 per year and associated preparation costs on contractors. Facility owners, such as school districts and industrial facilities, will not be required to obtain licenses for work on their own facilities.

Training providers will pay accreditation fees of \$250 to \$1,000 per year per course. The regulations will create a market for the courses offered by the accredited provider, so accreditation costs are not significant. The costs are expected to be equivalent to approximately two student registrations per year.

For small businesses engaged in asbestos abatement as a primary business, the rules should have a positive impact. For other small businesses which require asbestos abatement work or would be regulated as asbestos abatement

Agenda Item N
April 29, 1988
EQC Meeting
Attachment F

contractors, the rules would increase costs. The small business impact of the rules would not be a significant adverse impact.

The revenues from the certification, licensing, accreditation, and notification fees will be credited to the Department. Projected revenue for fiscal year 1989 is \$232,000, including \$158,000 from project notifications. This revenue will be used to support the Department's asbestos control program.

LAND USE CONSISTENCY

The Department has concluded that the proposal conforms with Statewide Planning Goals and Guidelines. Specifically, the proposed rules comply with Goal 6 because the proposal ensures the proper and safe management of asbestos abatement projects and thereby provides protection for air, water, and land resource quality.

Goal 11 (public facilities and services) is deemed unaffected by the proposed rules. The proposed rules do not appear to conflict with other goals.

WS:k
AK178.1 (4/88)

DEQ ASBESTOS TRAINING GUIDANCE DOCUMENT

TRAINING LEVELS: SPECIFIC CURRICULUM

A. Supervisors for Full-Scale Asbestos Abatement.

Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least 4 days as outlined below. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of at least 100 multiple choice questions. Successful completion of the training shall be demonstrated by achieving a score of at least 70% on the examination and full participation in the hands-on training.

The course shall adequately address the following topics:

(1) The physical characteristics of asbestos, and asbestos -containing materials.

Identification of asbestos, aerodynamic characteristics, typical uses physical appearance, a review of hazard assessment considerations, and a summary of abatement control options.

(2) Potential health effects related to asbestos exposure.

The nature of asbestos-related diseases; routes of exposure; dose-response relationships and the lack of a safe exposure level; synergism between cigarette smoking and asbestos exposure; latency period for disease.

(3) Employee personal protective equipment.

Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling on non-disposable clothing; and regulations covering personal protective equipment.

(4) State-of-the-art work practices.

Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation

equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosures, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices. Discussion of new abatement-related techniques and methodologies may be included.

(5) Personal hygiene.

Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area. Potential exposures, such as family exposure, shall also be included.

(6) Additional safety hazards.

Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(7) Medical monitoring.

APD/OSHA requirements for a pulmonary function test, chest X-rays and a medical history for each employee.

(8) Air monitoring.

Procedures and strategies to determine airborne concentrations of asbestos fibers, including a description of aggressive sampling, sampling equipment and methods, reasons for air monitoring, types of samples, and interpretation of results, specifically from analyses performed by polarized light, phase-contrast, and electron microscopy analyses.

(9) Relevant Federal, State and Local regulatory requirements.

Procedures and standards, including:

- a. DEQ requirements on licensing and certification, OAR 340, Division 33.
- b. DEQ requirements for asbestos abatement projects, OAR 340-25-450 through -465.
- c. APD asbestos construction standard in OAR 437 Division 83.
- d. National Emission Standards for Hazardous Air Pollutants, 40 CFR 61 Subparts A (General Provisions) and M (National Emission Standard for Asbestos).
- e. OSHA standards for permissible exposure to airborne concentrations of asbestos fibers and for respiratory protection (29 CFR 1910.134).
- f. OSHA Asbestos Construction Standard (29 CFR 1926.58).
- g. Requirements of TSCA Title II.
- h. Other applicable state and local rules and regulations.
- i. Other applicable federal rules and regulations.

(10) Respiratory protection programs and medical surveillance programs.

Special training in supplied-air systems.

(11) Insurance and liability issues.

Contractor issues; worker's compensation coverage and exclusions; third

-party liabilities and defenses; insurance coverages and exclusions.

(12) Recordkeeping for asbestos abatement projects.

Records required by Federal, State, and Local regulations; records recommended for legal and insurance purposes.

(13) Supervisory techniques for asbestos abatement activities.

Supervisory practices to enforce and reinforce the required work practices and discourage unsafe work practices.

(14) Contract specifications.

Discussion of key elements that are included in contract specifications.

(15) Course review.

Review of key aspects of the training course.

B. Worker for Full-Scale Asbestos Abatement.

Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined below. The training course shall include lectures, demonstrations, at least six hours of actual hands-on training, individual respirator fit testing, course review, and an examination of at least 100 multiple choice questions. Successful completion of the course shall be demonstrated by achieving a score of at least 70% on the examination. The course shall adequately address the following topics:

(1) Physical characteristics of asbestos.

Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

(2) Potential health effects related to asbestos exposure.

The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.

(3) Employee personal protective equipment.

Classes and characteristics of respirator types; limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures; methods for field testing of the facepiece-to-face seal (positive and negative pressure fitting tests); qualitative and quantitative fit testing procedures; variability between field and laboratory protection factors; factors that alter respirator fit (e.g., facial hair); the components of a proper respiratory protection program; selection and use of personal protective clothing; use, storage, and handling on non-disposable clothing; and regulations covering personal protective equipment.

(4) State-of-the-art work practices.

Proper work practices for asbestos abatement activities including descriptions of proper construction and maintenance of barriers and decontamination enclosure systems; positioning of warning signs; electrical and ventilation system lockout; proper working techniques for minimizing fiber release; use of wet methods; use of negative pressure ventilation

equipment; use of high efficiency particulate air (HEPA) vacuums; proper clean-up and disposal procedures. Work practices for removal, encapsulation, enclosures, and repair; emergency procedures for sudden releases; potential exposure situations; transport and disposal procedures, and recommended and prohibited work practices.

(5) Personal hygiene.

Entry and exit procedures for the work area; use of showers; and avoidance of eating, drinking, smoking, and chewing (gum or tobacco) in the work area; and potential exposures, such as family exposure.

(6) Additional safety hazards.

Hazards encountered during abatement activities and how to deal with them, including electrical hazards, heat stress, air contaminants other than asbestos, fire and explosion hazards, scaffold and ladder hazards, slips, trips and falls, and confined spaces.

(7) Medical monitoring.

APD/OSHA requirements for a pulmonary function test, chest x-rays and a medical history for each employee.

(8) Air monitoring.

Procedures and practical considerations for determining airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

(9) Relevant Federal, State and Local regulatory requirements.

Procedures and standards, with particular attention directed at relevant DEQ, APD, and federal regulations concerning asbestos abatement workers.

(10) Establishment of respiratory protection programs.

(11) Course Review

A review of key aspects of the training course.

C. Worker for Small-Scale Asbestos Abatement.

Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a 2-day approved training course as outlined below. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least 6 hours of hands-on training, individual respirator fit testing, course review, and an examination of at least 50 multiple choice questions. This course shall emphasize the practices for and limits to small-scale short-duration activities as described in OAR Chapter 437, Div. 83 with emphasis on Appendix G. Successful completion of the course shall be demonstrated by achieving a score of at least 70% on the examination. The course shall adequately address at least the following topics:

1. Physical characteristics of asbestos.

Identification of asbestos, aerodynamic characteristics, typical uses, and physical appearance, and a summary of abatement control options.

2. Potential health effects related to asbestos exposure.

The nature of asbestos-related diseases, routes of exposure, dose-response relationships and the lack of a safe exposure level, synergism between cigarette smoking and asbestos exposure, and latency period for disease.

3. Employee personal protective equipment.

Information on the use of respiratory protection and other personal protection measures, including classes and characteristics of respirator types; limitations; selection, inspection, donning, use maintenance, and storage procedures; fit testing procedures and field testing procedures; factors that alter respirator fit; selection, use, storage, and handling of personal protective equipment; and regulations covering personal protective equipment.

4. State-of-the-art work practices.

Proper asbestos abatement work practices and activities specifically addressing the difference between those used in large-scale projects and those allowed for use on small-scale, short duration projects as described in OAR 437-83 Appendix G. Emphasis shall be on the most appropriate work practices for small scale short duration projects.

5. Personal hygiene.

Personal hygiene practices appropriate for small-scale abatement projects.

6. Additional Safety hazards.

Hazards encountered during small-scale abatement projects and how to deal with them.

7. Medical monitoring.

Description of requirements for medical monitoring and exposure levels which trigger the requirements.

8. Air monitoring.

Methods available to determine airborne concentrations of asbestos fibers, focusing on how personal air sampling is performed and the reasons for it.

9. Relevant Federal, State & Local regulatory requirements, procedures & standards.

With particular emphasis directed at relevant DEQ, APD, EPA, OSHA, and other state and local regulations concerning small-scale asbestos abatement activities including waste disposal.

10. Hands-on training.

Individual hands-on training shall include at least construction and use of glove bags and mini-enclosures; removal and removal and repair of sprayed-on material, troweled on material and pipe lagging; suit up in protective clothing consisting of coveralls, foot coverings and head coverings, and don respirators including half-face and full-face air purifying respirators.

11. Course review.

A review of key aspects of the training course.

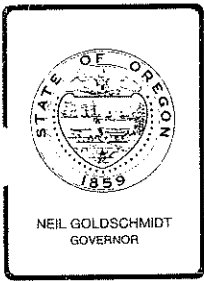
D. Refresher Training:

Supervisors and workers certified to conduct full-scale asbestos abatement projects, and workers certified to conduct small-scale asbestos abatement projects shall receive refresher training annually as specified by the Environmental Quality Commission. Satisfactory completion of such training shall be a condition of license and certification renewal.

(a) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement; refresher training shall be of at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement.

(b) Refresher training shall include review and discussion of changes in and interpretation of applicable State and Federal laws, regulations, policies and guidelines; developments or changes in state-of-the-art procedures and equipment; and review of key areas of initial training specific to each discipline.

(c) Training providers shall determine successful completion of a refresher course by conducting a written examination at the conclusion of the course consisting of at least fifty (50) questions. A score of 70% or higher shall be considered passing.



FK

Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From:

Fred Hansen

Hydria Taylor

Subject: Written Testimony Concerning Proposed Asbestos Rules
Agenda Item N
April 29, 1988, EQC Meeting

Agenda Item N, April 29, 1988, EQC meeting will consider adoption of rules relating to asbestos control. The Hearings Officer's report for the five public hearings is included as Attachment D of that agenda item. Due to the volume of the written comments, the written testimony is summarized in the report. Complete copies of the written public testimony are attached to this memorandum.

Wendy L. Sims:kp

Attachment: Written Public Testimony
229-6414



March 3, 1988

The Environmental Quality Commission
811 S.W. 6th Avenue
Portland, Oregon 97204

Gentlemen:

I would like to comment on your proposed rules relating to asbestos control and proposed amendments to the hazardous air containment rules for asbestos, OAR Chapter 340, Division 25, Section 465.

The Springfield Utility Board is a publicly owned utility supplying water and electric services to the city of Springfield. The water system has thousands of feet of asbestos concrete pipe in place. This pipe was placed in the 70s, and we have not used the AC pipe material in our waterline construction for many years. The fact remains that we have much of this pipe in the ground, so we will be working around this pipe for quite some time. In order to perform maintenance (due to leaks for example), it may be necessary to remove a small section of the existing pipeline. In addition, we will be installing new water services from the existing AC pipe. This will require us to drill (tap) the pipe.

All of the future activities involving AC pipe are of a very small nature and of extremely short duration. The exposure for our workers is also limited. We recognize our responsibilities to protect our workers and follow the rules adopted by the federal government and administered by the Accident Prevention Division. We are concerned, however, by some of the language that you propose and suggest some slight changes.

Under 340-33-010 (3)(C) we suggest that, "AC pipe material not exceeding three feet in length," be added to that language dealing with vehicle brake and clutch maintenance and repair. Under the employee safety rules, we utilize nonpower equipment to reduce or eliminate the generation of dust. In addition, all of our future work will be on pipe that is already in the ground which will be in a saturated condition. The walls of the pipe and the surrounding area will be extremely wet, which will reduce hazard potential and eliminate the generation of dust. We feel the conditions that exist in the field for this maintenance activity and new service work is very similar to the hazards presented by vehicle brake and clutch maintenance or repair work. Anything over the three feet would fall under

SPRINGFIELD UTILITY BOARD

250 NORTH A STREET, P.O. BOX 300, SPRINGFIELD, OREGON 97477 (503) 746-8451

The Environmental Quality Commission
March 3, 1988
Page 2

the small scale short duration renovating and maintenance activities. The type of work we perform is of a much shorter duration and much smaller scale than even that defined in Section 18 under 340-33-010.

We would also suggest changing some language in the section dealing with exemptions for specific materials. Section 340-33-100 exempts certain asbestos containing materials that are "not sanded, sawn, or drilled;...." Under a very strict definition, anytime that we would be handling AC pipe for the purpose of making repairs or installing new service connections, we would be performing "sawing and drilling" operations and could not qualify for an exemption. However, under the field conditions that I have described to you (very wet environment, nonpower equipment) we would be performing drilling or sawing operations (separating the pipe into pieces) that would not expose our workers or the environment to risks outside the specified standards. We suggest that you modify the language to read, "asbestos containing materials are not sanded, sawn, or drilled using power equipment;...."

We hope that you will give favorable consideration to these small proposed changes. If you have any questions, please contact me.

Sincerely,



Ken Cerotsky
Director - Water Department

KC:mkm

w.asbestos.ken



Weyerhaeuser Paper Company

Containerboard Division
P.O. Box 275
Springfield, Oregon 97477
(503) 746-2511

February 29, 1988

DEQ Air Quality Division
811 SW 6th Avenue
Portland, OR 97204

Weyerhaeuser Paper Company
Springfield, Oregon
Comments on Proposed
Oregon Administrative Rules
Emission Standards and Procedural
Requirements for Hazardous Air Contaminants

Emission Standards and Procedural Requirements for Asbestos

To allow for facility owners who do all asbestos work by contractors on a routine basis 340-25-465 (4) (B) should be changed to read: Facility owners or operators employing workers or contractors as required.....

340-25-465 (A) (iii) should read: Two hundred dollars per year (\$200/yr) for small-scale projects conducted by contractors or certified employees of facility owners or operators

Submitted by Jim Chartier

T E S T I M O N Y

To: Department of Environmental Quality
Date: March 3, 1988
Place: Springfield City Hall

Regarding: Proposed Rules Relating to Asbestos Control and Proposed Amendments to the Hazardous Air Contaminant Rules for Asbestos, OAR Chapter 340, Division 25, Section 465

* * * * *

On behalf of the Lane Regional Air Pollution Authority, I wish to convey our appreciation for the opportunity to submit these brief comments regarding proposed state asbestos regulations.

As you may know, LRAPA staff assisted DEQ staff in developing these rules and, in general, are supportive of the proposal to ensure high levels of competence among contractors and workers performing asbestos-related work. We are generally pleased with the proposal to make the language of the rule more consistent with federal rules governing national emission standards for hazardous air pollutants (NESHAP).

We support the provision in the proposed OAR 340-25-460(7) which allows the Commission to delegate to regional authorities the responsibility for regulatory hazardous air contaminants and to establish, collect and retain fees for asbestos abatement projects. LRAPA already has received delegation from the state for NESHAP and has been handling NESHAP regulation in Lane County for several years under that delegation, this part of the proposed rule has already been implemented, and LRAPA need not return to the Commission with a new request for delegation. In addition to the delegation of federal NESHAP, we have agreed with DEQ to accept responsibility to enforce the certification and training requirements by referring violations we observe to DEQ.

We also support the new authority conferred by these rules to establish a separate fee schedule for asbestos demolition and renovation projects under

LRAPA's jurisdiction. If these interpretations do not express the intent of these rule proposals, it is recommended that they be so established in the record so that LRAPA can avoid possible challenge to its authority to regulate, in case of future litigation.

We have some concern about the effects of the mandatory daily two-foot cover on solid waste sites which are now receiving asbestos material. The purpose, of course, is to prevent asbestos fibers from becoming airborne due to wind action or disturbances from compaction equipment at permitted landfill sites. Our concern is twofold: first, two feet of cover each day at an active landfill can appreciably shorten the life expectancy of some landfills, and it is not clear that better dust control is achieved than if the federal requirements of six inches are applied; and second, we should be mindful of disposal costs. Two feet of cover each day, particularly at smaller municipal landfills, could lead to higher incidence of illegal dumping due to high cost or refusal by permitted landfills to receive asbestos. We would hope that acceptable alternative disposal practices which have equivalent effectiveness in preventing airborne asbestos fibers would receive favorable consideration.

In summary, we generally support the intent of the rules to protect public health against airborne asbestos fibers. We are hopeful that some flexibility to use cost-effective alternatives would be considered. LRAPA intends to continue to implement NESHAP rules in Lane County, covering demolition, renovation, transportation and disposal, and will assist in assuring compliance with certification and training requirements.

Again, we appreciate the opportunity to comment.

Ralph E. Johnston
LRAPA
03/03/88

STOEL RIVES BOLEY
JONES & GREY

ATTORNEYS AT LAW
SUITE 2300
STANDARD INSURANCE CENTER
900 SW FIFTH AVENUE
PORTLAND, OREGON 97204-1268

Telephone (503) 224-3380
Telecopier (503) 220-2480
Cable Lawport
Telex 703455
Writer's Direct Dial Number

294-9259

February 26, 1988

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
FEB 26 1988

AIR QUALITY CONTROL

Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Attention Asbestos Control Supervisor

Ladies and Gentlemen:

Re: Proposed Rules and Amendments
Relating to Asbestos Abatement Projects

Thank you for this opportunity to comment upon the Department's proposed rules relating to asbestos abatement projects. Generally, I believe the policies underlying the proposed rules are well developed and that the proposed rules are carefully drafted. In this light, I respectfully offer the following comments:

1. Definition of Asbestos Abatement Project. The definition of "asbestos abatement project" set forth in the proposed amendment to OAR 340-25-455(3) is so broad that it would include activities involving materials containing extremely low concentrations of asbestos if there were any possibility of the asbestos being released into the air even in minute amounts. This same problem arose in early drafts of House Bill 2367. However, in the final version of House Bill 2367 this problem was resolved by limiting the definition to activities involving "any material with the potential of releasing asbestos fibers from asbestos-containing material into the air." I have noted that the definition of asbestos abatement project in Section 340-33-020 of the proposed rule includes this qualification by reference to asbestos-containing material. Given the limitations of the definition as set forth in House Bill 2367 and the qualified language of proposed rule 340-33-020(4), I suspect that the omission of the limitation to asbestos-containing material in the proposed amendment to OAR 340-25-455(3) is an oversight.

Department of Environmental Quality
February 26, 1988
Page 2

Because the definition of asbestos abatement project defines the scope of the proposed rules, correction of this oversight is crucial. Asbestos has become somewhat ubiquitous in our environment and is found in small concentrations in many productions still on the market. Thus, in order for the proposed rules to have a reasonable scope, they must be limited in application to those materials containing quantities of asbestos that reasonably may be suspected to pose a threat to human health or the environment. This threshold concentration has been established by federal law and by House Bill 2367 at 1 percent asbestos by weight. Accordingly, I recommend that the proposed amendment to OAR 340-25-455(3) be revised by the addition of the words "asbestos-containing" between the words "any" and "material" on the fourth line.

2. Definition of Small-Scale Asbestos Abatement Project. The definitions in proposed OAR 340-33-020(17) and (18) appear unnecessarily complex and somewhat contradictory. The definition of "small scale asbestos abatement project" includes both (a) "small-scale short duration projects" and (b) "removal, renovation, encapsulation, repair or maintenance procedures involving less than 40 linear feet or 80 square feet of asbestos-containing material." The term "small-scale, short duration projects" is not specifically defined in the proposed rules, however, the similar term "small-scale, short duration renovating and maintenance activities" is defined to include tasks for which the removal of asbestos is not the primary objective. This latter definition also is limited to activities involving no more than 40 linear feet or 80 square feet of asbestos-containing material. Because both prongs of the definition of small-scale asbestos abatement projects are limited by an identical quantity of asbestos-containing material, the two prong definition adds nothing.

In addition to this redundancy, the latter definition for "small-scale, short duration renovating and maintenance activity" is contradictory. First, it states that it involves activities for which the removal of asbestos is not the primary objective. However, examples (a) and (b) to the definition specifically refer to projects involving only removal of asbestos-containing material.

Department of Environmental Quality
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Page 3

Accordingly, I suggest that the opening paragraph of proposed OAR 340-33-020(17) should be revised as follows:

"'Small-scale asbestos abatement project' means removal, renovation, encapsulation, repair or maintenance projects satisfying the following criteria:"

With this revision to subparagraph (17), subparagraph (18) should be deleted in its entirety.

I have noted that the definition of "small-scale asbestos abatement project" includes criteria for worker exposure levels and control measures and that similar criteria are not referenced in the definition of "small-scale, short-duration renovating and maintenance activities." The implied distinction here appears appropriate. However, because the latter definition is a subset of the former, the distinction really is not achieved in the actual wording. If DEQ desires to impose such requirements on only some small-scale projects, the requirements could be stated in a separate paragraph applicable to small-scale projects with an exception for those for which removal is not the primary purpose. By thus simplifying the definitions and expressly stating certain requirements, the apparent contradictions in the proposed definitions will be eliminated and the requirements will be easier to identify and understand.

3. Fee Schedule. I found the provisions relating to fees for small-scale projects as described in the proposed amendments to OAR 340-25-465(4)(a) and (b) to be confusing. More specifically, I could not determine whether or not a facility owner operating under a general asbestos abatement plan would be required to pay a fee of \$200 a year only or an annual fee of \$200 plus \$25 for each small-scale asbestos abatement project the facility owner conducts during the year. I am similarly confused with respect to whether or not a small-scale asbestos abatement contractor must pay a project-by-project fee in addition to the monthly fee. To alleviate this confusion, I recommend that the proposed amendment to OAR 340-25-465(4)(b)(A) be revised by the addition of the following underscored language at the end of the first clause:

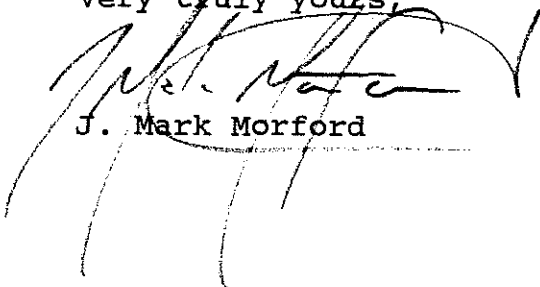
Department of Environmental Quality
February 26, 1988
Page 4

"Facility owners or operators or contractors shall pay the Department a project notification fee [of] equal to one of the following, as appropriate: ***."

4. Source Registration. As drafted, the proposed rules would subject asbestos-abatement projects to the registration and notice requirements of Section 340-25-465(4) and also the registration and other requirements of Section 340-25-460(2), (3), (4), (5) and (6). The requirements of Section 340-25-460(2), (3), (4), (5) and (6) are either redundant of Section 340-25-465(4) or simply are not appropriate for asbestos-abatement projects. For example, Sections 340-25-460(2) and (3) refer to existing sources and construction or modification of new sources. However, asbestos-abatement projects are short duration sources and are not constructed or modified in the physical sense. The start-up 30-day notification requirements of Section 340-25-460(4) contradict the 10-day notice requirements of Section 340-25-465(4)(a). Additionally, the activities to be exempted by Section 340-33-100 from Section 340-25-465(4) are not exempted from the general source registration and notice requirements of Section 340-25-460. Similarly, the exemption in Section 340-25-465(4) for private residences does not include an exemption from the general requirements of Section 340-25-460. Lastly, the emissions test and monitoring requirements of Section 340-25-460(6) are not appropriate for asbestos-abatement projects. Such projects are subject to the monitoring requirements of the accident prevention division's regulations and to specified work practice requirements. Accordingly, emissions testing is inappropriate, especially for the otherwise exempt activities. These numerous problems with Section 340-25-460 can be avoided by simply adding to the end of Section 340-25-460(1) the following: "Subsections (2), (3), (4), (5) and (6) of OAR 340-25-460 shall not apply to asbestos-abatement projects."

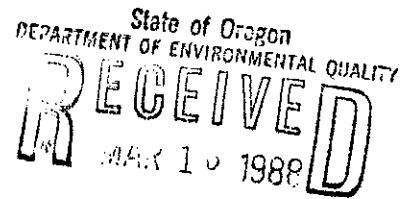
I hope these suggestions are helpful to you in refining the proposed rules. If you have any questions regarding these comments, please call.

Very truly yours,



J. Mark Morford

JMM14.27:pm
cc: Mr. Richard D. Bach



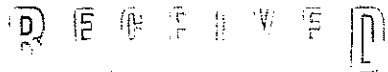
COMMENTS ON NEW ASBESTOS STANDARDS **AIR QUALITY CONTROL**

DEQ Air Quality Division;

The new proposed asbestos regulations appear to be a vast improvement over the present regulations in both content and clarity. I would however, like to see the state take a stance and establish a quantitative clearance level for buildings, such as the EPA recommendations of .01 f/cc. Discharge requirements from a building, project or manufacturer needs to be more clearly defined as well. To simply state that no person shall cause to be discharged into the atmosphere any visible emissions of asbestos fibers is too subjective and does little to protect the health of individuals in the vicinity or the environment. Everyone knows that you can greatly exceed the personal exposure limits and not see any visible asbestos fibers in the air. It has been documented (see NIOSH criteria document on asbestos) that in some incidents residents downwind of shipyards and asbestos mills have had an increase in lung cancer and particularly mesothelioma. If the state DEQ does not address this issue then in my opinion they are grossly negligent in their primary mission-to establish and enforce environmental laws and to protect the environment and the residents residing in this state from a contaminated environment which could pose a threat to their health and well being. Since no definitive environmental emission standard for asbestos has been established or appropriately defined, the state could most ^{likely} have to defend itself against a tort or liability claim someday. Lowering emissions below visible contamination is offering no protection to the people of this state from ASBESTOS activities.. Establishing a standard equal to the personal exposure limit action level of 0.01 f/cc is a feasible level which could be achieved by industry and contractors.

I would also like to see a modification to the reporting times for small scale operations. Monthly reporting of activity seems to be a little to frequent and I don't feel it would give employers an adequate time period to properly prepare their reports. Bimonthly reporting dates may be more to everyones agreement and still satisfy the state that projects are being carried out properly.

Michael B. Remington R.S.
Industrial Hygienist
U.A. Medical Center, Roseburg



MARCH 14, 1988

OFFICE OF THE DIRECTOR



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March 14, 1988

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Mr. Fred Hanson
Director, Dept. of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Dear Fred:

In reviewing the proposed administrative rules relating to Asbestos Control, we are pleased to see the committee has completed it's work and we are well on our way to seeing the certification of asbestos removal contractors. As you know, we followed the legislation and were in support of the concept from the beginning. Despite the fact that contractor bids may be higher to reflect the additional burden of being certified, we believe it is truly a way of ensuring that knowledgeable people will be doing quality work in such an important area.

I am concerned about the notification fee schedule included within the proposed rules. Actually, not so much with the schedule as I understand programs have to pay their way. My concern is with the requirement that each three month period of an on-going abatement project, constitutes another notification fee assessment. I assume that the thought process surrounding that requirement suggests that any asbestos abatement an/or removal job will be completed within 90 days. Otherwise, it would appear some additional problems requiring numerous inspections and notifications, are the contributors to the delay. That all makes sense, I suppose, when you are talking about an industrial project where you can shut down the plant and come in to do the work without staging or phasing the job. However, please look at that requirement from the standpoint of an office building in which tenants must be relocated for the work to proceed. You can imagine what a cumbersome and time consuming process that relocation can be.

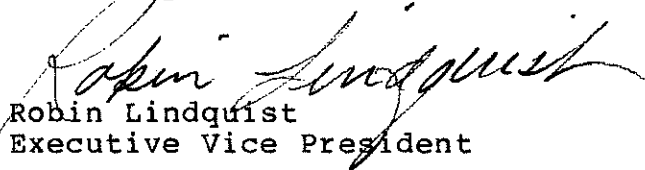
We are both familiar with the Executive Building's abatement project. That, in itself, took over a month, and the building was totally empty.

March 14, 1988
Page two

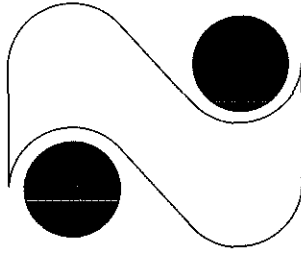
As you can understand, office buildings are people intensive. Moving people can be very costly and cumbersome, at best, and more costly and more cumbersome at worst. In looking at a large abatement project with notification fee of \$500, a reassessment those fees every three months can add up quickly.

As the office space industry, we obviously want to address the asbestos issue in a responsible and safe manner, even if it increases our costs to do so. However, we feel a reassessment of the fee every 3 months is a bit overbearing and unrealistic, and we urge that this provision be deleted from the rules or amended to give some relief.

Sincerely,



Robin Lindquist
Executive Vice President



**NORTHWEST
PULP & PAPER**

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 21 1988

AIR QUALITY CONTROL

March 18, 1988

Wendy Sims
Air Quality Division
Department of Environmental Quality
811 SW Sixth
Portland, OR 97204

Dear Wendy:

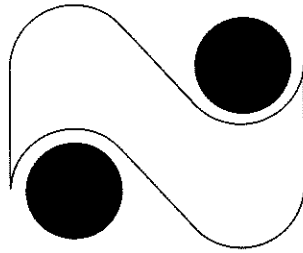
Enclosed are the comments of the Northwest Pulp and Paper Association on the proposed Asbestos Training and Certification Rules. Thank you for the opportunity to comment and your careful consideration.

If you have any need for clarification or you would like additional comments, please call me at the number below.

Sincerely,

Douglas Morrison
Legislative/Public Affairs Analyst

Enclosure



NORTHWEST PULP & PAPER

Northwest Pulp and Paper Association Comments on Proposed Oregon Administrative Rules Asbestos Control: Training and Certification

340-25-465(4) Notification and Notification Fees

The proposed rule provides for a \$25 per small scale project fee or \$200 per year fee for small scale projects conducted by certified employees of facility owners and operators. The proposed rule should be expanded to allow payment of the \$200 annual fee by contractors conducting small scale projects at a single facility. Some large industrial facilities may at times hire contractors to perform a series of small scale, short duration projects. There should be no difference in the cost to the department to accept and administer the program when performed by either employees or contractors because the reporting requirements are identical under 465(4)(a)(B) and (C).

Insert at the end of 465(4)(b)(A)(iii) the following:

"or for small-scale projects conducted by contractors under 340-25-465(4)(a)(C) at a single facility."

340-33-060 Training Provider Accreditation

The list of entities in 340-33-060(1)(a) should either be deleted or be amended to state clearly that corporations or other employers of asbestos workers may provide in-house training programs once accredited. Although the list includes "any person" and any "other entity" which would include corporations and employers by reference to the definitions in 340-33-020, specifically naming some entities which are also included within the definition of "person" could give rise to arguments that the list is exclusive.

We see two alternatives: (1) delete 340-33-060(1)(a) entirely; or (2) place a period after "any person" and delete the remainder of the paragraph. Any necessary changes could be made to the definition of "person."

Training Guidance Document

C. Worker for Small-Scale Asbestos Abatement: Training Level T3

The proposed guidance for certification as a worker on small-scale, short duration projects requires a training course of at least two days. The proposed guidance also sets out the course content. In our opinion, the course content required for this category entails material and information irrelevant and unnecessary to protect the health and safety of workers engaged in small scale, short duration asbestos projects. Moreover, the the proposal is not in accord with the legislative direction to "adopt different

training requirements that reflect the different levels of responsibility." 1987 Ore. Laws Ch. 741 § 4(3). The mandatory minimum course length of two days is also contrary to legislative intent by the same reasoning.

Section C of the Training Guidance Document sets out the curriculum for Training Level T3, for workers on small scale asbestos projects. The topics listed as mandatory subjects in this course cross reference the same discussions necessary for training Full Scale asbestos project workers, training level T2. For example, Topic 3 (Employee personal protective equipment) requires a discussion of respirators and respirator types, their limitations and use, and the selection and use of protective clothing. We contend that these discussions are irrelevant to the health and safety of small scale project workers.

Under Oregon law, OAR 437-83-7020(6)(c) and Appendix 83-G, the small scale asbestos worker is required to wear a HEPA equipped cartridge respirator when using a glove bag to remove asbestos. A worker who follows the work practices and engineering controls required for small scale work is not required to use the full range of respirator types required to be discussed under the proposed T3. The small scale project worker need only know about the limitations and uses of the cartridge respirators used in this type of work.

The state of the art work practices required to be discussed under T2 go far beyond the needs of the small scale project worker. Indeed, the small scale exemption depends in large part upon the specific work practices used in small scale projects as described in Appendix 83-G. Training level T3 should concentrate and be limited to those work practices. Again, HB 2367 requires "different training requirements that reflect the different levels of responsibility." In no other instance is this distinction so clear as to the legislative intent.

The following topics for training level T3 should concentrate and be limited to the work practices and engineering controls as described in Appendix 83-G:

3. Employee personal protective equipment.
5. Personal hygiene.
6. Additional safety hazards.
7. Medical monitoring.
- 8 . Air monitoring.

The course content for each of these topics should not refer to level T2 requirements and should set out independently the different requirements for small scale projects.

If a course provider adequately and fully presents the required content in less than two days, the remaining time will be spent with "filler" or the provider will slow the course down to stretch the running time. The use of "filler" is unproductive and unnecessary. A slow pace of presentation can have adverse effects on attentiveness. We recommend deleting the two day minimum course length with six hours of hands-on training and substituting a one day course length and 3 hours of hands-on training. Course accreditation and worker testing are adequate to ensure that workers attain a degree of knowledge sufficient to safely undertake small-scale, short duration projects.

A shorter, more focused training program will allow more persons to be available for training, including those that ordinarily may not be involved with asbestos but might be exposed in the course of their jobs such as electricians, plumbers and other maintenance workers.

D. Refresher Training: Training Level T4

The requirement for mandatory annual refresher courses is directly in contradiction to statutory language and should be removed in favor of a requirement based on a finding of the Environmental Quality Commission that there are new or changed conditions for a category of worker such that a refresher course is necessary. The EQC should limit its determination to a single category of worker. Section 9(3) of the statute does not permit any other reading. As proposed, the Training Guidance Document provisions on refresher courses go much farther than the legislature intended and could be invalidated on those grounds.

Training Test Administration and Scoring

The proposed rules indicate that providers of training will develop, administer and score certification tests. The proposed rules require a certain number of questions on an examination, depending on the classification of training, and a certain percentage of correct answers for a passing score. We recognize a number of inherent problems with this system and recommend that the Department standardize, administer and score tests separate from providers of training. Foremost of these problems is the legal issue of whether a government agency can delegate to a private party an essentially governmental function.

The examination score is the sole judge of whether a supervisor, contractor or worker has been adequately trained. Several considerations must be addressed when using a testing program to limit entry into a workplace: Do the various examinations test on an equal footing so that students of one program are not subject to discrimination nor are students allowed to seek out the "easiest" program? To what extent is cheating possible and what measures can be implemented to reduce the possibility of cheating?

Possible solutions to these problems include:

1. Departmental development of several examinations which can be rotated both within a single test group and among different test groups.
2. Departmental administration and scoring of tests.

The first solution is the more important. To minimize department involvement and continue reliance on the expertise of the training providers, the department could require each provider to submit a proposed test and to use or modify those to form the battery of tests to be used. A national pool of test questions could also be used.

The proposed rules do not address what happens if a student fails to correctly answer the required percentage of questions. Must the student retake an entire training session or may they simply retake an exam? This is a fundamental question which must be addressed by the rule or guidance.

Constraints on Entry into the Workplace

A commenter at the Portland public hearing advocated that the Department use the certification process to limit or constrain the number of workers who become certified

to perform asbestos work. This commenter admitted that this was solely to improve the economic position of the people that he represents. NWPPA strongly disagrees with the principle of limitation or constraints on entry into the workplace. No person who applies for certification may be denied by the Department for any reason other than as established by rule. The Department has no authority to otherwise limit certifications and must maintain its programs to fully support the number of applications which are submitted.

Economic Analysis

The fiscal and economic analysis of the proposed rule as presented in Attachment I of Agenda Item H presented at the EQC meeting of January 22, 1988 is inadequate. Although the per worker costs may be reasonable, the aggregate costs to the state are not at all presented. NWPPA feels that these costs will be extremely high given the degree to which this proposal will affect workers in a large number and variety of occupations. Almost every maintenance or construction activity from simple electrical work and plumbing to large construction and demolition will be affected. The EQC should be apprised of the magnitude of these costs.

The analysis makes the statement that "training and specific work practice standards are presently required of persons regulated by APD rules" in order to lessen the appearance of costs. To what degree do the present and proposed requirements overlap? What are the present costs of compliance with APD rules and by what order will those costs increase under the proposal?

HAZCON INC.

HEALTH HAZARD CONTROL SERVICES

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
MAR 21 1988

March 17, 1988

Wendy Symms
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

AIR QUALITY CONTROL

Dear Wendy:

The following information is submitted as our comments on the proposed asbestos control rules.

We are a full service Industrial Hygiene Consulting Firm specializing in asbestos related work, with offices in Seattle and Portland. We are also an approved training provider for the State of Washington Asbestos Worker Certification Courses. In the past two years, our firm has trained approximately 2,000 workers. Approximately half of this number were trained through our Portland office. We believe this history gives our testimony the added weight of practical experience in dealing with certification programs.

We believe that Worker and Supervisor Certification is an excellent method for ensuring that the individuals involved in abatement had at least an understanding of the issues at some point in time. The will to act in a responsible manner can not be taught. Only regular, thorough and consistent enforcement of the regulations can help prevent improper abatement from occurring.

We also believe the intent of the Certification Process should be to impart knowledge of the hazards, the regulations and safe work practices. Instructional time should not be spent on making workers more productive. This is training that should be learned on the job through supervision.

It is also not necessary for a worker to be highly educated, or pass a difficult examination. It is important that they understand and retain the information presented.

OAR 340-33-020.

Definition 5. Asbestos containing material is defined slightly differently than in 340-25-455 (5). We believe these definitions should be consistent and agree with NESHAPS.

Definitions 17 and 18. We believe the small scale definition in #17 should be eliminated and only #18 remain. Firms specializing in asbestos abatement should meet the requirements for all abatement contractors. Definition 18 allows a generous exception for firms that deal with asbestos as a secondary consequence of other work.

340-33-030 (12)

We believe adequate numbers of training providers, trained workers, and supervisors are currently available in the state to not warrant an extension of time.

340-33-040 (8) (C)

Suspension or revocation of a license would prove devastating to a contractor. We believe a more concise guideline for revocation should be included. Revocation should be limited to rule infractions that could directly result in asbestos exposure to individuals or the release of asbestos to the environment. Consideration should be given to contractor supervision policies and past activities when dealing with what could be isolated employee actions.

340-33-050 (3)

We agree that it takes more than attending a training course to make an effective supervisor. However, the implementation of this rule as written would effectively eliminate firms from conducting in house, full scale abatement projects. It would be nearly impossible to qualify supervisors from within the firm with these requirements and may not be necessary, if only a single type of abatement activity was being done.

Hiring temporary supervisors from outside the company would create many personnel problems. There currently is a shortage of unemployed supervisors available. Thus it may be impossible for a firm to hire one for the short period necessary to complete an abatement project in house.

We would suggest these experience requirements be limited to supervisors hired by contractors. Supervisors should be judged by their ability to supervise and run a job. Management should be held responsible to select effective people in this role.

340-33-060 (1) (g)

We would recommend that state provided exams be limited to the supervisory level. Exams at other levels should be submitted and accepted through the course accreditation process. State administered exams add expense to the process, and delays for the paperwork to be processed. Many individuals who take the worker course are looking to begin work as soon as possible after completion. Reputable training providers can properly administer exams. Other providers should be weeded out by your department.

340-33-080

We would urge that grandfathering of training be extended back to July 1985, for those with current Washington Certification. Those individuals who have been active in the industry since then and prior to January 1987 are least in need of another full course.

340-33-110

The fees for supervisor and both worker levels are excessive. These fees are usually paid by the individuals. While the inclusion of the waiver is thoughtful, we believe the cost of processing a flood of waiver requests will more than offset any gain from higher certification fees.

We recommend a straight fee of \$10.00 for all types of certification with no waivers allowed. Any short fall in revenue could be made up by adjusting the notification fees, this would place the cost of abatement squarely on the owners of the problem, not the worker performing abatement.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard H. Krause".

Richard H. Krause, CIH
HEALTH HAZARD CONTROL SERVICES

RHK/mlaj



P.O. BOX 4102, PORTLAND, OREGON 97208

(503) 228-7655

March 16, 1988

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 21 1988

Wendy Sims
Dept. of Environmental Quality
Air Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204

AIR QUALITY CONTROL

Dear Wendy:

This is in response to the proposed new regulations concerning asbestos abatement projects.

Pennwalt's Portland plant site has a large quantity of pipe insulation which contains asbestos materials. Whenever a pipe or valve develops problems, the insulation is immediately removed by our contractor. Usually the work is unscheduled and must be completed expeditiously to prevent any further damage. Pennwalt currently sends the Department a monthly summary of our small-scale asbestos abatement projects. Pennwalt employees are not involved in any asbestos removal.

OAR 340-25-465 (4)(a)(C) proposes that contractors can comply with the notification requirement by 1) maintaining on file with DEQ a general asbestos abatement plan, and 2) providing DEQ a monthly summary of the small-scale projects. The proposed wording appears acceptable except that the abatement plan is to contain, to the extent possible, the following information:

- a. Description of structure where the abatement project is to be accomplished;
- b. Scheduled starting and completion dates;
- c. Location of the material; and
- d. Amount of asbestos to be abated.

A general abatement plan could be submitted for our maintenance removal projects. However, due to the unscheduled emergency nature of our work, the above noted items would not be known in advance to include in the plan. Paragraph (E) allows for emergency telephone notification coupled with the submittal of a written notification within (3) days. Since we may have several unscheduled projects in one week, this could mean the DEQ would actually receive numerous letters during any one month. It would appear that a monthly summary should be sufficient.

We also suggest a wording change under the section (b) Notification Fees. Subparagraph (iii) calls for the submittal of \$200/year for small scale projects conducted by certified employees of facility owners or operators. It is suggested that subparagraph (iii) be changed to include work conducted by contractors.

Thank you for the opportunity to comment on the proposed rules.

Sincerely,

PENNWALT CORPORATION



LARRY D. PATTERSON
Environmental Control Director

LDP/pac

real 3/21/88

SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS
ATTORNEYS AT LAW

Pacwest Center, Suites 1600-1800
1211 S.W. Fifth Avenue
Portland, Oregon 97204-3795
(503) 222-9981

DONALD A. HAAGENSEN

CABLE ADDRESS "ROBCAL"
TELEX 4937535 SWK UI
TELECOPIER (503) 796-2900

TO: DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION

FROM: DONALD A. HAAGENSEN
For CHEMICAL WASTE MANAGEMENT, INC.

RE: PROPOSED RULES RELATING TO ASBESTOS CONTROL AND PROPOSED
AMENDMENTS TO THE HAZARDOUS AIR CONTAMINANT RULES FOR
ASBESTOS, OAR CHAPTER 340, DIVISION 25, SECTION 465

DATE: MARCH 21, 1988

Chemical Waste Management, Inc. submits the following comments on the proposed rules issued January 22 by the Department of Environmental Quality regarding persons conducting asbestos abatement projects and State hazardous air contaminant rules for asbestos. In these comments, the part of the proposed rule at issue is first quoted in full and then followed by a discussion of the proposed and suggested changes to the proposed rule. Language recommended to be added to the proposed rule is underlined.

Proposed Rule 340-33-060(1)

"(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department."

COMMENT

This proposed rule requires that any asbestos training course required for licensing or certification under the proposed rules has to be accredited individually by the Department before it may be used to fulfill training requirements. Such a requirement is overly strict and unnecessary. It fails to recognize that there is a national organization, the National Asbestos Council (NAC), that reviews in detail and approves or disapproves courses. Other states have examined the NAC review

Seattle, Washington 98171 ♦ Schwabe, Williamson, Wyatt & Lenihan
Peoples National Bank Building, Suite 900 ♦ 1415 Fifth Avenue ♦ (206) 621-9168

Washington, D.C. 20007 ♦ Schwabe, Williamson, Wyatt, Moore & Roberts
The Flour Mill, Suite 302 ♦ 1000 Potomac Street N.W. ♦ (202) 965-6300

DEQ, Air Quality Division
March , 1988
Page 2

and approval process and determined that NAC approved courses are acceptable.

To require that courses that have already been approved by the NAC must be approved individually by the DEQ is also costly and time-consuming. It could cause delay in the licensing and certification process when licensed contractors and certified workers are critically needed to perform asbestos abatement projects.

The proposed rule should be amended to recognize that individual training courses that have been reviewed and approved by the NAC need not be reviewed and accredited by the DEQ.

Suggested Change to Proposed Rule 340-33-060(1)

"(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department except that training courses which have been reviewed and approved by the National Asbestos Council need not be individually accredited by the Department."

DAH:dmm

Oregon Cable Communications Association

250 14th Street N.E.
Salem, Oregon 97301
(503) 362-8838

March 17, 1988

PRESIDENT
Bret Rios
Viacom Cablevision
1710 Salem Ind. Dr. N.E.
Salem, OR 97303
(503) 370-2770

VICE-PRESIDENT
Michael Rector
Warner Cable Comm.
1275 Ocean Blvd.
Coos Bay, OR 97420
(503) 888-5561

TECHNICAL VICE-PRESIDENT
Orville Brown
Santiam Cable-Vision
Box 517
Stayton, OR 97383
(503) 769-7338

SECRETARY-TREASURER
Dave Reynolds
TCI Cablevision
025 SW Sherman
Portland, OR 97201
(503) 243-7434

DIRECTORS
Mary Chase
Bend Cable Comm.
Box 5067
Bend, OR 97708
(503) 382-7092

George Dodge
Cooke CableVision
Box 399
Medford, OR 97501
(503) 779-1814

Scott Chambers
Chambers Communications
Box 7009
Eugene, OR 97401
(503) 485-5611

Rudi Engel
Rogers Cable TV
3075 N.E. Sandy
Portland, OR 97232
(503) 230-2099

Larry Johnson
Falcon Cable
Box 815
Lincoln City, OR 97367
(503) 994-3111

Mike Dewey
Executive Secretary
250 14th St. N.E.
Salem, OR 97301
(503) 362-8838

Mr. Fred Hansen
Director
Environmental Quality Commission
811 SW 6th
Portland, OR 97204

DEPARTMENT OF ENVIRONMENTAL QUALITY

D E Q E N V S

MAR 21 1988

OFFICE OF THE DIRECTOR

Dear Mr. Hansen;

The Oregon Cable Communications Association is comprised of cable television companies operating in the state of Oregon. These companies have a franchise with local units of government to provide cable service to residents in the franchise area. There are approximately 130 cable systems in Oregon, providing cable service to 345 communities. We estimate there are 550,000 cable subscribers in Oregon.

To receive cable television it is necessary for the local cable company to connect the subscriber to the service. The "drop", how the connection is made, is either from a utility pole or underground pedestal. A serviceable connection is possible when a house is pre-wired for cable television service, or by drilling a 5/16 inch hole through a wall or floor where there has not been a cable connection before.

In reviewing the proposed administrative rules for "Emission Standards and Procedural Requirements for Hazardous Air Contaminants" for asbestos abatement, it appears likely unless the rules are modified, Oregon cable companies will be required to obtain a "Contractor" license and worker certification and training will be required of cable installers to drill a 5/16 inch hole in a residence.

If our interpretation is correct, the net result is an increased burden to the cable industry without a commensurate benefit to the public at large. In fact, I can not believe the Oregon legislature intended for cable installers drilling 5/16 inch holes to be covered under this new law.

The statutory definition of "asbestos abatement project" is "any demolition, renovation repair, construction or maintenance activity of any public or private facility that involves the repair, inclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air". Based on this definition, the cable industry should not be subject to the proposed administrative rules.

Cable companies do not demolish, renovate, repair, construct, or maintain public or private facilities. Essentially, all that is done is the drilling of a small hole. If a cable employee were to be involved in the above activities, where a significant exposure occurs, then we can understand the rationale for worker training and certification.

When a cable connection is made to the residence, the drilling usually occurs from the inside out. According to the Plant Manager for Viacom (Salem), 50% to 55% of all cable connections are made through the floor, from the inside of the residence to the crawl space below the house. A wall plate is installed on the inside and a rubber plug attached on the outside.

Under Chapter 741, the Department has the authority to exempt certain categories of workers.

We believe it makes sense to exempt cable installers from the requirements of the proposed administrative rules, since they do not work on "asbestos abatement projects", and there is virtually no risk to these individuals or others. It is hard for us to imagine the Oregon legislature intended for cable television installers to be covered under this new law.

Oregon government has slowly implemented programs to unravel the unnecessary regulations placed on Oregon business. To adopt the proposed burdensome administrative rule sends a signal that Oregon is not yet open for business.

Thank you for your consideration.

Sincerely,



Mike Dewey
Executive Director

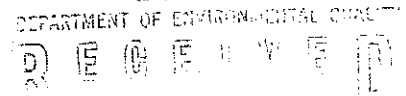
MD/sj

STANDARD INSURANCE COMPANY



home office: Portland, Oregon 97207
P. O. Box 711
(503) 248-2700

March 9, 1988



Mr. Fred Hansen
DEPARTMENT OF ENVIRONMENTAL QUALITY
Air Quality Division
811 S.W. Sixth Avenue
Portland, OR 97204

OFFICE OF THE DIRECTOR

Dear Fred:

In response to the proposed rules relating to asbestos control and proposed amendments to the hazardous air contaminant rules for asbestos, Standard Insurance Company is concerned with the following:

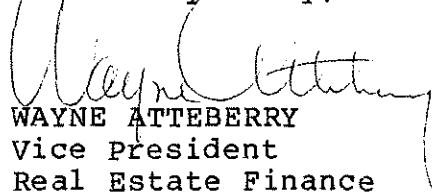
1. The project notification fee structure for large-scale projects greater than 16,000 square feet or 2,600 lineal feet has a notification fee of \$500. As part of the proposed notification assessment, it is our understanding that each three-month period of an ongoing abatement project will be assessed another project notification fee of \$500. This proposed system seems inequitable in respect to reassessment. It is our opinion when DEQ receives an abatement project submittal, which includes the project start and completion date, a one-time notification fee should be developed based on the submitted schedule. Perhaps a better breakdown of what this notification fee is used for, such as if the intent is to cover on-site inspection costs by DEQ, a system should be developed to determine the number of inspections required per project and assess the project accordingly.
2. It is our opinion DEQ should be required to provide examinations of the training providers to assure consistency in the worker's level of knowledge. Also, clarification on the ratio of supervision to workers for the large-scale jobs is needed.
3. 340-25-465(5)(a)(B)(ii): "To the extent possible" should be further defined.

Mr. Fred Hansen
March 9, 1988
Page Two

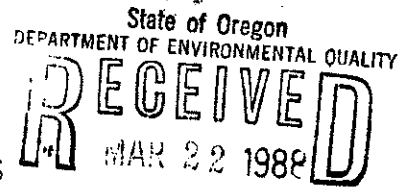
4. 340-25-465(5)(a)(B)(iii): The proposed quarterly summary reports should be submitted on a DEQ standard department form so there is no confusion about what is to be included.
5. 340-33-030(2): This section states that a facility owner or operator does not need to be licensed but must use certified workers for small-scale maintenance projects. Do small-scale certified maintenance workers have to work under a certified abatement supervisor?
6. 340-33-040(2)(c): Is there any provision for checking the background of contractors to ensure they have made full disclosure under this section?
7. 340-33-050(3)(b): There may be some problem initially getting supervisor applicants who can meet these requirement by January, 1989.

We appreciate the opportunity to express our concerns and look forward to your response.

Yours very truly,


WAYNE ATTEBERRY
Vice President
Real Estate Finance

WA:SH:sa
cc: Rod Walker
Robin Lindquist, BOMA



TESTIMONY
Of
ASSOCIATED OREGON INDUSTRIES
On The
PROPOSED RULES RELATING TO ASBESTOS CONTROL
AND
PROPOSED AMENDMENTS TO THE HAZARDOUS AIR CONTAMINATE RULES FOR ASBESTOS

Submitted
March 18, 1988
by
Thomas C. Donaca
General Counsel

We will first address the questions raised in the supplement to Agenda Item H:

- (1) We believe that modifications need to be made in the range of workers and activities included in "small-scale asbestos abatement projects" in the following areas:
 - (a) For incidental maintenance or installation activities, the training requirements are unrealistic in relation to the exposure.
 - (b) The annual refresher requirements are unnecessary, and
 - (c) while OAR 340-33-100 attempts to exempt certain asbestos-containing materials, the requirements for "wetting" in all cases and the prohibition on drilling significantly narrow the intended exemption.
- (2) As to a cutoff on the notification requirements, we believe the cutoff is too low in the proposed rules. For instance, it appears that if new wire is to be run through walls where asbestos-containing materials may or may not be apparent and the drilling of holes is required, that the activity is an "asbestos abatement project", because such an activity falls within the definition of "renovation" and is not exempt under OAR 340-33-100. Such an activity generally requires written notice at least ten days in advance by contractors. We believe this type of activity should have been exempted or that a requirement for use of a face mask be put in place. If the latter were the rule, there would be an exemption from the training requirements.
- (3) Regarding exam preparation, we believe that the greatest consistency of testing will be achieved when the department both prepares and administers the examination. We recognize the difficulty of the DEQ administering exams, but strongly urge the DEQ to maintain control of the examination question. We will watch with interest how certification by the training providers works in practice.

Page Two ...

The following are our specific comments on the proposed rules:

- (1) The definition of "asbestos abatement project" covers almost all asbestos activity in commercial, industrial, publicly owned and larger dwelling units because of the words contained in that section. As defined, "renovation" appears to cover "maintenance" and "repairs" further constrained by the exemptions on asbestos-containing materials of OAR 340-33-040. Some additional definitions of the words contained in the definition of "asbestos abatement project" appear necessary to meet what we thought was the legislative intent as well as to square with representations made by DEQ to the Legislature to provide relief to some types of small-quantity generators. (2) OAR 340-25-460 (3) What is a modification? It is not defined and seems to overlap the terms "renovation" and "construction" wording contained in the "asbestos abatement project" definition.
- (3) OAR 340-25-460 has become ambiguous as to its application. Under the existing rules, only sources for which emission standards have been set were subject. Now, with no definition of "source", it appears that an asbestos abatement project is a source. This could have been taken care of by leaving the existing rules and adding new sections to OAR 340-25 to cover asbestos abatement projects.
- (4) OAR 340-25-460 (7) What authority may you delegate to the regional authorities under this subsection? Placing the delegation in (7) further adds to the ambiguity of the entire section.
- (5) OAR 340-25-465 (4) Should probably be a new section, as suggested above.

Under 4(a)(b) we suggest you have a major information problem. How do you intend to get information to all potential facility owners and operators that they are required to pre-establish the possibility that they may have an "asbestos abatement project", so that they can be qualified to keep the file and make the summary report? We suggest that no one knows, statewide, the number of buildings and facilities that may contain asbestos. To approach the matter as these rules are proposed, assumes that all such persons are knowledgeable about the potential for asbestos. We know of no entity, governmental or otherwise, that has that information. To proceed as proposed, we believe, will lead to widespread, if unintended, violation of these rules.

This section would be more understandable if it had been clearly divided between contractors and their responsibilities and those of facility owners and operators. The intermingling makes the rules difficult to read and clearly understood by each affected group. One last thought, for small-scale projects, the reporting requirements are more difficult and more specific than are required for major demolition and renovation projects. Again, the requirements for facility owners, small-scale contractors and other contractors should be set out in separate sections rather than as subsections. It is difficult to read and understand.

Page Three ...

OAR 340-25-465 (4)(b)(B) We question the notification exemption in this subsection. What is the authority for such an exemption in residential buildings and not in other types of buildings? This whole area of exemption deserves further consideration to insure consistency of application of the rules to sites and personnel, where health hazards have a reasonable probability of occurring.

OAR 340-25-465(4)(a)(E) Provides only for emergencies to protect life, health, or property. Questions arise such as when if you begin a project where "asbestos" was not apparent, could you use the emergency notification if asbestos was discovered. Also, does this presume that all our firefighters are subject to these rules, because they are always on emergencies and do a lot of demolition.

OAR 340-25-465 (4)(c)(B) requires "wetting" unless there would be unavoidable damage to equipment. Does this include building damage? How would you get DEQ approval to proceed? Again, when drilling holes, does one have to get approval from the DEQ in each instance to deviate from the subsection? This subsection appears more suitable for major projects than the average small-scale project.

OAR 340-33-020(4) Why does the definition of "asbestos abatement project" vary slightly from OAR 340-25-455(3)?

OAR 340-33-020(5) Why does the definition of "asbestos-containing material" vary from OAR 340-25-455(5)?

OAR 340-33050(7)(b) This subsection requiring annual refresher courses to gain renewal of a certificate follows HB 2367, section 9(3), as contained in the original House bill and the House amendments of April 14. The final version, A-Engrossed HB 2367, was rewritten to eliminate the mandate for all certificate holders to take an annual refresher. Instead, the final bill provides that the Commission must find a need to "update the workers' training in order to meet new or changed conditions" before requiring a review course. The proposed rules remove the funding of the Commission and revert to the mandate. We believe that there is little evidence to suggest there will be new or changed conditions on most small-quantity projects. We further believe the rule departs from the legislative intent of this subsection. This subsection should be rewritten to conform to the final version of HB 2367.

OAR 340-33-070(3) Will this subsection allow several meetings to achieve the seven hours of training and not require a continuous seven hour session in one day?

DEQ Asbestos Training Guidance Document: Is this a rule? If only a guidance document, what is its status?

We believe that two days of training for all small-scale workers is excessive, particularly for persons doing maintenance, minor repair, and installations only. Either a further subset of small-quantity, short-duration work should be established in the applicable rules or a further short-term training program be established, concentrating on identification, and worker protection related to the actual exposure, and appropriate disposal.

Page Four ...

For the same reasons as stated earlier, an annual one-day refresher for all certificate holders is not called for.

The fiscal impact statement is incomplete. We believe it should contain a realistic estimate of the number and types of certificate holders and contractors; the estimated cost for training for each type of certificate holder, including estimates of either wage loss or increased employer costs over the cost of training; estimated number of training providers and their locations; the estimated annualized cost of refresher training; and some estimate of income to the DEQ and expense of administration to the DEQ. Such information would provide information on which to understand the overall program costs.



STATE OF OREGON

INTEROFFICE MEMO

TO: Wendy Sims
AQ Division

FROM: Larry Jack *Larry Jack*
SW Region

SUBJECT: Proposed Asbestos Rules

DATE: March 22, 1988
State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED
MAR 24 1988

AIR QUALITY CONTROL

Recommend that asbestos contractors or individuals disposing of asbestos be required to retain landfill receipts for three years. Receipts should be available for inspection by DEQ during that time.

i.e.

Landfill disposal receipts shall be retained by the contractor or individual disposing of asbestos for a minimum of three years. This period of retention shall be extended during the course of any unresolved litigation regarding the disposal of asbestos material by the contractor or individual or when requested by the Director.

LJ:fs



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item O, April 29, 1988, EQC Meeting

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

Problem Statement

The Department's Hazardous Waste Program has determined that during the 1987-1989 biennium, a fee revenue shortfall of \$490,000 will occur. The shortfall is the difference between the projected fee revenues included in the Program's proposed 1987-1989 budget, and actual fee revenues.

Background

Prior to the 1987 Legislative Session, a 9-member Hazardous Waste Program Funding Committee, made up of representatives from the regulated industries in Oregon, reviewed the overall hazardous waste program and recommended an approach for long-term funding of the program. The committee looked at the required activities and effort necessary to maintain an authorized state program and also evaluated other aspects of an effective hazardous waste program for Oregon. The committee found that the Department's current program was understaffed and underfunded to adequately cover the demands of the program.

Funding for the hazardous waste program is derived from three sources: A U.S. Environmental Protection Agency grant, State General Fund, and other funds (primarily fees from the regulated community). The committee recommended a balanced funding approach. It agreed that there should be increases in the fees paid by generators of hazardous waste and by facilities that treat, store or dispose of hazardous waste (TSD facilities). The committee also felt that an increase in state general funds was warranted. Historically, the program has received little general fund support and has primarily been funded by federal grant money and fees on industry. These recommendations were included in the Department's proposed budget for fiscal years 1988 and 1989.

In 1987, the Oregon Legislature significantly increased general fund support for the hazardous waste program, as the funding committee had recommended. The program was appropriated approximately \$761,011 in general

funds for the current biennium. However, \$300,000 of that amount was initially held in reserve. The Department returned to the Legislative Emergency Board in January 1988 and obtained \$283,800 of the reserved amount.

As noted above, the funding committee's recommendations also included an increase in the amount of fees paid by generators of hazardous waste and by hazardous waste TSD facilities. The committee agreed that fees should be increased to provide a total of approximately \$1,510,000 in revenue for the biennium. On July 13, 1987, the Commission adopted amendments to the hazardous waste fee schedules, calculated to generate this amount of revenue. The new fees were assessed in September 1987.

The Department now finds that the fee revenues for the 1987-1989 biennium are less than anticipated. The new fee schedule did not produce the required \$755,000 (one-half of the \$1,510,000) for 1988. Only about \$510,000 has been received for 1988. Assuming that the fee revenue for 1989 will also total approximately \$510,000, a shortfall of \$490,000 is projected for the biennium:

$$\begin{aligned} 2 \times \$510,000 &= \$1,020,000 \\ \$1,510,000 - \$1,020,000 &= \$490,000 \end{aligned}$$

The projected shortfall is the result of several factors: first, the Department was unable to accurately predict the number of new generators who would enter the system last year and where they would fit into the fee schedule; second, the Department underestimated waste minimization efforts by generators; and third, some generators dropped out of the system, for various reasons.

At the Commission's January 22, 1988 meeting, the Department informed the Commission that it intended to reconvene the funding committee to determine how to best overcome the shortfall. The Commission granted the Department authorization to conduct public hearings on the proposal to be developed by the funding committee and the Department.

The Department also proposes amendments to the rules concerning permit application filing and processing fees for hazardous waste storage facilities and for the modification of hazardous waste facility permits. The Department proposes to restore the fees for storage facilities, which were temporarily suspended while a clarification of statutory authority was being obtained. Also, for lack of clear statutory authority, the Department is now proposing to temporarily suspend the fees required for permit modification.

Public hearings on these matters were held, in Portland, on March 24 and 30, 1988. A total of 17 people attended, in addition to Department staff. Three people testified at the hearings and seven people submitted written testimony. In general, the commentators reluctantly accepted the proposed fee

increases, with the admonishment that the Department must do a better job of collecting fees from non-compliers, and that the proposed surcharge must be for one-time only. A Hearing Officer's Report and the Department's Response to Comment are attached.

The Department now proposes adoption of amendments to the hazardous waste fee rules. A Statement of Need for Rulemaking is attached. The Commission is authorized to adopt rules pertaining to hazardous waste fees by ORS 466.020, 466.045, and 466.165.

Alternatives and Evaluation

As stated previously, the hazardous waste program is funded from three sources: A Federal EPA grant, State General Fund, and Other Funds (primarily fee revenues). For the current biennium, the federal grant is \$928,875. State General Fund contribution is \$761,011. Fee revenue was projected to be \$1,510,000. However, based upon fees collected to date, only about \$1,020,000 (2 X \$510,000) will be received. This results in a shortfall in fee revenue of \$490,000.

The Hazardous Waste Program Funding Committee was reconvened on February 16, 1988 and recommended a new fee schedule to the Department on March 14, 1988. A committee membership list is attached. The funding committee recommended recovery of about 75% of the current shortfall, based upon the Department's anticipated 75% collection rate (i.e., the new fee schedule would provide 100% of the shortfall, with a 100% collection rate, but that is not expected). The committee did not recommend raising the fees to completely cover the shortfall with only a 75% collection rate.

The funding committee's final report is attached. The committee's recommendations include the following key provisions:

- The base fees for all categories, except disposal sites, should be increased by 25%;
- A surcharge should be added to all categories, except disposal sites;
- A late charge should be added for fees that are not promptly paid;
- The fee increases should be for 1988-89 only and should not be considered permanent;
- The Department should immediately initiate a program to identify additional generators; and
- A new funding method must be found for the period beyond July 1, 1989.

The Department amended the committee's proposal, in two ways, in the draft rules:

- First, the committee recommended that the rules include a late charge of 50%, if the fees were not paid within 60 days of the due date. The Department's legal counsel agreed that a late charge could be assessed, if it is tied to increased administrative costs by the Department. However, a 50% late charge exceeded administrative costs. As an alternative, the Department proposed a late charge of \$200 plus interest for overdue fees, an additional charge of \$200 for each 90 days that the fees remain unpaid, and an additional 20% increase for fees 90 days or more overdue. The \$200 represents typical costs incurred by the Department in the pursuit of unpaid bills. The 20% increase represents the amount charged by the Oregon Department of Revenue, when an overdue bill is sent to that agency for collection; and
- Second, the committee recommended that the rules contain a sunset provision, to repeal the one-time only surcharge after 1988. To do this, however, would essentially require two separate fee schedules in the rules. The Department believes that this would be confusing. Accordingly, the Department drafted the rule to simply require that the new fee schedule be reconsidered by the Commission, prior to September 30, 1989. The Department remains committed to revising the program funding method by that date. That date was selected to allow sufficient time for any necessary statutory changes that may be required for a new funding approach. In any case, the Department would not initiate fee billing under the proposed fee schedule beyond the current biennium.

The proposed fee increases are only a temporary measure to address an immediate funding problem. In the long-term, the Department must reevaluate the hazardous waste fee structure, to both encourage appropriate waste management alternatives, such as waste reduction and recycling, and to ensure a dependable and consistent source of revenue to support the program. These issues were raised by several commentators when the fee schedules were amended in July 1987. The Department is committed to reviewing the entire program funding issue with the Hazardous Waste Program Advisory Committee. This is a broader-based committee than the funding committee, in that it is comprised of representatives from industry, environmental groups and the public. The Commission may anticipate that the Department will return with a more comprehensive revision of its hazardous waste fee rules, prior to the next biennium.

In addition to proposing fee increases, to overcome a revenue shortfall, the Department is also proposing to amend the rules pertaining to permit application filing and processing fees. In December 1986, at the request of the state's Legislative Counsel Committee, the Commission temporarily suspended the permit application filing and processing fees for hazardous waste storage facilities. The Committee advised the Department that statutory authority for these fees was unclear. With the passage of Senate

Bill 116, by the 1987 Legislature, this problem has been eliminated. Accordingly, the Department now proposes to reinstate those fees, at the same level as the fees for hazardous waste treatment and disposal facilities.

Recently, the Legislative Counsel Committee informed the Department that statutory authority to assess fees for permit modification is also unclear. A copy of the Committee's report is attached. Accordingly, the Department is now proposing the temporary suspension of the fees associated with permit modification. The Department will seek clear authority to assess such fees from the 1989 Legislature.

At the public hearings concerning these proposed amendments, three people submitted oral testimony and seven people submitted written testimony. Most of the commentators accepted the proposed fee increases. One commentator requested that the fees not be raised at all. Another accepted the proposed 25% increase in the base fee, but not the proposed one-time surcharge. One commentator accepted the proposed increases for generators, but not for TSD facilities. Another requested that there be no fee for generators who recycle their wastes. In general, commentators believe that the Department must do a better job of discovering currently unregulated generators and of collecting late or unpaid fees. Most commentators supported the proposed late payment changes, but several suggested that the term "overdue" needed to be more clearly defined. The Department has revised that language accordingly. Two commentators requested that both the proposed new base fee and proposed one-time surcharge be displayed in the rules, as well as the total fee. The Department had no objection and has made that change. Two commentators requested that the Department allow fees to be paid in installments. The Department noted that this is currently allowed on a case-by-case basis, but did not agree to amend the rules. Collecting fees on an installment basis is more costly for the Department. Several commentators asked for clarification of elements of the proposed rules. One commentator requested that a table be added to the rules to better define when a permit is required. The Department believes that such a table should be in the form of a guidance document, rather than a rule, and is committed to publishing such guidance by July 1, 1988. The attached Hearing Officer's Report and Department's Response to Public Comment provide a complete listing of all comments received and the Department's responses.

Following the public hearings, the Department received an additional comment from its legal counsel. It was suggested that interest charges for late payments should more properly be assessed at the rate established in ORS 305.220, rather than at the current Internal Revenue Service late payment rate. This is the rate used by the state Department of Revenue and by the Department's Waste Tire Program. Accordingly, the Department has made this change in the proposed rule amendments.

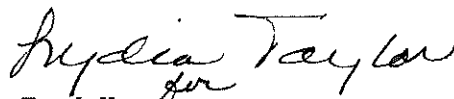
Summation

1. The Department's hazardous waste program has a current projected shortfall in fee revenue of approximately \$490,000 for the biennium.

2. The Department's Hazardous Waste Program Funding Committee has recommended a revised fee schedule to help offset this shortfall.
3. The Department views this proposal as an emergency measure only and is committed to reviewing its long-term funding approach. The proposed rules require the Commission to reconsider the fee schedule, by June 30, 1989.
4. The Department takes the Hazardous Waste Funding Committee's recommendation to initiate a program to identify additional generators very seriously and it is committed to fully implementing that recommendation.
5. Public hearings have been held and commentors generally accepted the proposed increases. The Department has made some revisions to the proposed amendments, in response to the comments received.
6. The Department requests the adoption of these proposed rule amendments.
7. The Commission is authorized to adopt rules pertaining to hazardous waste fees, by ORS 466.020, 466.045, and 466.165.

Directors Recommendation

Based upon the summation, it is recommended that the Commission adopt the proposed amendments to the hazardous waste fee rules in OAR Chapter 340, Divisions 102 and 105.


Fred Hansen

- Attachments
- | | |
|------|---|
| I: | Statement of Need for Rulemaking |
| II: | Funding Committee Membership List |
| III: | Funding Committee's Final Report |
| IV: | Report from Legislative Counsel Committee |
| V: | Hearing Officer's Report |
| VI: | Department's Response to Public Comment |
| VII: | Draft Rules; OAR Chapter 340, Divisions 102 and 105 |

Bill Dana:b
ZB7422
229-6015
March 29, 1988

4. Fiscal and Economic Impact

The proposal would increase the base fees for generators of hazardous waste and for owners and operators of hazardous waste TSD facilities by 25%. The proposal also includes a one-time only surcharge to help offset the Department's current revenue shortfall. In addition, the proposal restores the permit application filing and processing fees for hazardous waste storage facilities and temporarily repeals the fees for modification of a hazardous waste facility.

ZF2800.1

Attachment II
Agenda Item O
April 29, 1988, EQC Meeting

Hazardous Waste Program Funding Committee
Membership List
February 16, 1988

Tom Donaca, Chair - Associated Oregon Industries

Jason Boe - Jason Boe & Associates

Frank Deaver - Tektronix, Inc.

Bob Ferguson - Rhone-Poulenc

John Pittman - Wacker Siltronic Corp.

Doug Richardson - Great Western Chemical Co.

Richard Zweig - Chem-Security Systems, Inc.

ZB7422.2

FUNDING SHORTFALL -- RCRA HAZARDOUS WASTE PROGRAM

Report of the Hazardous Waste Funding Advisory Committee

ELEMENTS FOR APPROVAL

Increase the base fees in all categories by 25%

Surcharge the new base fees at a rate that will, together with the base fee, raise 75% of the estimated shortfall.

The above two proposed fee increases are to be imposed only for 1988-89, and aren't to be considered permanent fees.

ELEMENTS FOR DISCUSSION

True, in 1986 the Advisory Committee agreed to fees to raise the fund required from generator - TSD fees to meet the projected budget for fee revenue. The program support level could only be achieved by securing increased general funds from the State, which were secured.

However, in supporting those fee levels it was implicit that a substantial increase in the number of generators would be forthcoming. We do not find that DEQ has made the necessary effort to bring additional generators under the program. It further appears that the 1987 billings that went out in July were \$210,000 short of the \$755,000 annual target, which should have been a strong signal that the program would not achieve fiscal targets.

The projection of generator population estimates provided the Committee indicated 583 generators - TSD facilities. In reality, only 329 were included in the program in 1987. In 1986 there were 246 facilities in the program, so that in 1987 the increase was only 83, not 337. From 1986 to 1987 the largest generators dropped from 18 to 12 for a loss over the estimates of \$57,150. The growth in the program that has occurred is almost entirely in the smaller generator categories which make up 75% of the generators, but currently produce only \$66,300.

We believe that the regulated generator population in Oregon is at least as large as NPDES permittees of about 800. It appears doubtful that you will discover generators through utilization of the DEQ inspection program when your average cost per inspection is at the \$4,000 level. A lesser-cost program to identify generators must be instituted at once. If the generator population is as large or larger than we have indicated, then you have under regulation less than half of the generator population. While the program may cover the larger generators, it is an ineffective program.

At the same time, there must be a way to reduce the average inspection cost, particularly for smaller generators. Your ability to meet the EPA required level of inspection of 10% of generators annually is also jeopardized.

As annual fees are increased, (actually more than doubling under this proposal) there will be a reduction in the number of generators, and perhaps TSD facilities, as generators react to both the higher fees and waste minimization efforts. Already we are aware that some of the larger generators significantly reduced waste generation in 1987. This fact will depress generator income over the estimates provided us for fiscal 1988-89. Further, since it is possible for those generators that can properly pretreat their waste, it is possible for those generators to escape regulation by DEQ, further reducing the generator population and income to DEQ from fees.

We have concluded that any further increases in fees at the Arlington Hazardous Waste Disposal Site will be counter-productive by causing reduced use of this site. Such an effect would reduce the ability of DEQ to carry out programs already dependent on that revenue source.

IN CONCLUSION

- (1) The Advisory Committee cannot support the entire fee increase in one year to cover the loss anticipated for a two-year period, and imposed on only the existing generator population.
- (2) A program to identify additional generators must be instituted at once. One suggestion for such a program would be to recontact all possible generators, possibly using SIC classes, indicating that if the firm is a generator and comes under the program there would be no penalty. However, if they are a generator that fails to report, then penalties will be assessed, and perhaps enhanced for every 3 to 6 months they delay in coming under the program. These letters might be sent by certified mail, to insure they have been received. The Committee members have indicated their willingness to assist in drafting such a letter. One other point, as no permit is required under the generator program, only a fee, some indicia of fee payment should be given the firm to post.
- (3) A lower cost inspection program must be instituted for smaller generators.
- (4) A reduction in hazardous waste as well as generators as a result of high fees, high disposal costs and waste minimization efforts which will necessitate a new funding method for the period beyond July 1, 1989. We again suggest that a solid waste disposal fee of \$.25 to \$.50 per ton together with generator TSD fees should provide the basic funding for this program.
- (5) If the first three points above cannot be achieved rapidly, consideration will have to be given to program reduction to meet the economic reality of the program - probably not later than October 1, 1988.

Page Three ...

This recommendation is costly to that portion of the regulated community on which the burden is placed. We make this recommendation only on the basis that the program must be funded through this biennium. Because of time constraints, the proposed recommendation is the only feasible alternative available to meet the funding requirement.

Sincerely,



Thomas C. Donaca
Chairman

TCD:ab

COMMITTEE MEMBERS:

Jason Boe
Frank Deaver
Bob Ferguson
John Pittman
Doug Richardson
Richard Zweig



Attachment IV
Agenda Item O
4-29-88 EQC Meeting

STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

January 25, 1988

To: Office of the Director
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

From: Robert W. Lundy
Chief Deputy Legislative Counsel

Enclosed is a copy of our staff report ARR 8024, reflecting our review of rules of the Environmental Quality Commission relating to hazardous waste generator and management facility fees.

The staff report includes a negative determination under Question 1.

The Legislative Counsel Committee requests your response to that determination. The Committee wishes to consider that response when it considers the report at its next meeting.

We would appreciate receiving that response by February 4, 1988.

Encl.

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
OFFICE OF THE DIRECTOR

LEGISLATIVE COUNSEL
S101 State Capitol
Salem, Oregon 97310

ARR Number: 8024

January 13, 1988

Administrative Rule Review
REPORT
to the
Legislative Counsel Committee
(Pursuant to ORS 183.720)

State Agency: Environmental Quality Commission

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
JAN 21 1988

Rule: Hazardous waste generator and management facility fees ^{OFFICE OF THE DIRECTOR}

These rules were filed with the Secretary of State on July 28, 1987, and became effective on that date.

Two of the rules (OAR 340-102-065 and 340-105-113) are amendments of existing rules relating to application fees, annual fees and annual compliance determination fees for hazardous waste generators or operators of hazardous waste management facilities. Some of the changes made by the rule amendments are fee increases; others are described by the agency as "primarily for purposes of clarification." Another existing rule (OAR 340-120-030, relating to permit application fees) is repealed.

DETERMINATIONS

(Questions 1 and 2 pursuant to ORS 183.720(3))
(Question 3 pursuant to request of Committee)

1. Does the rule appear to be within the intent and scope of the enabling legislation purporting to authorize its adoption? No, in part. The enabling legislation is ORS 468.020, 466.020, 466.045, 466.165 and 466.215.
2. Does the rule raise any constitutional issue other than described in Question 1? No.
3. Does violation of the rule subject the violator to a criminal or civil penalty? No. Although criminal and civil penalties for violation of rules adopted under ORS 466.005 to 466.385 are authorized, respectively, by ORS 466.995 (2) and 466.880 (1), imposition of those penalties for violation of the rules in question (that is, failure to pay the prescribed fees) is unlikely.

DISCUSSION AND COMMENT

Intent and scope of enabling legislation

Certain provisions of one of these rules of the Environmental Quality Commission (EQC) relating to hazardous waste generator and management facility fees do not appear to be within the intent and scope of the enabling legislation.

The rule provisions in question appear in section (2) of amended OAR 340-105-113, relating to hazardous waste management facility fees. Those provisions (showing deleted material in brackets and added material underlined) read:

(2) Application Processing Fee. ...The amount of the fee shall depend on the type of facility and the required action as follows:

...

(c) Permit Modification - [Changes to Performance/TechnicalStandards] major:

(A) Storage facility.....	No Fee
(B) Treatment facility [-recycling].....	[50] <u>500</u>
[(C) Treatment facility - other than incineration.....	75
(D) Treatment facility - incineration....	175]
<u>(C)</u> [(E)] Disposal facility...	1,750
<u>(D)</u> [(F)] Disposal facility - post closure.....	800

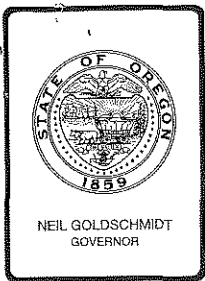
(d) Permit Modification - [All Other Changes not Covered by (2)(c)] Minor:

All Categories[, except storage facilities].....	[25] <u>No Fee</u>
--	--------------------

...

ORS 466.020 (2) directs the EQC to adopt rules relating to the procedures of the Department of Environmental Quality (DEQ) "with respect to hearings, filing of reports, submission of plans and the issuance, revocation and modification of permits issued under ORS 466.005 to 466.385 and 466.890." ORS 466.045, in part, requires an applicant for a permit for a new hazardous waste management facility or for renewal of an existing permit to submit a fee with the permit application. ORS 466.165 allows the DEQ to impose an annual fee upon each hazardous waste generator, transporter and permittee. ORS 466.215 (4) authorizes an application fee in respect to a post-closure permit for a hazardous waste disposal site. However, we find no specific statutory authority to charge a separate fee for modification of a permit, as provided in the rule provisions in question.

While express statutory authority is not always required for agency rulemaking, such authority usually is necessary in order for a public agency to charge and collect a fee. See 39 Ops. Att'y Gen. 116 (1978), 37 Ops. Att'y Gen. 285 (1974), and 36 Ops. Att'y Gen. 1107 (1974). Because the rule provisions in question appear to charge fees for which there is no specific statutory authority, we conclude that those provisions do not appear to be within the intent and scope of the enabling legislation.



Environmental Quality Commission

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

Attachment V
Agenda Item O
4/29/88, EQC Meeting

MEMORANDUM

To: Environmental Quality Commission
From: ^{ALB} Robert L. Brown, Hearing Officer
Subject: Agenda Item O, April 29, 1988, EQC Meeting

Hearing Officer's Report on Proposed Amendments to the Hazardous Waste Fee Rules, OAR Chapter 340, Divisions 102 and 105.

Summary of Procedure:

Pursuant to public notice, public hearings were convened at 9:00 a.m. on March 24, and 30, 1988, in the Department's offices at 811 S.W. Sixth Avenue in Portland. The purpose of the hearings was to receive testimony concerning proposed amendments to the hazardous waste fee rules. A total of 17 people, in addition to Department staff, attended the two hearings: 8 people on the 24th and 9 people on the 30th. Attendance lists are attached. The hearing record closed at 5:00 p.m. on April 1, 1988.

Summary of Oral Testimony:

No one wished to testify at the hearing on March 24, 1988. As a result, the Department used the opportunity to answer questions and informally discuss the proposed rule amendments.

Three people testified at the hearing on March 30, 1988. A summary of their testimony is as follows:

Tom Donaca, of Associated Oregon Industries, raised several concerns. First, he is concerned about the size of the increases. He believes that these are the highest annual fees for any regulatory program in the state. Also, since the Department only inspects about 10% of the generators each year, there is a question about services rendered vs. fees paid. Second, he believes the Department has not made a significant effort to identify generators who are not currently paying fees. He stated that this must be done promptly, if the program is to survive. He suggested that the Department use SIC codes to identify groups of potential generators. Also, he suggested an amnesty period for previously unregulated generators who promptly come forward. Generators who do not come forward should be penalized when they are identified. Third, he believes that the Department's program costs need to be evaluated and be reduced if possible.

He believes that the costs of many generator inspections exceed the fees paid by those generators. Fourth, he stated that this increase should be a one-time only emergency measure and that this fact should be clearly stated in the Department's report to the Commission. Finally, he requested that the Department allow this round of fees to be paid on a semi-annual basis, rather than all at once, since it is an unexpected increase and has not been budgeted for.

Jeff Detlefsen, representing Northwest Environmental Advocates, supported the proposed penalties for late payment of fees. He shares Mr. Donaca's belief that the Department has not adequately identified hazardous waste generators. Based upon studies by the state of Washington, a review of NPDES permits and other data, he believes that the actual number of generators in Oregon is far greater than the number currently identified by the Department. He also noted that there appear to be a great deal of nonpayment by generators who are registered. He agreed with Mr. Donaca that the Department must aggressively pursue noncompliers and he supported Mr. Donaca's proposed amnesty program. Lastly, Mr. Detlefsen pointed to an apparent inconsistency in the rules. Generator fees are intended to be applied to all generators. However, fees are assessed on the basis of quarterly reports and not all generators are required to submit reports.

Jim Brown, an attorney with Bogle and Gates, commented on three items. First, he stated that the term "overdue" in the draft rules was not defined and was therefore unclear. He suggested that late charges begin, if fees were not received within 30 days of receipt of the invoice. Second, he requested that the proposed 25% increase and one-time surcharge be displayed separately in the fee schedule. Third, he referred to a Table, concerning permit application processing fees for hazardous waste treatment facilities, which had been submitted to the Department in August 1987. He quoted from a letter in which the Department agreed to distribute the Table to generators considering on-site treatment. He said this had not been done and requested that the Table now be included in the rules.

Summary of Written Testimony

Written testimony was received from seven people. Copies of the letters are attached. A summary of the written testimony is as follows:

David G. Artz, of the Corvallis Fire Services Division, asked whether or not the proposed fees would apply to public agencies that receive wastes as a result of drug lab busts and illegal dumping activities. He requests an exemption for such agencies.

Gary J. Newbore, of Riedel Environmental Services, Inc., stated that raising fees for treatment, storage and disposal (TSD) facilities would be counterproductive. He believes these fees would be passed on to customers and would cause some customers to turn to other, less-desirable alternatives such as illegal dumping.

Robert P. Wachsmuth, representing Safety-Kleen, asked whether or not generators who send wastes to Safety-Kleen for recycling are subject to generator fees. If so, he believes that the materials are doubly taxed, because Safety-Kleen also pays a TSD facility fee.

James E. Britton, P.E., representing the Asphalt Pavement Association of Oregon, suggested that continuing the program at its present level of funding may not prevent the Department from doing its job. He states that as the amount of hazardous waste is reduced, the program needs should also diminish. He also states that the proposed rate increases and penalties do not seem to be equitable relative to activity levels (i.e., that the fees are in effect higher for small generators than for large generators). Lastly, he believes that the Department should allow installment payment of fees and should use some discretion in the assessment of late charges.

Jerry Williams, representing TRI-MET, disagreed with the proposed fee increases. He states that he could support a 25% increase in base fees, without the surcharge. He believes that the Department should re-examine its budget process and develop a more accurate and conservative funding base. He requests that the fee schedule display both the proposed base fee increase and the one-time surcharge. He feels the term "overdue" in the rules should be better defined. Lastly, he requests that the effective date of the new fees be included in the rules, as well as clarification that fees are not intended to be retroactive.

James C. Brown, of Bogle & Gates, presented the same comments described above, under the Summary of Oral Testimony. His written testimony also included a copy of a table which he proposes for insertion into the rules, and copies of letters from Diane G. Stockton, dated August 28, 1987 and Michael J. Downs, dated September 28, 1987, concerning the proposed table .

Jeffrey E. Detlefsen, representing Northwest Environmental Advocates, submitted written comments identical to those described above, under the Summary of Oral Testimony.

PUBLIC HEARING
HW FEE INCREASE

3/27/88

NAME

ADDRESS

JOHN HARLAND

3339 NW FRANKLIN CT PORTLAND

Glenda Pargman

7201 N. Interstate Portland

Douglas M. Richardson

17331 SE Rivier Road Oak Grove

Jeff DeLefsen

700 SW Taylor #305 Portland 97005

Bob WALDHAUSER

14255 SW TRANT TIGARD 97223

Terry Vining

900 SW Market Suite 925 Portland 97201

Tom DOWNER

~~At~~ P.O. Box 12519 SALEM 97309

Fred Westerbick
(Alonite Corp.)

7376 S.W. Durham
Portland, Or

7/88

PUBLIC HEARING

3/30/88

HW FEE INCREASE

SIGN IN SHEET

NAME

ADDRESS

PLANAR SYSTEMS INC
BARON BLAKESLEE
Fredel Environmental Services, Inc.
Tom Donaca
Jeff Detlefsen
Jim Braun
M Barrett
Tom Mc Lue
Jerrey Williams

1400 NW COMPTON DR BUTN
5920 NE 87th
Foot of N. Portsmouth, Portland
P.O. 12519 SALEM, OR 97309
700 SW Taylor #305, Portland 97205
Dopler Gates, 121 SW Salmon, PDX
WILLAMETTE INDUSTRIES INC.
TEKTRONIX INC.
TEI MET



DEPARTMENT OF
COMMUNITY SAFETY SERVICES
FIRE SERVICES DIVISION
314 NW FOURTH STREET
CORVALLIS, OREGON 97330-4887
(503) 757-6961

March 15, 1988

D.E.Q., Hazardous & Solid Waste Division
Attn: Bill Dana
811 S.W. 6th St.
Portland, OR 97204

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
MAR 17 1988

Dear Mr. Dana:

On behalf of Corvallis Fire Division, I wish to comment on the proposed ammendments to the Hazardous Waste Fee Schedule, OAR 340-102-065 and 340-105-113.

I am unclear whether the proposed fees would be charged to all "companies" who have been issued an identification number as a hazardous waste generator. Most public agencies have come into possession of hazardous wastes (and identification numbers) as a result of illegal drug lab and illegal dumping activity. These hazardous chemical wastes are expensive to dispose of, a problem that I hope won't be compounded by the addition of an expensive permit fee. I would urge an exemption for public agencies/local government from hazardous waste permit fees be incorporated into the proposed changes if not already in place.

Thank you for your consideration.

Sincerely,

David G. Artz
Fire Administration Manager

mlb



RIEDEL ENVIRONMENTAL
SERVICES, INC.

Corporate:
P.O. Box 5007
Portland, Oregon 97208-5007
(503) 286-4656
Telex: 151372

March 24, 1988

Mr. Bill Dana
Department of Environmental Quality
Hazardous & Solid Waste Division
811 S. W. Sixth Ave.
Portland, Oregon 97204

Hazardous & Solid Waste Division
Dept. of Environmental Quality
REVIEWED
MAR 28 1988

Dear Mr. Dana:

I would like to comment about your proposed fees for generators of hazardous waste and for TSD facilities. We have no difficulty with the fee on generators of hazardous waste, but feel that a fee on a TSD facility would be counterproductive. TSD facilities function to help the community rid itself of unwanted chemicals. Raising the fees on such facilities would require these facilities to raise their price, which would ultimately have the effect of reducing the number of customers who use such facilities. The obvious implication here is that if less people use these facilities, then more waste will find its way to nondesirable disposal sites. This will have the further effect of requiring additional enforcement monies and furthering the cost spiral.

We, at Riedel, are in the environmental cleanup business and have seen first hand what unwanted dumping does to the community. A fee on facilities which accept this waste seems to be environmentally unproductive.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Gary J. Newbore".

Gary J. Newbore
Vice President Operations

GJN/kco
GNLTR3.24



March 24, 1988
RPW 88-176

Oregon Department of Environmental Quality
Hazardous Waste Section
ATTN: Fees
811 S.W. 6th
Portland, OR 92704

Hazardous & Solid Waste Division
Dept. of Environmental Quality

RECEIVED
MAR 28 1988


Dear Sirs:

The following information is presented as comments to the proposed amendments to the generator fees:

1. Our customers (generators) are picked up and brought back to our service centers (Springfield and Clackamas) for storage before recycling.
2. Do these people have to pay this generator tax? We are already paying a facility tax for our facilities. The materials are double counted.

If you have any questions, please contact me at (714) 593-3985.

Sincerely,


Robert P. Wachsmuth
Environmental Engineer
Western Region

RPW:rg

cc J. Souza
7-148-01
7-054-01
S-K Environmental Dept. - Elgin

TRI-COUNTY
METROPOLITAN
TRANSPORTATION
DISTRICT
OF OREGON



TRI-MET

4012 S.E. 17TH AVENUE
PORTLAND, OREGON 97202

Hazardous & Solid Waste Division
Dept. of Environmental Quality
RECEIVED
MAR 31 1988

March 31, 1988

Department of Environmental Quality
Hazardous Waste Section
811 S. W. Sixth Avenue
Portland, OR 97204

Attention: Fees

Gentlemen:

As representative for the Tri-County Transportation District of Oregon, I thank you for the opportunity to respond to the proposed amendments to the Hazardous Waste Fee Schedules prepared on March 18, 1988.

Although I disagree in general with the increased fees and with wording of the amendments specifically, nonetheless, I want to be very explicit regarding the District's position toward responsible management of hazardous wastes on our own properties and throughout the State of Oregon. Tri-Met fully supports the Department of Environmental Quality in its efforts to supervise and properly administer federal legislation in our state and to further educate the public and private sectors to function in a mature, accountable attitude in supervision of hazardous substances and wastes.

Having addressed our philosophy of hazardous waste management, I wish to focus on the proposed amendments referenced above. My comments concern the revenue shortfall and budget process in general, the fee schedule and surcharge, the penalties for late payments, and date for implementing the generator fees.

Revenue shortfalls necessitating proposals to amend Oregon Administrative Rules 340-102-065 have occurred in the past (very recently, in fact). Proposed changes to the fee schedule for July 19, 1985 (attached) were submitted in a letter dated May 19, 1987

(also attached) and adopted on July 17 to reflect billing for calendar year 1986. These changes were prompted because of a \$550,000 biennial revenue shortfall. Now, within nine months, another greater revenue shortfall of \$490,000 necessitates the Department to recommend a second amendment. My question is not the fact of burden for fees by generators and S.T.D. facilities, but of greater concern as to fiscal management by D.E.Q. At this point in time, I wonder which fiscal constraints govern the Department, and whether those guidelines are appropriate and effective. Apparently, considering the recent proposals to balance budget shortfalls totalling approximately \$1 million over the last two years, major revisions to the budget process must be made. Responsibility by generators and T.S.D. facilities to fund through fees the Department's management and implementation of Federal and State regulations is clearly understood and accepted; yet, to what extent and rate of increase should these fees be assigned by the Environmental Quality Commission? The present proposal, in my opinion, exceeds the bearable limits of the regulated community. The Department, for its part, should re-examine its budget process and function within levels commensurate with more accurate and conservative funding resources.

Proposed revisions in the present hazardous waste generator fee schedule request a 25% increase in base fees with a one-time surcharge added to each fee. I recommend the following fee schedule be outlined for the proposal replacing the one listed in Table 1, thus clarifying the fee schedule from the surcharge.

TABLE 1

Hazardous Waste Generation Rate (Metric Tons/Year)		Proposed Fee	One-Time Surcharge
< /	[\$100]	125	105
1 but <3	[300]	375	310
3 but <14	[550]	687.50	562.50
14 but <28	[875]	1093.75	906.25
28 but <142	[1975]	2468.75	2031.25
142 but <284	[4475]	5593.75	4606.25
>284	[6350]	7937.50	6542.50

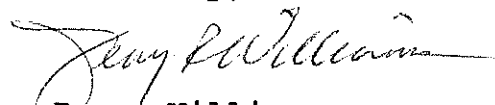
Be it known again, I cannot endorse the proposed increases as stated--Tri-Met's generation fees between 1986 and 1987 would increase a 128%. An increase of 25% in the base fee schedule without any surcharge would be acceptable, providing D.E.Q. some funding adjustments yet requiring the Department to re-evaluate its own programs.

Concerning the late charge proposed, wording "if the fees are overdue" in OAO 340-102-065(1) should be better defined. According to the comment notice dated March 18, 1988, late fees and interest charges would be assessed if billings were not paid "within 30 days of the invoice." Such explicit wording from the comment notice should be reflected in the proposed amendments to the E.Q.C.

Lastly, the proposed generator fee schedule should be designated for implementation on a certain date other than July 1, 1984, as specified in OAR 340-102-065(1). Clearly, such fees should not be retroactive with language so inserted to date the proposed fee schedule, or otherwise disclaim any retroactive intent.

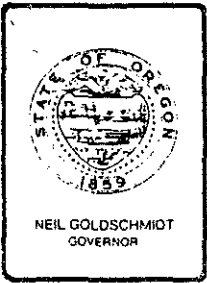
Thank you for your time and consideration of this correspondence. I can empathize with your situation, yet I still desire a stable and broadbased funding source for your Department. Confidence and loyalty from the regulated community require certain responsible fiscal policies from the Department of Environmental Quality.

Sincerely,



Jerry Williams
Building & Environmental
Control Engineer

JW:jnb



Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

May 19, 1987

Hazardous Waste Generators and Handlers:

As previously announced, the Department of Environmental Quality is proposing to amend its rules concerning hazardous waste fees, OAR 340-102-065 and 340-105-113. The amendments are necessary to offset a current biennial revenue shortfall of \$550,000 and to clarify certain fee-related issues.

A public hearing on this matter was held in Portland, on May 19, 1987. However, to assure that all interested persons have an opportunity to comment, we are sending this reminder and we are extending the deadline for receipt of written testimony to June 10, 1987.

For further information or to receive a copy of the proposed rule amendments, contact the Department's Hazardous and Solid Waste Division, in Portland, at (503) 229-5913 or toll-free, at 1-800-452-4011, in Oregon.

ZF2027

Hazardous waste generator fees.

340-102-065 (1) Beginning July 1, 1984, each person generating hazardous waste shall be subject to an annual fee based on the volume of hazardous waste generated during the previous calendar year. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1, except that for fiscal year 1985 the fee shall be paid by January 1, 1985.

(2) For the purpose of determining appropriate fees, each hazardous waste generator shall be assigned to a category in Table 1 of this Division based upon the amount of hazardous waste generated in the calendar year identified in section (1) of this rule except as otherwise provided in section (5) of this section.

(3) For the purpose of determining appropriate fees, hazardous waste that is used, reused, recycled or reclaimed shall be included in the quantity determinations required by section (1) of this section.

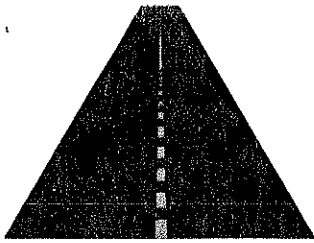
(4) In order to determine annual hazardous waste generation rates, the Department intends to use generator quarterly reports required by rule 340-102-041; treatment, storage and disposal reports required by rule 340-104-075; and information derived from manifests required by 40 CFR 262.20. For wastes reported in the units of measure other than cubic feet, the Department will use the following conversion factors: 1.0 cubic feet = 7.48 gallons = 62.4 pounds = 0.03 tons (English) = 0.14 drums (55 gallon).

(5) Owners and operators of hazardous waste treatment, storage and disposal facilities shall not be subject to the fees required by section (1) of this rule for any wastes generated as a result of storing, treating or disposing of wastes upon which an annual hazardous waste generation fee has already been paid. Any other wastes generated by owners and operators of treatment, storage and disposal facilities are subject to the fee required by section (1) of this rule.

(6) All fees shall be made payable to the Department of Environmental Quality.

Table 1

<u>Hazardous Waste Generation Rate (cu.ft./year)</u>	<u>Fee (dollars)</u>
<35	No fee
35-99	\$ 100
100-499	350
500-999	625
1,000-4,999	1500
5,000-9,999	3500
>10,000	5000



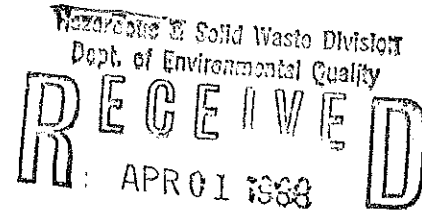
JAMES E. BRITTON
Executive Director
BOB REINHARD
President
STEVE AUSLAND
Vice President
CHUCK GASKILL
Secretary/Treasurer

ASPHALT PAVEMENT
ASSOCIATION OF OREGON

3747 Market Street, N.E. - Salem, Oregon 97301
(503) 363-3858

March 31, 1988

Environmental Quality Commission
811 S.W. 6th
Portland, OR 97204



Re: Public Hearing - OAR 340-102-065

Commissioners:

The opportunity to comment on the proposal of the Department of Environmental Quality to offset their revenue shortfall by increasing fees and imposing late payment penalties to operations generating or handling hazardous wastes is appreciated. The category may include some members of the Asphalt Pavement Association of Oregon through use of solvents for cleaning parts. It is recognized that the Department must be responsive to both the EPA mandates and those of the Oregon legislature in monitoring compliance with laws and regulations.

Someone must pay the necessary bills for monitoring hazardous waste handling and in theory industry and commerce generate the funds to do so and legislative acts have dictated that they shall. That being the situation, that leaves efficiency in programs and equity in assigning costs as points to consider. Perhaps in this case a continuation of the program at the present revenue level would not foreclose the Department's ability to do what needs to be done. That would not be a known unless tried. As the amount of hazardous waste is reduced, the program needs should also diminish.

The proposed rate increases and penalties do not seem to be equitable relative to activity levels. A small quantity, less than one metric ton, pays at the effective rate of \$230/ton when at the maximum tonnage. The one to less than three ton generator pays from \$228 to \$685 per ton. At 14 tons, the rate drops to \$89/ton. At nearly 142 tons, it drops to \$31.69/ton.

PAVING THE WAY WITH SMOOTH, SAFE, DURABLE SURFACE

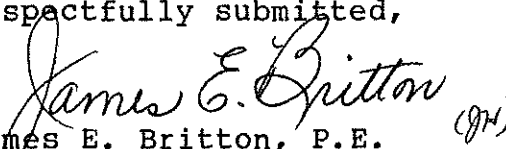
BOARD OF DIRECTORS: Gary Angell, Gary Baker, Jim Curl, Steve Loosley, Rick Semke, Jim Turin, Tom Weir

Page -2-
March 31, 1988
Environmental Quality Commission

The penalty of \$200 due if the fee is paid on July 2 in place of July 1 is very significant relative to the \$230 total fee, but minimal when compared with the \$14,480 fee. The total penalty package seems to place emphasis on revenue, not control of hazardous wastes. Your multiplying factors will, in some cases, simply result in a larger amount that won't get paid as the delinquent party goes out of business via bankruptcy. Perhaps you should (and could) in consideration of Oregon's fragile economy consider installment plans with the option of other sanctions for those with a serious delinquency. As a suggestion, perhaps the Section 340-102-065(1) new language should change the "shall be paid" to "may be assessed." The intent of the change is to provide an opportunity to resolve problems and not foreclose the option. "Shall be paid" does not leave much, if any, discretionary opportunity to work with industry in fulfilling the primary mission of protecting everyone from hazardous wastes.

It is suggested that the Commission take into account the current business climate, the reasons for late payments, and equity of fees and penalties in revising the fee and penalty schedule. Business would also benefit from a fee schedule set prior to the "fee year" in place of some months past the end of the year.

Respectfully submitted,


James E. Britton, P.E. (JH)
Executive Director

JEB/jh

BOGLE & GATES

LAW OFFICES

1600 Willamette Center
121 S.W. Salmon
Portland, OR 97204

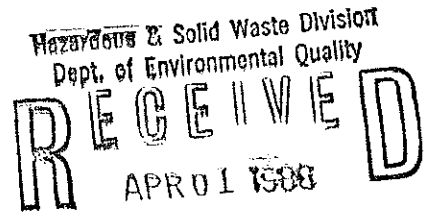
Seattle
Anchorage
Bellevue
Tacoma
Washington, D.C.
Yakima

JAMES C. BROWN

(503) 222-1515
Fax: (503) 227-2207

March 31, 1988

Mr. William H. Dana, Hearings Officer
Department of Environmental Quality
Hazardous Waste Section
Attention: Fees
811 SW Sixth Avenue
Portland, Oregon 97204



RE: Proposed DEQ Hazardous Waste Fee Schedules

Dear Mr. Dana:

Bogle & Gates appreciates this opportunity to comment on behalf of our clients regarding the DEQ's proposed amendments to OAR 340-102-065 and 340-105-113. We appreciate the opportunity afforded the public by the DEQ for a second public hearing on these proposals and for the extended April 1, 1988 time period to submit written comments on these proposed fee increases.

As the DEQ is aware, Bogle & Gates, on behalf of its clients, has consistently supported necessary and workable environmental regulations in the State of Oregon. However, we believe that clarity of meaning is essential in the rules, thereby avoiding potential conflicting interpretations by various parties.

Set forth below are our specific concerns with these proposed Hazardous Waste Fee increases.

1. OAR 340-102-065(1) - The proposed new language, assessing \$200 late charges and interest is contingent upon the receipt of payment being "overdue". However, the term "overdue" is not defined.

In the Agency's March 18, 1988 Updated "A Chance to Comment on...", the DEQ stipulates that the late fee will be assessed if the fee is "...[N]ot paid within 30 days of invoice." We therefore assume that the term "overdue" means non receipt of payment within 30 days of invoice.

Mr. William H. Dana
March 31, 1988
Page 2

In order to give needed clarification to the rule, we would suggest that the proposed wording be amended to read as follows:

A late charge in the amount of \$200, plus interest, compounded daily and equal to the Internal Revenue Service's late payment interest rate on the due date, shall also be paid, if the fees are not paid within thirty (30) days of receipt of invoice. An additional \$200 late charge shall also be paid each ninety (90) days that the fees remain unpaid. Fees which remain unpaid ninety (90) days or more after receipt of invoice, shall also be increased by twenty percent (20%) and referred to the State Department of Revenue for collection."

2. The March 18, 1988 DEQ notice stipulates the generators fee will increase by 25 percent in base fees, as well as a "one time surcharge added to each fee. these increases are assumed to be set forth at Table 1 of OAR 340-102-065." The proposed amendment to Table 1 indicates fee increases ranging from 228 to 230% It is assumed that these extraordinary fee increases include both the 25% increase in base fees and a one time surcharge, however Table 1 does not indicate this.

We respectfully request that the Agency amend Table 1 to distinguish between the base fee increase and the "one time" surcharge. As written, it is impossible to determine how much of the fee increase is a base fee increase and how much of it the "one time surcharge."

3. In earlier comments, to the DEQ, during last year's hazardous waste fee increase rulemaking and amendments to OAR 340-102-065 and 340-105-113, see attached copy of Diane Stockton's August 28, 1987 letter to Michael Down, DEQ, concern was expressed over the difficulty that exists in understanding the DEQ's integrated hazardous waste rule package the belief that additional clarification was needed.

Mr. William H. Dana
March 31, 1988
Page 3

On September 28, 1987, Michael J. Downs, Administrator, Hazardous and Solid Waste Division concurred that additional clarification was necessary and agreed that the Department would publish and distribute the "Appendix 1" document, set forth is Ms. Stockton's letter, as guidance to regulated entities who might be considering on-site treatment.

However, since that time we are unaware of any publications or guidance by the DEQ to the regulated community which incorporates the provisions of Appendix 1. Therefore, in order to provide this necessary information to the regulated community we respectfully request that an amended Appendix 1, which included the new "storage" provisions, be included as an appendices to OAR 340-105-113.

Appendix 1 sets forth when and how the DEQ Hazardous Waste Permit Fees will be assessed against RCRA treatment, storage or disposal facilities. The purpose of Appendix 1 is to indicate the various treatment options available to industry and which of those treatment options are subject to the DEQ's Hazardous Waste TSD Permit Application Fees.

The types of treatment which are exempted from the fee, according to our interpretation of the rules, are based upon the following rules and/or DEQ/EPA policies:

- Treatment of HW in Tanks or Containers
On-site Within 90 Days of Generation

In the March 24, 1986 Federal Register Preamble (51 Fed Reg 10146,1068), the EPA stated that generators that treat hazardous waste in either containers or tanks, within 90 days of generation, and manage the containers or tanks according to 40 CFR § 265, Subparts, I and J, respectively, are not subject to RCRA permitting requirements. It is Bogle & Gates understanding that this interpretation is applicable to hazardous waste generators, as well as small quantity generators and that this interpretation has been confirmed in a letter from Region X EPA to DEQ.

• **Treatment of HW in Tanks at a Clean Water Act Exempted Facility**

40 CFR § 261.4(a)(2) specifically exempts from the classification of hazardous waste "...[I]ndustrial waste water discharges that are point source discharges subject to regulation under § 402 of the Clean Water Act." In addition, 40 CFR § 265.1(c)(10) exempts from the interim status TSD facility requirements, owners or operators of elementary neutralization units or waste water treatment units defined at 40 CFR § 260.10 (i.e. facilities regulated by the Clean Water Act § 402 or 307(b) and which have treatment vessels which meet the RCRA definition of a tank. This same exemption is included at 40 CFR § 264.1(g)(6) for permitted TSD facilities.

• **Spills and Cleanup of Pesticide Residues**

These spills and cleanups, governed by OAR 340-102-010(3) and (4) are exempted from OAR 340-100 through 106 provided they are managed pursuant to Division 109. Bogle & Gates assumes that the cleanup standards referenced at OAR 340-109-010(4)(b) are not actually intended to refer to OAR 340-108-010 (The Reportable Quantity Requirements), but rather to OAR 340-108-030 (The Clean-up Standards). Provided, the pesticide residue cleanup meets the provisions of OAR 340-108-010 and does not involve a RCRA listed waste, the cleanup will be exempted from RCRA regulations.

• **Spill and Releases of Hazardous Materials**

Spills and releases of hazardous materials which are cleaned up under OAR 340-108-030(3)(a) are similarly exempted from the RCRA Hazardous Waste Regulations.

• **Closing of Hazardous Waste and PCB Treatment or Disposal Sites**

Pursuant to OAR 340-120-010(7)(c), facilities which in the past have operated either as hazardous waste or PCB treatment, storage or disposal sites are also exempted from these permit fees, provided they are closing those practices and will not continue operations as either a

Mr. William H. Dana
March 31, 1988
Page 5

treatment, storage or disposal site. It is understood that in the "closing" process some ongoing treatment or in place closing of residual contaminants may occur.

As written, Appendix I serves two purposes. First of all, it clearly explains when Hazardous Waste permit fees are assessable and when they are not. Secondly, it informs hazardous wastes generators of available treatment options which would preclude the assessment of hazardous waste fees set forth in OAR 340-105-113(2). This information could then be utilized by the regulated community to develop on-site treatment technologies which will encourage waste minimization, waste recycling and decrease off-site waste treatment without incurring the prohibitively expensive and time consuming aspects of a RCRA Part B permit.. Such a table, or a modified version, would be a great assistance in clarifying DEQ's integrated hazardous waste rule package.

Bogle & Gates thanks the DEQ for the opportunity to comment on these hazardous waste fee rules. If there are questions regarding these comments, please feel free to contact me.

Sincerely,

BOGLE & GATES



James G. Brown

JCB:gp

ccs: Fred Hansen, DEQ
Mike Downs, DEQ
Tom Donaca, AOI

BOGLE & GATES

APPENDIX I

**APPLICABILITY OF DEQ HAZARDOUS WASTE TREATMENT, STORAGE
OR DISPOSAL PERMIT APPLICATION AND RENEWAL FEES**

No Permit Application or
Renewal Fee Assessed

Permit Application or
Renewal Fee Assessed

Hazardous Waste Generator

On-Site Treatment Options

Treatment in HW Tanks
or Containers within
90 days of Generation.
HW Tank operated
in accord with §265.
Subpart I or J.

Treatment Options Occurring Outside of
a Tank System

Treatment of HW in Tanks at a
Clean Water Act Exempted Facility

- NPDES Permit with direct
discharge to receiving stream
- Industrial Pretreatment
Facility with discharge
to POTW

Other Exempted Categories

- Spills and cleanups of
pesticide residues, governed
by OAR 340-102-010 (3)
- Spills and releases cleaned up
under OAR 340-108-030(3)(a)
- Closing of Hazardous Waste and
PCB treatment or disposal sites
under OAR 340-120-001(7)(b)

Other
Treatment,
Storage or
Disposal
Options

RCRA Part A or B
Facilities

- Storage Facilities
- Solid Waste
Management Units
 - Land Disposal
Facilities
 - Land Treatment
Facilities
 - Surface
Impoundments
 - Waste Piles
- Incinerators

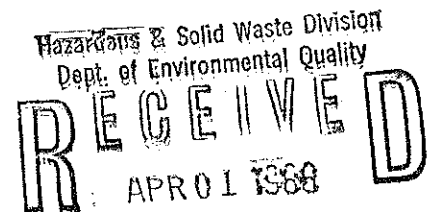


OMARK INDUSTRIES
A BLOUNT COMPANY

OREGON SAW CHAIN DIVISION

4909 S.E. INTERNATIONAL WAY, P.O. BOX 22127, PORTLAND, OREGON 97222-0080, (503) 653-8881, TELEX: 277306 OMARK UR, FAX: (503) 654-2889

August 28, 1987



Mr. Michael J. Downs
Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204

Re: Amendments to DEQ Hazardous Waste Fees
OAR 340-102-065 and 340-105-113

Dear Mike:

As you will recall, during the Environmental Quality Commission's July 17, 1987 meeting in Coos Bay, DEQ's new hazardous waste fees were adopted with instructions from the EQC to the Department to meet with interested industry representatives and resolve the concerns expressed at the meeting. In fact, the EQC directed the Department to provide the EQC a report, within 90 days, as to how those concerns were resolved. I want you to know that Omark Industries stands ready to participate in that resolution process and anxiously awaits further information from the agency as to how that process will go forward.

I also want to take this opportunity to thank you personally for the assistance and cooperation which you afforded both Frank Deaver and me at the EQC meeting. Your timely summary of the outstanding issues to the EQC and your personal commitment to work with industry to review the entire hazardous waste fee adoption package and to amend it so as to encourage waste minimization and on-site treatment, while discouraging off-site treatment and land disposal were most helpful. I was also gratified by DEQ's commitment to create the new "On-site Treatment" hazardous waste permit fee category, which will take into consideration such factors as the relative size of a company, the type of on-site treatment and the treatment capacity; as well as, the Department's request for public hearing authorization to make appropriate amendments to the new hazardous waste fee rules.

Subsequent to the July 17 meeting, I have had several conversations with individuals regarding both the directives of the Environmental Quality Commission, as they pertain to these fees, and the DEQ's proposed follow-up plans. As a result of

Mr. Michael J. Downs
August 28, 1987
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these conversations, I believe there is confusion as to the EQC's directives and the negotiated agreement between DEQ and industry.

The DEQ follow-up, according to various individuals, may encompass one or more of several possible formats, including:

- o Informal conversations and input between DEQ and select industry representatives.
- o Discussion of the fees at the DEQ's Hazardous Advisory committee meeting on September 14.
- o Discussions/meetings between DEQ and industry representatives, present at the July 17 EQC meeting, and/or those individuals who commented on the Hazardous Waste fee rules to rewrite/clarify the fee rules; followed by public hearing on proposed rule amendments.

As one of the companies who both submitted comments and who appeared before the EQC, it is Omark's understanding that the passage of the DEQ's hazardous waste fee increases was conditioned upon the following:

- o DEQ and industry representatives would meet to further discuss outstanding issues in the Hazardous Waste permit fee package.
- o The outstanding issues include:
 - 1) Provisions to encourage waste minimization, recycling, and on-site treatment of hazardous waste.
 - 2) Reduced permit application fees for on-site treatment and recycling of hazardous waste.
- o Amended hazardous waste fee rules reflecting these changes and a public hearing on the adoption of these proposed amended rules.

In conversations subsequent to the EQC meeting, it has been suggested that the DEQ may not amend the hazardous waste fee rules because:

- o They were accepted as written,
- o The rules currently address and take into

Mr. Michael J. Downs
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Page 3

consideration the concerns which industry expressed to the EQC, and/or,

- o Industry's concerns are merely "red herrings" because industry does not understand the total integration of the DEQ's hazardous waste rules and how and when these new fees will be assessed.

After reviewing the rules in greater depth, there may be some merit to this latter argument.

However, Omark considers itself reasonably well informed as to the provisions of the hazardous waste regulations and their impact on its manufacturing operations. At the risk of being immodest, I believe that Omark's understanding of the regulations is as complete as is that of the more informed members of industry and better than the majority of the regulated community. Therefore, if Omark has difficulty in understanding the DEQ's integrated hazardous waste rule package, then I would suggest that additional regulatory clarification is needed so that the industry, as a whole, can better understand when and how these new hazardous waste fees will impact it.

Appendix I sets forth Omark's understanding of when and how the new DEQ hazardous waste permit fees will be assessed against RCRA treatment and disposal facilities. The purpose of Table I is to indicate the various treatment options available to industry and which of those treatment options are subject to the DEQ hazardous waste TSD permit application fees. The types of treatment which are exempted from the fee, according to Omark's interpretation of the rules, are based upon the following rules and/or DEQ/EPA policies:

- o Treatment of HW in Tanks or Containers on site within 90 days of Generation

In the March 24, 1986 Federal Register Preamble (51 Fed.Reg. 10146, 10168), the EPA stated that generators who treat hazardous wastes in either containers or tanks, within 90 days of generation, and manage the containers for tanks according to 40 CFR Section 265, subparts I and J, respectively, are not subject to RCRA permitting requirements. It is Omark's understanding that this interpretation is applicable to hazardous waste generators as well as small quantity generators, has been confirmed in a letter from Region X EPA to the DEQ.

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August 28, 1987
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o **Treatment of HW in Tanks at a Clean Water Act Exempted Facility**

40 CFR Section 261.4(a)(2) specifically exempts from the classification of hazardous wastes "...industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act." In addition, 40 CFR Section 265.1(c)(10) exempts from the interim status TSD facility requirements owners or operators of elementary neutralization units or wastewater treatment units defined at 40 CFR 260.10 (i.e., facilities regulated by the Clean Water Act Sections 402 or 307(b)) and which have treatment vessels which meet the RCRA definition of a tank. This same exemption is included at 40 CFR 264.1(g)(6) for permitted TSD facilities.

o **Spills and Clean-Ups of Pesticide Residues**

These spills and clean-ups, governed by OAR 340-102-010(3) and (4), are exempted from OAR 340-100 through 106 provided they are managed pursuant to Division 109. Omark assumes that the clean-up standards referenced at OAR 340-109-010(4)(b) are not actually intended to refer to OAR 340-108-010 (the reportable quantity requirements) but, rather to OAR 340-108-030 (the clean-up standards). Provided, the pesticide residue clean-up meets the provisions of OAR 340-108-010 and does not involve a RCRA listed waste, it will be exempted from RCRA regulations.

o **Spills and Release of Hazardous Materials**

Spills and releases of hazardous materials which are cleaned up under OAR 340-108-030(3)(a) are similarly exempted from the RCRA hazardous waste regulations.

o **Closing of Hazardous Waste and PCB Treatment or Disposal Sites**

Pursuant to OAR 340-120-001(7)(b), facilities which in the past have operated as either hazardous waste or PCB treatment, or disposal

Mr. Michael J. Downs
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sites are also exempted from these permit fees, provided they are closing those past practices and will not continue operations as either a treatment or disposal site. It is understood that in the "closing" process, some ongoing treatment or in-place closure of residual contaminants may occur.

If the DEQ concurs with these interpretations, Omark suggests that Appendix I be inserted as an explanatory comment following OAR 340-105-115.

As written, Appendix I serves two purposes. First of all, it clearly explains when Hazardous Waste permit fees are assessable and when they are not. Secondly, it informs hazardous wastes generators of available treatment options which would preclude the assessment of hazardous waste fees set forth in OAR 340-105-113(2). This information could then be utilized by the facility to develop on-site treatment technologies which will encourage waste minimization, waste recycling and decrease off-site waste treatment. Such a table, or a modified version, would go far in addressing the concerns expressed by industry at the July 17 EQC meeting.

Other areas where further clarification is needed include the following:

(1) OAR 340-102-065 (3)(b)(A) and (D). OAR 340-102-065 (3)(b)(D) exempts wastewater discharges which go directly to a POTW, without first being stored or accumulated. However, OAR 340-102-065(3)(b)(A) includes both 40 CFR §261.4, excluded materials, and §261.6, recyclable materials. Included in the §261.4 excluded materials are industrial wastewater discharges. To maintain consistency between Subparagraphs A and D of 340-102-065(3)(b), we suggest that the wording "without first being stored or accumulated" be deleted from (D).

(2) We would note to the DEQ that our request for a separate hazardous waste fee for on-site treatment of hazardous waste is supported by provisions within Senate Bill 138 (1985 Oregon Laws Chapter 670). Although §11 of that bill [ORS 466.045(3)(4)] gives the agency authority to assess \$70,000 and \$50,000 permit fees for new and renewed facility licenses; §37 of the act [ORS 466.075(4)] allows the EQC, by rule, to provide a "special license for the treatment of hazardous waste on the premises of the generator." We

Mr. Michael J. Downs
August 28, 1987
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believe the provision for a special license for on-site treatment of hazardous waste is consistent with industry's current request for a similar category and reduced permit fee.

It should be kept in mind that Senate Bill 138 was specifically directed at off-site commercial PCB and hazardous waste incinerators and used the "TSD" terminology to maintain consistency with RCRA. The 1985 session of the legislature did not necessarily intend to impose all the provisions of SB 138 on each and every treatment facility in the state, nor did it intend to impose the onerous treatment permit fees to smaller on-site systems.

- (3) OAR 340-120-001 (6) defines "new facility" however, "existing facility" is undefined. It would be helpful if this latter term were defined, especially where substantial renewal fees (e.g. \$50,000) will be assessed against existing facilities. These facilities need to know when and how often they can expect these renewal fees to be assessed against them and thereby incorporate the assessments in their budgeting plans.
- (4) Additionally, OAR 340-120-001 (2) stipulates that the provisions of Division 120 apply to "new facilities." If, pursuant to 340-120-030 (1) fees are also going to be assessed against "existing facilities" should not the language of OAR 340-120-001 (2) be modified to allow this? Failure to make such modification may subject the Department to needless discussions regarding the applicability of Division 120 to existing facilities.
- (5) The \$70,000 and \$50,000 new and existing permit renewal fees impose a significant financial burden on industry. We urge the agency to follow-up on its comment to the EQC to provide payment alternatives other than the submission of \$70,000, (see Director's memorandum to the EQC, Agenda Item H, July 17, 1987, EQC meeting, Page 6. Some of these payment alternatives might include:
 - o Periodic or installment payments

Mr. Michael J. Downs
August 28, 1987
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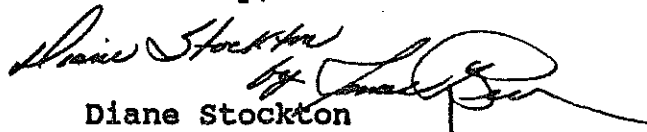
- o Letters of credit
- o An initial submission of \$25,000 to be augmented by an additional \$25,000, when the remaining balance from the first payment is \$5,000 or less, followed by a final payment of \$20,000, when the balance from the second payment is \$5,000 or less.

Last of all, to follow through on the discussions before the EQC regarding the on-site treatment category, Omark suggests the following amendments to OAR 340-105-113(2)(a) and (b):

- (a) A new facility permit:
 - (A) Storage facility\$ No Fee
 - (B) Treatment facility (off-site)\$ 70,000
 - (C) Treatment facility (on-site).....\$ 5,000
 - (D) Disposal facility.....\$ 70,000
 - (E) Disposal facility--post-closure....\$ 70,000
- (b) Permit reissuance
 - (A) Storage facility\$ No Fee
 - (B) Treatment facility (off-site)\$ 50,000
 - (C) Treatment facility (on-site).....\$ 3,500
 - (D) Disposal facility\$ 50,000
 - (E) Disposal facility--post-closure...\$ 50,000

In order for the DEQ and industry to approach the re-drafting of a hazardous waste rules with a common goal in mind, I would ask that a meeting be set up between Bill Dana, Jan Whitworth, and yourself, along with the industry representatives to discuss the provisions of this letter and see if we can move this matter forward with a common objective. Your timely response to this proposal is appreciated.

Sincerely,


Diane Stockton

DS/sg

cc: Fred Hansen
Jan Whitworth
Bill Dana
Jim Petersen, EQC
Frank Deaver
Tom Donaca

APPENDIX I

Applicability of DEQ Hazardous Waste Treatment and Disposal Permit Application and Renewal Fees

No Permit Application or Renewal Fee Assessed

Permit Application Renewal Fee Assessed

Hazardous Waste Generator

On-Site Treatment Options

Treatment in HW Tanks or Containers within 90 days of Generation. HW Tank operated in accord with §265. Subpart I or J.

Treatment Options Occurring Outside of a Tank System

Treatment of HW in Tanks at a Clean Water Act Exempted Facility

- o NPDES Permit with direct discharge to receiving stream
- o Industrial Pretreatment Facility with discharge to POTW

Other Exempted Categories

- o Spills and cleanups of pesticide residues, governed by OAR 340-102-010 (3)
- o Spills and releases cleaned up under OAR 340-108-030(3) (a)
- o Closing of Hazardous Waste and PCB treatment or disposal sites under OAR 340-120-001(7) (b)

Other Treatment or Disposal

- RCRA Part B Permit
- o Solid Waste Management Units
 - Land Disposal Facilities
 - Land Treatment Facilities
 - Surface Impoundments
 - Waste Piles
 - o Incinerators



Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

September 28, 1987

• Diane G. Stockton
Omark Industries
P.O. Box 22127
Portland, OR 97222-0080

Re: Hazardous Waste Fees

Dear Ms. ^{Diane} Stockton:

This letter is to review and confirm the agreements we reached at our meeting on September 17, 1987, concerning recently adopted amendments to the hazardous waste fee rules.

First, it was agreed that the Department would not propose additional amendments to the fee rules at this time. Rather, it was agreed that the issue of how the fees may serve as an incentive or disincentive to recycling and waste reduction should be considered only within the context of the overall implementation plan for the Department's Waste Reduction Program. Such a plan will be developed during the coming year, with input and discussion by the Department's Hazardous Waste Program Advisory Committee.

Second, it was agreed that the Department would publish and distribute Appendix I from your letter or a related document, as guidance to generators who may be considering on-site treatment. It was agreed that such guidance should not be incorporated into the rules.

Third, the Department agreed to consider removing the language on what to count and not count, for purposes of determining fees, from OAR 340-102-065. It was agreed that it might be better to publish this material as guidance, rather than as part of a rule.

It is my intention to report the results of our meeting to the Environmental Quality Commission informally, at their breakfast meeting on October 9, 1987. I do not believe a formal response to the Commission is necessary.

I am pleased that we were able to reach these agreements and to resolve this matter amicably. If you have any questions, or if I may be of further assistance, please call me at 229-5356.

Sincerely,

Michael J. Downs
Administrator
Hazardous and Solid Waste Division

WHD:f
ZF2468

cc: Jan Whitworth, DEQ
Frank Deaver, Tektronix
Tom Donaca, AOI

JEFFREY E. DETLEFSEN

ATTORNEY AT LAW

700 S.W. TAYLOR, SUITE 305
PORTLAND, OREGON 97205
(503) 224-4800

April 4, 1988

Bill Dana
Department of Environmental Quality
Portland, Oregon

Dear Bill:

As we discussed last friday, enclosed is a written review of the issues I raised at the March 30th hearing on the proposed fee increases. Thank you for allowing me to add them to the record at this time.

If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Jeffrey E. Detlefsen

Hazardous & Solid Waste Division
Dept. of Environmental Quality

REVIEWED
APR 04 1988

TESTIMONY OF
JEFFREY E. DETLEFSEN
ATTORNEY AT LAW
FOR
NORTHWEST ENVIRONMENTAL ADVOCATES

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
MARCH 30, 1988

PROPOSED AMENDMENTS TO:
OREGON ADMINISTRATIVE RULES
[OAR 340, DIVISIONS 102 AND 105]

Hazardous & Solid Waste Division
Dept. of Environmental Quality
RECEIVED
APR 04 1988

Mr. Hearings Officer:

Thank you for the opportunity to comment on changes to rules governing the payment of fees by hazardous waste generators and treatment, storage and disposal facilities. I am Jeff Detlefsen. Attorney for NORTHWEST ENVIRONMENTAL ADVOCATES: a citizens group concerned about Oregon's hazardous waste management program.

Today, DEQ requests comments on a major increase in the fees charged hazardous waste generators and facilities. DEQ also requests comments on the establishment of penalties for non-payment of fees. We support the proposed amendments to to establish a penalty for non payment of fees, because we feel that currently there is little deterrence; there is no consequence to those who refuse to pay the proper fee. This testimony will outline why we feel that thousands of generators of hazardous waste are ignoring current reporting requirements and ignoring their responsibility to pay fees. We can only hope that they are not ignoring the environmental safeguards in the same manner they are ignoring the administrative aspects of the hazardous waste rules.

Since we feel that the short-fall in revenues could be substantially eliminated if the Department were to undertake an aggressive program to bring additional generators into the system, we have extreme difficulty in supporting a major increase in fees for those "good actors" that are currently complying with the rules. The Department currently has no definite plan to bring non-

TESTIMONY OF JEFFREY E. DETLEFSEN
FOR THE COALITION FOR SAFE POWER

MARCH 30, 1988

Page 2

complying generators into the system. We feel it is unfair to make those complying with regulatory requirements to pay for the non compliance of others. If the DEQ were to have a definite plan to bring additional generators into the system, it would be much easier to support the major fee increases proposed. We strongly support the recommendation of the Hazardous Waste Funding Advisory Committee that "a program to identify additional generators must be instituted at once." Such a program should provide encouragement for non-complying generators to get in the system, and strong enforcement against those who do not. In short, we come to the same conclusion as the Funding Committee, that we acquiesce to the proposed increases, "Because of time constraints, the proposed recommendation is the only feasible alternative available to meet the funding requirement."

We feel that there are thousands of generators ignoring the current regulatory requirements. We reach this conclusion based on a review of the number of generator reports submitted compared to the number of registered generators; by a comparison to the State of Washington; by a review of SIC codes and yellow pages; and by a general rule of thumb used in the industry. The Hazardous Waste Funding Advisory Committee reached a similar conclusion based on a comparison to the NPDES program, they concluded that DEQ has less than half of the generator population in it's system. We underline their concern, and we feel the problem is a larger one.

Out of approximately 1200 registered generators in Oregon, DEQ receives on the average of only 154 reports every quarter. My understanding is that fee billings are based on the reports received. Not a lot is known about the over 1000 registered generators that fail to file a report and do not pay a fee. On the face of it, there is shocking non-compliance. Comparison to information available from the State of Washington gives us some indication of what we might expect if Oregon were to receive the required reports.

The Department of Ecology in the State of Washington receives reports from all their registered Generators.

In 1986, Washington had 2,077 registered generators, and according to the Department of Ecology. 26% of those registered did not produce hazardous waste. 17% generated less than one metric ton per year. 57% generated over one metric ton per year.

PERCENT	WASHINGTON FACILITIES (1986)
26%	542 DO NOT GENERATE WASTE
17%	359 < 220 LBS/MONTH or < 1 TON/YR
57%	1176 > 220 LBS/MONTH or > 1 TON/YR
=====	
100%	2077 TOTAL REGISTERED GENERATORS

Based on Washington's experience, one might project that 26% of the 1200, or 313 registered generators in Oregon did not generate hazardous waste; leaving 887 Oregon generators required to pay a fee. Only 154 generators paid a fee, 733 additional generators should have paid a fee.

PROJECTIONS ABOUT OREGON FACILITIES BASED ON WASHINGTON PERCENTAGES

WASHINGTON OREGON
PERCENTAGES FACILITIES

100% 1200 TOTAL REGISTERED GENERATORS
26% 313 DO NOT GENERATE WASTE

=====

887 PROJECTED FACILITIES REQUIRED TO PAY FEE
154 ACTUAL OREGON GENERATORS FILING REPORT

=====

733 PROJECTED FACILITIES FAILING TO REPORT OR PAY FEE

If we are correct in assuming an additional 733 facilities should have paid a fee, how much additional revenue could be collected? The answer depends on which fee category we expect to find the non-complying Oregon generators. Washington reports 359 or 23% of its generators produce less than one ton per year; the remaining generators produce greater than one ton per year. Conservatively assuming that all non-complying Oregon generators fit within the bottom two Oregon fee categories, the additional revenue that could be collected from non-complying Oregon generators would be substantial. Under the current fees an additional \$186,000 would be collected. Under the proposed fees, \$424,000 additional revenue could be collected.

WASHINGTON HAZARDOUS WASTE GENERATORS BY AMOUNT

PERCENTAGES FACILITIES

23% 359 < 220 LBS/MONTH or < 1 TON/YR
77% 1176 > 220 LBS/MONTH or > 1 TON/YR

=====

100% 1535 TOTAL FACILITIES GENERATING HAZARDOUS WASTE

 PROJECTED ADDITIONAL FEE REVENUES UNDER CURRENT FEE STRUCTURE

WASHINGTON PERCENTAGE	PROJECTED OREGON FACILITIES FAILING TO PAY FEE	CURRENT UNIT FEE	TOTAL FEES
23%	171 < 220 LBS/MONTH or < 1 TON/YR	\$100	\$17,140
77%	561 > 220 LBS/MONTH or > 1 TON/YR	\$300	\$168,438
	=====		=====
100%	733 TOTAL		\$185,577

 PROJECTED ADDITIONAL FEE REVENUES UNDER PROPOSED FEE STRUCTURE

WASHINGTON PERCENTAGE	PROJECTED OREGON FACILITIES FAILING TO PAY FEE	CURRENT UNIT FEE	TOTAL FEES
23%	171 < 220 LBS/MONTH or < 1 TON/YR	\$230	\$39,421
77%	561 > 220 LBS/MONTH or > 1 TON/YR	\$685	\$384,599
	=====		=====
100%	733 TOTAL		\$424,020

The above analysis assumes that all generators required to register have done so, however we feel that there are thousands of generators that have not taken that first basic step.

A review of Standard Industrial Codes common to hazardous waste generators shows 2,273 companies operating in Oregon. In addition to that, a review by DEQ of yellow pages listings for dry cleaners, a common generator of hazardous solvents, show approximately 1,200 in the Portland area. Portland has approximately 1/2 of the States population, there may be 2,400 potentially regulated dry cleaners in the State. Adding the SIC

codes to the phone listings suggests that there are over 4,600 generators of hazardous waste in Oregon. Only 1,100 have registered.

POTENTIAL GENERATORS FAILING TO REGISTER [SIC CODES/YELLOW PAGES]

SIC codes common to hazardous waste generators	2,273
Dry Cleaners	2,400

Potential Oregon Generators of Hazardous Waste	4,673
Facilities reporting as hazardous waste Generators	1,113
Potential non-complying Generators	3,560

Another way of estimating the number of Small Quantity Generators is to look at the number of regulated small quantity generators in relation to the number of fully regulated generators. Dave Rossell of the DEQ has found that in other states, generally, there are 25 small quantity generators for each fully regulated generator. In Oregon there are 466 fully regulated generators, at 25 to 1, one expects to find 11,650 small quantity generators.

If this analysis held true, there would be a total of 12,116 generators in Oregon. Only 1,100 have registered.

POTENTIAL GENERATORS FAILING TO REGISTER [25 SQG TO 1]

Potential Oregon Generators of Hazardous Waste	12,116
Facilities reporting as hazardous waste Generators	1,113
Potential non complying Generators	11,003

TESTIMONY OF JEFFREY E. DETLEFSEN
FOR THEON FOR SAFE POWER
MARCH 30, 1988
Page 7

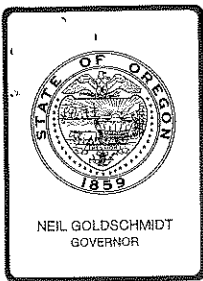
No matter which analysis you use, you must conclude that there is shocking non-compliance with the most basic of hazardous waste rules.

DEQ needs to adopt a program to aggressively bring non-compliers into the system. That conclusion has been reached by both environmental groups and by industry. Development and implementation of such a program should begin now.

We recognize that such a program will have costs and require significant staff commitment, but we feel that revenues and environmental benefits that could be achieved are worth the costs of such a program - we support and encourage DEQ to establish an amnesty program.

An amnesty program should focus efforts on industrial groupings. It should give specific notice to an industrial group - perhaps selected by SIC codes, of the requirements. DEQ could state that no action will be taken to collect fees for hazardous waste that may have been generated in the past, as long as the generator came into full compliance within a certain time period. A non-complying generator would have the opportunity to come into the system without having to pay historically delinquent payments - if they pay current fees within the stated time period. A major component of such an effort must be a commitment to strong enforcement and automatic penalties for those who refuse to comply during the amnesty period.

In conclusion, we support the addition of penalties for whose



Environmental Quality Commission

Attachment VI
Agenda Item O
4/29/88, EQC Meeting

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

MEMORANDUM

To: Environmental Quality Commission Date: April 4, 1988

From: Jan Whitworth, Manager
Hazardous Waste Section

Subject: Response to Comment Summary

Comment

Are fire departments, police departments and other government agencies, who receive hazardous wastes as a result of regulating illegal activities or as a public service, subject to these fees?

Department's Response

No. As a matter of policy, the Department has consistently exempted from fees agencies who handle hazardous wastes under such circumstances.

Comment

Raising fees for TSD facilities would be counterproductive.

Department's Response

This possibility was considered by the funding committee. The committee agreed that raising fees for the Arlington disposal site would be counterproductive, but they did not agree to freeze the fees for treatment and storage facilities. The Department is not persuaded to overrule the committee's recommendations.

Comment

Are generators who send their wastes to a recycling facility subject to generator fees?

Department's Response

Yes. Currently, fees are assessed on the basis of the amount of waste generated, without consideration of how the wastes are ultimately managed. However, the Department is committed to establishing a new approach to program funding that is both reliable and consistent with the promotion of waste reduction and recycling, prior to July 1, 1989. However, it must be noted that a generator who sends waste off-site to a recycler is still subject to the same requirements as one who does not, and requires the same compliance oversight by the Department.

Comment

Assessing fees to both generators and to TSD facilities is double charging the waste.

Department's Response

It is the waste handler who is assessed a fee. There is no tax or fee on the waste itself. At each location where the waste is handled, there are independent risks to public health, safety and the environment and a corresponding need for regulation. The greater the amount of waste handled, the greater the potential risks and the higher the fees.

Comment

The fee schedule should display both the proposed 25% increase and the one-time surcharge, as well as the total fee.

Department's Response

The Department agrees and has revised the proposed new fee schedule accordingly.

Comment

The term "overdue" in the rules is vague. Late charges should begin when fees are not paid within 30 days of receipt of the invoice.

Department's Response

The fee invoice includes a due date. Fees are overdue if not received by that date. The proposed rule amendments have been revised to state this

more clearly. The Department rejects the idea of basing late charges on the date the invoice is received. In most business billing processes, late charges are based on payment due dates.

Comment

The rules should include a table to more clearly define the applicability of permit application fees to hazardous waste treatment or disposal activities.

Department's Response

The Department and the Commission rejected this proposal when it was first made in August 1987. The Department continues to believe that such a table should be in the form of a guidance document and not part of the rules. Also there are already similar tables in Part 260 of the federal rules, which the state has adopted by reference. The Department made a commitment to distribute this guidance and regrets the delay that has been necessitated by other, higher priority work. The Department will distribute this guidance prior to the fee billing this year.

Comment

There are inconsistencies between the Department's fee rules and reporting rules.

Department's Response

The Department agrees and is taking steps to remedy this problem. First, the Department has drafted amendments to the reporting rules which will be taken to public hearing this month (April 1988). Second, the Department intends to review and revise the fee rules, in a more comprehensive manner, prior to September 30, 1989.

Comment

The Department has not made a significant effort to discover unregistered generators and to collect unpaid fees by registered generators.

Department's Response

The Department acknowledges the seriousness of the Hazardous Waste Program's funding problems and agrees that it needs to do a better job of discovering all generators, collecting fees, and conducting a more comprehensive compliance oversight program. The Department appreciates the advice of its funding committee and others and intends to proceed with a mass mailing, based on SIC codes, as quickly as possible. The Department also agrees with

the proposed amnesty period and hopes that the proposed new late charges will encourage more timely payment of fees.

Comment

The proposed fees are extremely high and may not be justifiable on the basis of services rendered.

Department's Response

The Department acknowledges that the proposed fees are very high and regrets that this is the only viable solution to the current revenue shortfall. The proposed fee increase is a one-time only, emergency measure. The Department is committed to the development of a more reliable and more equitable method of program funding, prior to July 1, 1989.

With respect to services rendered, it must be remembered that the Department primarily serves the public and not exclusively the regulated community. The service provided is the protection of public health, safety and the environment. The fees paid by generators and TSD facilities are intended to help support the program and are not intended to be fees for site-specific services.

Comment

The Department's program costs, particularly inspection costs, should be evaluated and reduced if possible.

Department's Response

The Department agrees. The Department is always looking for ways to make its programs more efficient and cost effective.

Comment

The Department should allow this round of fees to be paid on an installment basis.

Department's Response

The Department currently allows fees to be paid in installments, on a case-by-case basis. This is a more costly way of collecting fees, however, and the Department prefers that most fees be paid in a lump sum.

Comment

The program should be continued at its present funding level or fee increases should be limited to 25%, without an additional surcharge.

Department's Response

The proposed fee increases, including the one-time surcharge, were recommended by a funding committee comprised of industry representatives. After mailing notices to approximately 1,600 people and conducting two public hearings, the Department has received only one comment suggesting that there be no fee increase and only one comment suggesting that there not be a one-time surcharge. Accordingly, the Department continues to endorse the fee schedule, as proposed by the funding committee.

Comment

As the amount of hazardous waste is reduced, the program should also diminish.

Department's Response

The Department disagrees. It is the activity of hazardous waste handling that is being regulated not the specific amount of waste. As long as waste is present, even at a reduced amount, there are still risks to public health, safety and the environment, and a need for regulation.

Comment

The Department should use discretion in the assessment of late charges. The draft rules should be amended to state that late charges "may be assessed."

Department's Response

The funding committee and several commentators were adamant that the Department must take a more aggressive role in dealing with late payment or nonpayment of fees. The Department intends to do that. While the Department always has the ability to use some discretion in the enforcement of its rules, changing the fee rules to indicate that late charges "may be assessed" could give the false impression that the Department is not serious about prompt payment of fees. That is not the impression the Department wishes to give.

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Comment

The rules state that fees are required after July 1, 1984. The rules should also state when the new fees become effective, so there is no confusion about the new fees being retroactive.

Department's Response

Unless otherwise indicated, all of the Department's rules become effective upon filing by the Secretary of State. Accordingly, there is no need to put an effective date in the rules for the new fees. There also seems to be no need to retain the 1984 date in the rules any longer. The Department proposes to delete this date, to avoid any confusion about fees being retroactive.

ZB7422.6

Before the Environmental Quality Commission of the State of Oregon

In the Matter of Amending) Proposed Amendments
 OAR 340, Divisions 102 and 105)

Unless otherwise indicated, material enclosed in brackets [] is proposed to be deleted and material that is underlined is proposed to be added.

1. Rule 340-102-065 is proposed to be amended as follows:

Hazardous waste generator fees.

340-102-065 (1) [Beginning July 1, 1984,] each person generating hazardous waste shall be subject to an annual fee based on the weight of hazardous waste generated during the previous calendar year. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1. A late charge in the amount of \$200, plus interest compounded daily at the rate established under ORS 305.220, shall also be paid, if the fees are not received by the due date on the invoice. An additional \$200 late charge shall also be paid each 90 days that the fees remain unpaid. Fees 90 days or more overdue shall also be increased by 20 percent and referred to the state Department of Revenue for collection.

(2) For the purpose of determining appropriate fees, each hazardous waste generator shall be assigned to a category in Table 1 of this Division based upon the amount of hazardous waste generated in the calendar year identified in section (1) of this rule except as otherwise provided in section (5) of this rule.

Table 1

Hazardous Waste Generation Rate (Metric Tons/Year)	[Total Fee]	Base Fee	One-Time Surcharge	Total Fee
<1.....	[\$100]	<u>125</u>	<u>105</u>	<u>230</u>
1 but <3.....	[300]	<u>375</u>	<u>310</u>	<u>685</u>
3 but <14.....	[550]	<u>688</u>	<u>562</u>	<u>1,250</u>
14 but <28.....	[875]	<u>1,094</u>	<u>906</u>	<u>2,000</u>
28 but <142.....	[1975]	<u>2,469</u>	<u>2,031</u>	<u>4,500</u>
142 but <284.....	[4,475]	<u>5,594</u>	<u>4,606</u>	<u>10,200</u>
>284.....	[6,350]	<u>7,938</u>	<u>6,542</u>	<u>14,480</u>

(3) For the purpose of determining appropriate fees, hazardous waste shall be included in the quantity determinations required by section (1) of this rule as follows:

(a) Except as provided in subsection (b) of this section, all quantities of "listed" and "characteristic" hazardous waste shall be counted that are:

- (A) Accumulated on-site for any period of time prior to subsequent management;
- (B) Packaged and transported off-site;
- (C) Placed directly in a regulated on-site treatment or disposal unit;

or

(D) Generated as still bottoms or sludges and removed from product storage tanks.

(b) Hazardous wastes shall not be counted that are:

(A) Specifically excluded from regulation under 40 CFR 261.4 or 261.6;

(B) Continuously reclaimed on-site without storage prior to reclamation. (Note: Any residues resulting from the reclamation process, as well as spent filter materials, are to be counted);

(C) Managed in an elementary neutralization unit, a totally enclosed treatment unit, or a wastewater treatment unit;

(D) Discharged directly to a publicly-owned wastewater treatment works, without first being stored or accumulated (Note: Any such discharge must be in compliance with applicable federal, state and local water quality regulations); or

(E) Already counted once during the calendar month, prior to being recycled.

(4) In order to determine annual hazardous waste generation rates, the Department may use generator quarterly reports required by rule 340-102-041; treatment, storage and disposal reports required by rule 340-104-075; information derived from manifests required by 40 CFR 262.20, and any other relevant information. For wastes reported in the units of measure other than metric tons, the Department will use the following conversion factors: 1.0 metric tons = 1,000 kg = 2,200 lbs. = 35.25 cubic feet = 264 gallons = 1.10 tons (English) = 4.80 drums (55 gallon).

(5) Owners and operators of hazardous waste treatment, storage and disposal facilities shall not be subject to the fees required by section (1) of this rule for any wastes generated as a result of storing, treating or disposing of wastes upon which an annual hazardous waste generation fee has already been paid. Any other wastes generated by owners and operators of treatment, storage and disposal facilities are subject to the fees required by section (1) of this rule.

(6) All fees shall be made payable to the Department of Environmental Quality.

(7) The fee schedule in this rule shall be reconsidered by the Environmental Quality Commission, prior to September 30, 1989.

2. Rule 340-105-110 is proposed to be amended as follows:

Permit fees.

340-105-110 (1) [Beginning July 1, 1984,] each person required to have a hazardous waste storage, treatment or disposal permit (management facility permit) shall be subject to a three-part fee consisting of a filing fee, an application processing fee and an annual compliance determination fee as listed in [Table 1 of this Division] rule 340-105-113. The amount equal to the filing fee, application processing fee and the first year's annual compliance determination fee shall be submitted as a required

part of any application for a new permit. The amount equal to the filing fee and application processing fee shall be submitted as a required part of any application for renewal or modification of an existing permit.

(2) As used in this rule, the following definitions shall apply:

(a) The term management facility includes, but is not limited to:

(A) Hazardous waste storage facility;

(B) Hazardous waste treatment facility; and

(C) Hazardous waste disposal facility.

(b) The term hazardous wastes includes any residue or hazardous wastes as defined in Division 101 or 40 CFR Part 261 handled under the authority of a management facility permit.

(c) The term license and permit shall mean the same thing and will be referred to in this rule as permit.

(3) The annual compliance determination fee shall be paid for each year a management facility is in operation and, in the case of a disposal facility, for each year that post-closure care is required. The fee period shall be the state's fiscal year (July 1 through June 30) and shall be paid annually by July 1. A late charge in the amount of \$200, plus interest compounded daily at the rate established under ORS 305.220, shall also be paid, if the fees are not received by the due date on the invoice. An additional \$200 late charge shall also be paid each 90 days that the fees remain unpaid. Fees 90 days or more overdue shall also be increased by 20 percent and referred to the state Department of Revenue for collection. Any annual compliance determination fee submitted as part of an application for a new permit shall apply to the fiscal year the permitted management facility is put into operation. For the first year's operation, the full fee shall apply if the management facility is placed into operation on or before April 1. Any new management facility placed into operation after April 1 shall not owe a compliance determination fee until July 1 of the following year. The Director may alter the due date for the annual compliance determination fee upon receipt of a justifiable request from a permittee.

(4) For the purpose of determining appropriate fees, each management facility shall be assigned to a category in [Table 1 of this Division] rule 340-105-113 based upon the amount of hazardous waste received and upon the complexity of each management facility. Each management facility which falls into more than one category shall pay whichever fee is higher. The Department shall assign a storage and treatment facility to a category on the basis of design capacity of the facility. The Department shall assign a new disposal facility to a category on the basis of estimated annual cubic feet of hazardous waste to be received and an existing disposal facility on the basis of average annual cubic feet of hazardous waste received during the previous three calendar years.

(5) Where more than one management facility exists on a single site, in addition to the compliance determination fee required by rules 340-105-110(3) and (4), a flat fee of \$250 shall be assessed for each additional management facility.

(6) Modifications of existing, unexpired permits which are instituted by the Department due to changing conditions or standards, receipt of additional information or any other reason pursuant to applicable statutes and do not require re-filing or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.

(7) Upon the Department accepting an application for filing, the filing fee shall be nonrefundable.

(8) The application processing fee, except for disposal permits, may be refunded in whole or in part when submitted with an application if either of the following conditions exist:

(a) The Department determines that no permit will be required.

(b) The applicant withdraws the application before the Department has approved or denied the application.

(9) The annual compliance determination fee may be refunded in whole or in part when submitted with a new permit application if either of the following conditions exist:

(a) The Department denies the application.

(b) The permittee does not proceed to construct and operate the permitted facility.

(10) All fees shall be made payable to the Department of Environmental Quality.

(11) The fee schedule in rule 340-105-113 shall be reconsidered by the Environmental Quality Commission, prior to September 30, 1989.

3. Rule 340-105-113 is proposed to be amended as follows:

Fee Schedule

340-105-113 (1) Filing Fee. A filing fee of \$50 shall accompany each application for issuance, reissuance or modification of a hazardous waste management facility or PCB treatment or disposal facility permit[, except storage facility permits]. This fee is nonrefundable 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 shall be submitted with each hazardous waste management facility or PCB treatment or disposal facility permit application or Authorization to Proceed request, if such a request is required under OAR 340-120-005. The intent of the application processing fee is to cover the Department's costs in investigating and processing the application. For all applications, any portion of the application processing fee which exceeds the Department's expenses in reviewing and processing the application shall be refunded to the applicant. In the case of permit reissuance, a fee is not initially required with the application. Within sixty days of receipt of the application, the Department will estimate its costs to reissue the permit and will bill the applicant for those costs, up to the amount specified in subsection (2)(b) of this rule. The application will be considered incomplete and processing will not proceed, until the fee is paid. In the event that the Department underestimates its costs, the applicant will be assessed a supplemental fee. The permit shall not be reissued until all required fees are paid. The total fees paid shall not exceed the amount specified in subsection (2)(b) of this rule. The amount of the fee shall depend on the type of facility and the required action as follows:

(a) A new permit:

(A) Storage facility	\$ [No Fee]	<u>70,000</u>
(B) Treatment facility	70,000	
(C) Disposal facility	70,000	
(D) Disposal facility - post closure	70,000	

(b) Permit Reissuance:

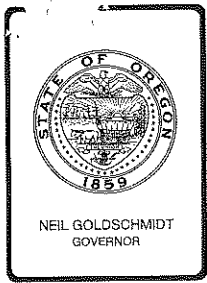
(A) Storage facility	[No Fee]	<u>50,000</u>
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(B) Treatment facility	50,000		
(C) Disposal facility	50,000		
(D) Disposal facility - post closure	50,000		
(c) Permit Modification - major:			
(A) Storage facility	No Fee		
(B) Treatment facility	[500]	<u>No Fee</u>	
(C) Disposal facility	[1,750]	<u>No Fee</u>	
(D) Disposal facility - post closure	[800]	<u>No Fee</u>	
(d) Permit Modification - minor:			
All Categories	No Fee		

(3) Annual Compliance Determination Fee. Except as provided in rule 340-105-110(5), in any case where a facility fits into more than one category, the permittee shall pay only the highest fee as follows:

	<u>[Total</u>	<u>Base</u>	<u>One-Time</u>	<u>Total</u>
	<u>Fee]</u>	<u>Fee</u>	<u>Surcharge</u>	<u>Fee</u>
(a) Storage facility:				
(A) 5-55 gallon drums or 250 gallons total or 2,000 pounds \$	[850]	<u>1,063</u>	<u>877</u>	<u>1,940</u>
(B) 5 to 250 - 55 gallon drums or 250 to 10,000 gallons total or 2,000 to 80,000 pounds	[1,750]	<u>2,188</u>	<u>1,232</u>	<u>3,420</u>
(C) >250 - 55 gallon drums or >10,000 gallons total or >80,000 pounds	[3,500]	<u>4,375</u>	<u>3,605</u>	<u>7,980</u>
(D) Closure	[1,500]	<u>1,875</u>	<u>2,115</u>	<u>3,990</u>
(b) Treatment Facility:				
(A) <25 gallons/hour or 50,000 gallon/day or 6,000 pounds/day	[850]	<u>1,063</u>	<u>877</u>	<u>1,940</u>
(B) 25-200 gallons/hour or 50,000 to 500,000 gallons/day or 6,000 to 60,000 pounds/day	[1,750]	<u>2,188</u>	<u>1,232</u>	<u>3,420</u>
(C) >200 gallons/hour or >500,000 gallons/day or >60,000 pounds/day	[3,500]	<u>4,375</u>	<u>3,605</u>	<u>7,980</u>
(D) Closure	[3,500]	<u>4,375</u>	<u>3,605</u>	<u>7,980</u>
(c) Disposal Facility:				
(A) <750,000 cubic feet/year or <37,500 tons/year 100,000				
(B) 750,000 to 2,500,000 cubic feet/year or 37,500 to 125,000 tons/year 150,000				
(C) >2,500,000 cubic feet/year or >125,000 tons/year 200,000				
(D) Closure	[6,000]	<u>7,500</u>	<u>6,180</u>	<u>13,680</u>
(d) Disposal Facility - Post Closure:				
All categories	[6,000]	<u>7,500</u>	<u>6,180</u>	<u>13,680</u>

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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. P , April 29, 1988, EQC Meeting

Informational Report: Review of FY 89 State/EPA Agreement and Opportunity for Public Comment

Background

Each year the Department and the Environmental Protection Agency (EPA) negotiate an agreement whereby EPA provides basic program grant support to the air, water and hazardous and solid waste programs in return for commitments from the Department to perform planned work on environmental priorities of the state and federal government.

Commission review of the annual grant application materials is intended to achieve two purposes:

1. Commission comment on the strategic and policy implications of the program descriptions contained in the draft State/EPA Agreement; and,
2. Opportunity for public comment on the draft Agreement.

Further public comment is being provided under federal A-95 clearinghouse procedures and a public notice containing a brief synopsis of the Agreement was mailed to persons who have expressed an interest in Department activities.

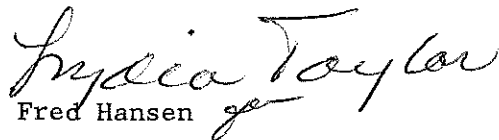
A summary of the Agreement is attached to this report. A complete copy of the draft agreement has been forwarded to the Commission under separate cover. It may be reviewed by interested persons at the DEQ headquarters office in Portland, or at the DEQ regional offices.

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April 29, 1988
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Director's Recommendations

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.


Fred Hansen

Attachment: State/EPA Agreement Executive Summary

Christie Nuttall
MY6955
229-6484
April 12, 1988

STATE/EPA AGREEMENT
STATE FISCAL YEAR 1989
JULY 1, 1988 TO JUNE 30, 1989

BETWEEN

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
AND
U. S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

MY6956

FY 1989

STATE/EPA AGREEMENT

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 10

The undersigned, for the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency, Region 10 (EPA), enter into this agreement to manage programs which protect and enhance Oregon's environment in the following areas:

Air Quality
Water Quality

Hazardous Waste Control and
Disposal

The agreement, known as the Oregon State/EPA Agreement (SEA), describes priorities, tasks, and resources which comprise the cooperative federal and state environmental management program in Oregon during fiscal year 1989. This agreement includes required work plans and is the application for consolidated EPA program grants to Oregon under provisions of the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act (for underground injection control).

The SEA consists of two documents, which are incorporated as part of this agreement. They are:

- Section I - An Executive Document including this agreement -- to provide the public and agency program managers with the formal agreement, a clear overview of environmental issues, program priorities, and major tasks for the fiscal year.
- Section II - A Program Document -- to provide detailed workplans to be carried out by each program during the fiscal year. This document also contains the FY 89 consolidated grant application.

This agreement covers the period of time from July 1, 1988 through June 30, 1989. The two agencies hereby agree to cooperatively work towards achieving environmental results and comply with the provisions set forth herein.

FOR THE STATE OF OREGON:

Frederic J. Hansen, Director Date
Department of Environmental Quality

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Robie G. Russell, Regional Administrator Date
Environmental Protection Agency, Region 10

INTRODUCTION

The Oregon State/EPA Agreement (SEA) describes environmental program commitments, priority problems, and solutions which the State of Oregon, represented by the Department of Environmental Quality (DEQ), and the U.S. Environmental Protection Agency (EPA), Region 10, have agreed on for fiscal year 1989 (July 1, 1988, to June 30, 1989). The programs include:

Air Quality
Water Quality

Hazardous Waste Control
and Disposal

The DEQ will operate the programs discussed and EPA will support these commitments with program grants and technical assistance. All program commitments, grants, and assistance are subject to approval of the State Legislature and pending congressional appropriations.

This agreement for mutual federal and state problem-solving and assistance is the primary mechanism to coordinate federal and state programs to achieve a comprehensive approach to managing Oregon's environment. The SEA has been written to accomplish two purposes:

1. Effective and efficient allocation of limited federal and state resources.
2. Achievement and maintenance of established environmental standards.

The SEA describes in detail the work planned for the coming fiscal year by the state and federal environmental agencies. Developing the SEA is a multi-step process, including several opportunities for public review and comment, leading to a signed agreement by July first of each year.

This Executive Document is intended to facilitate use of the SEA by state and federal program managers and by the public. It summarizes Oregon's environmental goals and priorities for FY 89 and closes with a budget summary table showing both state and federal resources.

In addition to specific program plans and commitments, there are several cross-cutting elements for which DEQ and EPA agree to provide continued emphasis, as follows:

Maintenance of Ongoing Programs. Much of the environmental effort by DEQ and EPA is directed to operation of the ongoing activities of the air, water, and hazardous waste programs, e.g., regulation development, permits issuance, source inspection, monitoring, etc. These activities constitute a significant portion of both agencies' priority work. The full FY 1989 SEA, which will be available in draft form for public review and comment in March 1988, will include detailed discussions of outputs and commitments for these ongoing programs.

As a focus for the ongoing programs, the priorities listed below are agreed to be of special importance during FY 1989.

Enforcement/Compliance Assurance. As regulatory agencies, ensuring compliance with environmental standards and requirements is a fundamental mission of both EPA and DEQ. Enforcement action in cases of persistent or serious violations is recognized as a necessary step to ensuring a consistently high level of compliance with state and federal laws.

EPA recognizes that DEQ has prime responsibility to assure compliance in federally delegated program areas and is, therefore, committed to provide technical assistance and back-up enforcement as appropriate. DEQ acknowledges the need for EPA to be kept advised of detailed compliance status within the programs and to be regularly informed by DEQ of state progress to resolve priority violations. The relative roles and responsibilities of each agency are outlined in specific program-by-program compliance assurance agreements. The agreements for the air, water, and hazardous waste programs are in place and will be updated annually to reflect the most recent policy on state/federal enforcement responsibilities. Both agencies agree to modify, as needed, and finalize the compliance assurance agreements by July 1 of each year, and to implement the agreements in a firm, fair, and even-handed way.

DEQ and EPA agree to hold quarterly enforcement meetings for the air, water, and hazardous waste programs. Further, DEQ agrees to meet all inspection commitments set forth in the compliance assurance agreements and in the annual work programs. DEQ and EPA agree to work cooperatively to ensure timely and appropriate enforcement action, as defined in the compliance assurance agreements.

Public Participation. All Oregonians are affected by environmental programs described in the FY 89 State/EPA Agreement. A public participation plan was prepared and followed to encourage public input to this SEA. The plan and a detailed Public Responsiveness Summary is included as an appendix to the Program Document (Section II).

State/EPA Coordination. Implementing this agreement requires extensive coordination between DEQ and EPA. The role of "Agreement Coordinator" has been put into effect. For EPA, the coordinator is the Director, Oregon Operations Office; for DEQ, the coordinator is the Administrator of Management Services. Coordinators have responsibility to plan and schedule agreement preparation and public participation, assure compliance with all grant terms, establish a format and agenda for agreed-to performance reviews, resolve administrative problems, and assure that this agreement is amended as needed if conditions change.

The Director, Oregon Operations Office, is the primary EPA official in Oregon with the authority to issue, interpret, and coordinate EPA program directives to the DEQ. The Director of the Oregon Operations Office is the EPA official responsible to facilitate continued informal program contact between federal and state agencies and to resolve problems which may arise in the course of implementing this agreement.

The parties to this agreement acknowledge that improved coordination of state programs with each EPA program results in major benefits for both agencies, and that conflicts or unanticipated requirements may undermine the plans and purposes of this agreement. Program contact between respective agency staffs will continue on a frequent and voluntary basis. The exchange of operating information among respective program staffs in air, water, and hazardous waste management will be encouraged to ensure that problems which might occur can be readily resolved.

Local Government Coordination. DEQ has been assigned a strong leadership role in managing and enhancing Oregon's environment. EPA and DEQ recognize that interested and affected local governments play a vital role in planning, decision making, and implementing environmental management programs. For example, the Lane County Air Pollution Authority has the primary role for regulating most air pollution sources in Lane County, consistent with state and federal regulations.

The policy of DEQ and EPA is to assure maximum effective participation of local governments in operating and implementing local environmental management programs consistent with statewide program goals and objectives. EPA will work to facilitate effective DEQ/local government relations, and to avoid direct EPA/local government decisions which contradict this policy.

State Primacy. It is federal policy that the state environmental agency should be the primary manager of environmental programs operated within the state. In Oregon, DEQ is primary manager of environmental programs. DEQ emphasizes that it will continue this responsibility to the fullest extent of its resources. EPA will provide DEQ with advance notice when conducting work with local governments and industry in Oregon, and will coordinate these efforts with DEQ as appropriate.

Training and Technology Transfer. A vital and continuing element of the State/EPA partnership is the exchange of ideas, technical capability, and even staff between DEQ and EPA. This year's State/EPA Agreement emphasizes interagency training and technology transfer as priorities for both agencies in the air, water, hazardous waste, and Superfund programs. We believe that our partnership is greatly enhanced by personnel exchanges and other mechanisms to build communication and understanding.

In FY 89 we have agreed to promote staff exchanges, on a short or long-term basis, for middle management and technical staff level employees. We are also committing to identify specific technical assistance and training needs to be addressed during the year in each major program area.

Fiscal Reporting. DEQ and EPA agree that budget and fiscal reports for work planned under the provisions of this agreement shall continue to be by program (air, water, hazardous waste) and by category (personal services, services and supplies, and capital outlays). Resource estimates for program accomplishments have been included in the Program Document to describe priorities and program emphases, to help assure that adequate resources will be available to achieve commitments, and to forecast resource needs in future fiscal years.

Performance and Evaluation. Both DEQ and EPA will commit their best efforts to assure that the terms, conditions and provisions contained or incorporated in this agreement are fully complied with. To the extent that DEQ does not fulfill provisions of this agreement as related to the award of grants being applied for herein, it is understood that EPA will not be precluded from imposing appropriate sanctions under 40 CFR Part 30, including withholding of funds, and termination or annulment of grants.

In coordination with the states, EPA has established a policy on oversight and performance-based grants which includes procedures and mechanisms for conducting effective oversight of state programs in Region 10. Existing oversight and grant management procedures are conducted in accordance with this policy. And as part of its commitment to implement this agreement, EPA will endeavor to improve federal oversight operations to accomplish more effective state program results, improve assistance and advice to DEQ, and reduce paperwork and duplication of efforts between the two agencies.

The tasks and expected results contained in this agreement reflect information known and objectives identified at the time of its signing. Both agencies recognize that events outside the control of the parties of this agreement (e.g., changes in authorizing legislation or levels of resources) may affect the ability of either party to fulfill the terms of the agreement. Therefore, both parties agree that a system for review and negotiated revision of work plans is central to this agreement.

Performance evaluations will be conducted quarterly by DEQ, and will be the means to identify problems and propose revisions. Exceptions in meeting work plans will be reported to EPA. A joint DEQ/EPA evaluation will be conducted semi-annually in the offices of DEQ. The Agreement Coordinators are responsible to schedule this evaluation and prepare the agenda. The coordinators may, at their discretion, schedule extraordinary general or special topic evaluations when performance issues or changed conditions appear to warrant such an evaluation.

A brief, written progress report will be produced following the semi-annual evaluation. This report will emphasize, by exception, the policy and/or performance issues that require executive review and action. Such issues shall be resolved by respective agency executives.

OK

STATE/EPA AGREEMENT

STATE FISCAL YEAR 1989

JULY 1, 1988 TO JUNE 30, 1989

BETWEEN

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 10

EXECUTIVE DOCUMENT

2391C

OREGON STATE/EPA AGREEMENT

FY 1989

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FY 1989

STATE/EPA AGREEMENT

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Section II - A Program Document -- to provide detailed workplans to be carried out by each program during the fiscal year. This document also contains the FY 89 consolidated grant application.

INTRODUCTION

The Oregon State/EPA Agreement (SEA) describes environmental program commitments, priority problems, and solutions which the State of Oregon, represented by the Department of Environmental Quality (DEQ), and the U.S. Environmental Protection Agency (EPA), Region 10, have agreed on for fiscal year 1989 (July 1, 1988, to June 30, 1989). The programs include:

Air Quality
Water Quality

Hazardous Waste Control
and Disposal

The DEQ will operate the programs discussed and EPA will support these commitments with program grants and technical assistance. All program commitments, grants, and assistance are subject to approval of the State Legislature and pending congressional appropriations.

This agreement for mutual federal and state problem-solving and assistance is the primary mechanism to coordinate federal and state programs to achieve a comprehensive approach to managing Oregon's environment. The SEA has been written to accomplish two purposes:

1. Effective and efficient allocation of limited federal and state resources.
2. Achievement and maintenance of established environmental standards.

The SEA describes in detail the work planned for the coming fiscal year by the state and federal environmental agencies. Developing the SEA is a multi-step process, including several opportunities for public review and comment, leading to a signed agreement by July first of each year.

This Executive Document is intended to facilitate use of the SEA by state and federal program managers and by the public. It summarizes Oregon's environmental goals and priorities for FY 89 and closes with a budget summary table showing both state and federal resources.

In addition to specific program plans and commitments, there are several cross-cutting elements for which DEQ and EPA agree to provide continued emphasis, as follows:

Maintenance of Ongoing Programs. Much of the environmental effort by DEQ and EPA is directed to operation of the ongoing activities of the air, water, and hazardous waste programs, e.g., regulation development, permits issuance, source inspection, monitoring, etc. These activities constitute a significant portion of both agencies' priority work. The full FY 1989 SEA, which will be available in draft form for public review and comment in March 1988, will include detailed discussions of outputs and commitments for these ongoing programs.

As a focus for the ongoing programs, the priorities listed below are agreed to be of special importance during FY 1989.

Enforcement/Compliance Assurance. As regulatory agencies, ensuring compliance with environmental standards and requirements is a fundamental mission of both EPA and DEQ. Enforcement action in cases of persistent or serious violations is recognized as a necessary step to ensuring a consistently high level of compliance with state and federal laws.

EPA recognizes that DEQ has prime responsibility to assure compliance in federally delegated program areas and is, therefore, committed to provide technical assistance and back-up enforcement as appropriate. DEQ acknowledges the need for EPA to be kept advised of detailed compliance status within the programs and to be regularly informed by DEQ of state progress to resolve priority violations. The relative roles and responsibilities of each agency are outlined in specific program-by-program compliance assurance agreements. The agreements for the air, water, and hazardous waste programs are in place and will be updated annually to reflect the most recent policy on state/federal enforcement responsibilities. Both agencies agree to modify, as needed, and finalize the compliance assurance agreements by July 1 of each year, and to implement the agreements in a firm, fair, and even-handed way.

DEQ and EPA agree to hold quarterly enforcement meetings for the air, water, and hazardous waste programs. Further, DEQ agrees to meet all inspection commitments set forth in the compliance assurance agreements and in the annual work programs. DEQ and EPA agree to work cooperatively to ensure timely and appropriate enforcement action, as defined in the compliance assurance agreements.

Public Participation. All Oregonians are affected by environmental programs described in the FY 89 State/EPA Agreement. A public participation plan was prepared and followed to encourage public input to this SEA. The plan and a detailed Public Responsiveness Summary is included as an appendix to the Program Document (Section II).

State/EPA Coordination. Implementing this agreement requires extensive coordination between DEQ and EPA. The role of "Agreement Coordinator" has been put into effect. For EPA, the coordinator is the Director, Oregon Operations Office; for DEQ, the coordinator is the Administrator of Management Services. Coordinators have responsibility to plan and schedule agreement preparation and public participation, assure compliance with all grant terms, establish a format and agenda for agreed-to performance reviews, resolve administrative problems, and assure that this agreement is amended as needed if conditions change.

The Director, Oregon Operations Office, is the primary EPA official in Oregon with the authority to issue, interpret, and coordinate EPA program directives to the DEQ. The Director of the Oregon Operations Office is the EPA official responsible to facilitate continued informal program contact between federal and state agencies and to resolve problems which may arise in the course of implementing this agreement.

The parties to this agreement acknowledge that improved coordination of state programs with each EPA program results in major benefits for both agencies, and that conflicts or unanticipated requirements may undermine the plans and purposes of this agreement. Program contact between respective agency staffs will continue on a frequent and voluntary basis. The exchange of operating information among respective program staffs in air, water, and hazardous waste management will be encouraged to ensure that problems which might occur can be readily resolved.

Local Government Coordination. DEQ has been assigned a strong leadership role in managing and enhancing Oregon's environment. EPA and DEQ recognize that interested and affected local governments play a vital role in planning, decision making, and implementing environmental management programs. For example, the Lane County Air Pollution Authority has the primary role for regulating most air pollution sources in Lane County, consistent with state and federal regulations.

The policy of DEQ and EPA is to assure maximum effective participation of local governments in operating and implementing local environmental management programs consistent with statewide program goals and objectives. EPA will work to facilitate effective DEQ/local government relations, and to avoid direct EPA/local government decisions which contradict this policy.

State Primacy. It is federal policy that the state environmental agency should be the primary manager of environmental programs operated within the state. In Oregon, DEQ is primary manager of environmental programs. DEQ emphasizes that it will continue this responsibility to the fullest extent of its resources. EPA will provide DEQ with advance notice when conducting work with local governments and industry in Oregon, and will coordinate these efforts with DEQ as appropriate.

Training and Technology Transfer. A vital and continuing element of the State/EPA partnership is the exchange of ideas, technical capability, and even staff between DEQ and EPA. This year's State/EPA Agreement emphasizes interagency training and technology transfer as priorities for both agencies in the air, water, hazardous waste, and Superfund programs. We believe that our partnership is greatly enhanced by personnel exchanges and other mechanisms to build communication and understanding.

In FY 89 we have agreed to promote staff exchanges, on a short or long-term basis, for middle management and technical staff level employees. We are also committing to identify specific technical assistance and training needs to be addressed during the year in each major program area.

Fiscal Reporting. DEQ and EPA agree that budget and fiscal reports for work planned under the provisions of this agreement shall continue to be by program (air, water, hazardous waste) and by category (personal services, services and supplies, and capital outlays). Resource estimates for program accomplishments have been included in the Program Document to describe priorities and program emphases, to help assure that adequate resources will be available to achieve commitments, and to forecast resource needs in future fiscal years.

Performance and Evaluation. Both DEQ and EPA will commit their best efforts to assure that the terms, conditions and provisions contained or incorporated in this agreement are fully complied with. To the extent that DEQ does not fulfill provisions of this agreement as related to the award of grants being applied for herein, it is understood that EPA will not be precluded from imposing appropriate sanctions under 40 CFR Part 30, including withholding of funds, and termination or annulment of grants.

In coordination with the states, EPA has established a policy on oversight and performance-based grants which includes procedures and mechanisms for conducting effective oversight of state programs in Region 10. Existing oversight and grant management procedures are conducted in accordance with this policy. And as part of its commitment to implement this agreement, EPA will endeavor to improve federal oversight operations to accomplish more effective state program results, improve assistance and advice to DEQ, and reduce paperwork and duplication of efforts between the two agencies.

The tasks and expected results contained in this agreement reflect information known and objectives identified at the time of its signing. Both agencies recognize that events outside the control of the parties of this agreement (e.g., changes in authorizing legislation or levels of resources) may affect the ability of either party to fulfill the terms of the agreement. Therefore, both parties agree that a system for review and negotiated revision of work plans is central to this agreement.

Performance evaluations will be conducted quarterly by DEQ, and will be the means to identify problems and propose revisions. Exceptions in meeting work plans will be reported to EPA. A joint DEQ/EPA evaluation will be conducted semi-annually in the offices of DEQ. The Agreement Coordinators are responsible to schedule this evaluation and prepare the agenda. The coordinators may, at their discretion, schedule extraordinary general or special topic evaluations when performance issues or changed conditions appear to warrant such an evaluation.

A brief, written progress report will be produced following the semi-annual evaluation. This report will emphasize, by exception, the policy and/or performance issues that require executive review and action. Such issues shall be resolved by respective agency executives.

AIR QUALITY PROGRAM

Program Goals

- Attain and maintain air quality standards statewide.
- Prevent significant deterioration of air quality where the air is now clean.
- Prevent significant air quality impacts from toxic chemicals.

Background

Oregon's air quality is generally very good. Certain areas of the state, however, have pollution levels that exceed the concentrations allowed by the standards. The air quality program has successfully reduced overall pollution levels in problem areas until some of the areas are meeting the standards or come very close. The areas still officially considered out of attainment are:

Portland: carbon monoxide, ozone
Salem: carbon monoxide
Eugene/Springfield: carbon monoxide, PM-10
Grants Pass: carbon monoxide, PM-10
Medford: carbon monoxide, PM-10
Klamath Falls: PM-10.

Additionally, four other areas have levels of PM-10 (particulate matter ten microns in diameter or smaller) that may exceed allowable levels and additional monitoring is needed for confirmation. They are:

Portland
Oakridge (near Springfield)
LaGrande
Bend.

Priorities

EPA promulgated PM-10 standards in July 1987. Four areas of Oregon are known to have PM-10 levels higher than the standards allow, and four more areas are suspect. For the known exceedance areas, DEQ will develop overall strategies to bring the areas into compliance with the standards using an appropriate mix of industrial standards and local ordinances to reduce smoke from woodstoves. For the suspect areas, DEQ will conduct a monitoring program to determine their status. If they are found to violate standards, control strategies will be developed.

CO/Ozone Standards

In the past, monitoring has shown that carbon monoxide and ozone levels in Portland are higher than the standards. For years, DEQ has been working to lower pollutant levels through such means as an inspection/maintenance program for motor vehicles and a parking control program for the downtown area. The deadline for meeting the standards was the end of 1987. It is not clear whether Portland meets the standard. DEQ will continue monitoring Portland air, determine whether the standards are met, and, if needed, develop additional means to reduce pollutant levels.

Asbestos

DEQ will upgrade its current program for controlling asbestos fibers produced during demolition/renovation activities in buildings. The Department has conducted a regulatory program in the past but one major deficiency was the quality of work done by abatement contractors. In response to recent legislative mandates, the Department will adopt and implement regulations that require firms to be certified and workers to be licensed. Workers will need to take approved training courses to learn the hazards from asbestos and proper techniques for working with it.

Air Toxics

Air quality programs in the past have concentrated on controlling certain major pollutants consisting of sulfur dioxide, carbon monoxide, ozone, lead, suspended particulates and nitrogen oxides. While good progress was made in cleaning the air, certain other toxic pollutants tended to be overlooked. DEQ will continue an examination of toxic chemicals used and emitted in Oregon, develop criteria to assess the risks involved, and regulate emissions where needed.

Woodstoves

Woodstoves continue to be one of the major sources of PM-10 in Oregon cities. DEQ has developed a regulatory program that requires new stoves to be certified by the Department. Similar regulations have been developed recently by EPA. DEQ will continue implementation of these provisions.

Many uncertified stoves are already installed in Oregon homes and it will be many years before they are replaced with newer models. DEQ will continue working with local agencies to develop curtailment programs during periods of air pollution episodes.

Clean Air Strategy

During FY 88 DEQ will continue to implement control strategies for all nonattainment areas. Additional assessment will be done for the Portland ozone nonattainment area. Monitoring development and implementation of control strategies for new particulate standards will proceed.

DEQ will continue to implement its New Source Review Rule, including detailed growth management (offset and banking) provisions. DEQ will also have full responsibility for operating the Prevention of Significant Deterioration (PSD) Major New Source Review Program, and for NSPS and NESHAPS pertinent to Oregon. DEQ will continue to develop and implement a formal program for better assessing and controlling toxic and hazardous emissions.

Compliance assurance activities for volatile organics and particulate sources will go on. Air monitoring and quality assurance procedures will fully meet EPA requirements for SLAMS and NAMS air monitoring sites. Air source compliance and enforcement activities will be carried out under current rules including the current air contaminant discharge permit program. The compliance assurance agreement with EPA will be reviewed and revised as is appropriate.

DEQ will expand the current asbestos program. The major problem identified in the program is that many contractors are not properly reporting to DEQ or following other DEQ rules. DEQ will implement a mandatory certification program for asbestos contractors, combined with a self-funding worker-training program to ensure the technical competency of asbestos workers.

Vehicle Inspection/Maintenance (I/M) including anti-tampering inspections will continue for the Portland Metropolitan Service District area. An I/M program with anti-tampering inspections, begun in Medford in January 1986, will also continue.

DEQ will continue implementation of a wood stove control program as authorized by the 1983 Legislature.

As in previous years, DEQ will manage field burning in the Willamette Valley to minimize intrusions in populated areas. Strategies recently adopted to reduce visibility impacts in scenic areas will be maintained.

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WATER QUALITY PROGRAM

Program Goals:

- Protect recognized beneficial uses of water through attainment and maintenance of Water Quality Standards.
- Develop programs to protect groundwater.
- Reduce bacterial contamination in 1) shellfish producing estuaries; and 2) freshwaters where the body contact recreation is not fully supported.
- Improve knowledge and control of toxics.
- Work with other state agencies to develop process for balancing the state's water resources, considering quantity and quality.

Background:

Since the early 1960's, Oregon has experienced rapid population growth. Future growth may be lower than that experienced previously, but growth is expected to continue. This means more wastes will be generated, which will require adequate treatment and disposal in order to maintain and protect surface and groundwater quality. Just maintaining current conditions will require a substantial investment by the public and development of innovative waste management and treatment methods.

Efforts will continue to be directed to correction of localized water pollution problems and nuisance conditions, replacement, and rehabilitation of aging pollution control facilities, and proper operation and maintenance of facilities to assure that effluent limits are met on a continuing basis.

Profile:

Surface Water Quality - Overall, Oregon's water quality is quite good. Of 90,000 stream miles, nearly 27,715 miles have been catalogued. Designated uses are supported in 82 percent, partially supported in 16 percent, and not supported in 2 percent of the streams assessed. (See Table 1.) Of nearly 200,000 acres of lakes assessed, designated uses are supported in 59 percent, partially supported in 39 percent, and not supported in 2 percent. In the majority of shellfish-producing estuaries, water quality only partially supports the use. The primary pollutant preventing full support of uses in surface waters is fecal coliform bacteria and low flow. In Oregon, bacterial contamination results from different source types including: 1) nonpoint sources -- land runoff from failing on-site septic tanks and drainfield systems, inadequately managed animal waste disposal operations, and cattle grazing areas; 2) point sources -- bypasses and discharges of inadequately treated sewage from municipal sewerage systems; and 3) natural sources.

Groundwater Quality - Shallow, unconfined aquifers supply the bulk of groundwater to over 800,000 Oregonians who rely on groundwater for drinking water. Therefore, it is not surprising that many existing urban centers and new developments are located above these aquifers. In several areas of the state, groundwater pollution has been documented. Elevated nitrate-nitrogen concentrations and bacterial contamination have been two primary indicators of wastes seeping underground. Investigation of toxic chemical and hydrocarbon contamination in groundwater has commenced.

Priorities

Construction Grants - Delegation of the program to the DEQ is expected to be completed by September 30, 1988. As a result of legislative budget approval, the preparation and EPA approval of functional subagreements, hiring and

training of staff, and delegation of functions, the DEQ will have full capability to manage the program in FY 89.

The workplan for FY 1989 will be negotiated with DEQ. Construction-related activities currently being performed by the Corps of Engineers will either be terminated or continued for certain activities under an interagency agreement with DEQ. These activities will be funded using 205(g) funds.

State Revolving Fund Loan Program - Federal legislation for phasing out the construction grant program and replacing it with a revolving loan fund was enacted in February 1987.

State enabling legislation has been passed by the Oregon State Legislature. A public advisory committee has been selected to determine loan terms. The DEQ match will be determined by the 1989 Legislature.

Pretreatment Program - Twenty Oregon POTW's have approved pretreatment programs. Four state audits and sixteen inspections of these POTW pretreatment programs are to be conducted in FY 89.

Several other communities experience problems with industrial waste discharges into their sewerage systems. DEQ will work closely with POTW's to ensure effective pretreatment programs or require development of programs, as necessary, to prevent pass through of toxics, treatment plant upsets and interference, and sludge contamination from industrial waste discharges.

NPDES Permits - DEQ will meet reissuance targets for major and minor municipal and industrial permits. This will include major municipal and industrial permits that were planned for issuance in FY 88 and those that will expire in FY 89. In FY 89, minor permits will be issued as they expire.

National Municipal Policy - The federal statutory deadline for POTW's to comply with the secondary treatment requirements was July 1, 1988. Several municipalities which did not consistently achieve secondary treatment in January 1984, when the National Municipal Policy was finalized, have been issued administrative orders. The DEQ will continue to provide technical assistance and track compliance schedules as necessary to assure that secondary treatment requirements are met.

State Sludge Management Program - The DEQ has expended considerable resources developing and implementing a sludge management program in Oregon. It has adopted administrative rules and established guidelines on sludge utilization which require the development and implementation of sludge/septage management plans and routine analysis of sludge properties and characteristics.

Sites proposed for sludge utilization are also evaluated.

DEQ will continue to maintain a strong oversight role in evaluating sludge handling operations, reviewing management plans, and assuring adequate plan implementation.

Operator Certification - During FY 89 the DEQ will implement a new state statute (ORS 635) which establishes a qualification program and requires those supervising the operation of sewage works systems to be certified.

Critical River Basins - The DEQ will ensure effective water quality management. DEQ plans to begin an update of the Willamette Basin Water Quality Management Plan during FY 89. One component is to address toxic concerns.

A final workplan for the lower Willamette River to assess status of toxic contamination will be prepared by September 30, 1988.

A Consent Decree signed by Judge Burns called for all 11 Phase I loading capacities to be completed by June 1988. Completion of TMDLs/WLAs will be included in the State/EPA Agreement at a rate of 20% annually, but in no event less than two annually. The Tualatin River was completed in June 1988. Bear Creek and the Yamhill River will be completed in FY 89. Subsequent TMDLs will be negotiated from a priority list each year to ensure critical needs are met.

The following summarizes progress made by DEQ for developing TMDLs and shows remaining schedule for Phase I.

	<u>Phase I</u>	<u>TMDL/WLA/LA</u>
Tualatin River	5/87 Completed	3/88
Yamhill River	8/87 Completed	To be negotiated annually on a priority basis--at rate of 20% annually, but in no event less than two annually.
Bear Creek	11/87 Completed	6/89
Umpqua River	11/87 Completed	6/89
Garrison Lake	2/88 Completed	Same as above
Pudding River	2/88 Completed	Same as above
Coquille River	2/88 Completed	Same as above
Klamath River	4/88	Same as above
Umatilla River	4/88	Same as above
Calapooia River	6/88	Same as above
Grand Ronde River	6/88	Same as above
(Total: 11)		

To date, DEQ has completed all Phase I work on schedule with technical assistance from EPA. TMDL/WLA/LA were adopted for the Tualatin River in FY 88. The U.S.A. (Rock Creek) permit will be reopened within 90 days after adoption of the TMDLs.

State Clean Water Strategy - The State Clean Water Strategy includes an assessment of water quality problems and the targeting of resources. DEQ will use the 305(b) report as the basis for the assessment and the identification of water quality problems in FY 88. DEQ will also develop and implement a targeting process.

Nonpoint Source - The DEQ will use the specific requirements of the Water Quality Act to develop a report of nonpoint sources of pollution. Oregon's NPS Assessment Report of 1978, 305b report of 1988, and 1985 ASWIPCA NPS Report will form the basis for NPS problem identification. The reports will be updated locally by various land management agencies, industries, and public to provide a broad statewide nonpoint source assessment. The assessment will examine the nonpoint source problems, sedimentation, debris, toxics, etc., affecting the state's lakes, rivers, streams, estuaries, and aquifers.

The DEQ will update a comprehensive program to cover major components of nonpoint activities and controls (contingent on federal funding and approval by legislature).

Clean Lakes Projects - The new Water Quality Act reauthorized the Clean Lakes program. The new Act requires each state to complete several Clean Lakes related activities as a prerequisite to receiving any Clean Lakes funds after April 1988. These include preparing and submitting to EPA reports on lake classification, lake pollution, and methods of controlling pollution in lakes. The most significant of these tasks is the preparation of a lakes classification report.

The DEQ will continue to administer the Garrison Lake, Devils Lake and Sturgeon Lake projects and work closely with local communities to track and evaluate progress.

Toxics Control

Preliminary (304)1 list of discharges needing individual control strategies was submitted in 1988, and individual control strategies are to be developed by February 1989.

An assessment of toxic substances of concern from both point and nonpoint sources will be initiated and priority waterbodies potentially affected by toxic substances will be identified.

The DEQ will develop individual control strategies in FY 89 to resolve high priority water quality problems.

National Estuary Program and Near Coastal Waters - The DEQ will initiate the development of a near coastal waters protection program. The potential adverse impacts to estuaries and near coastal waters will be assessed, a management decisions framework will be developed, and the need for specific water quality standards will be evaluated.

The DEQ has developed a two-year program plan identifying specific objectives and tasks that need to be accomplished for more effective coastal environmental management. The program plan entitled "Near Coastal Water Pilot Project: Action Plan for Oregon Estuaries" is a detailed investigation of specific pollution problems in the Coquille Basin and is federally funded. The plan also proposes specific management actions to be implemented to improve water quality and protect beneficial uses, and will be used as a model for other Oregon estuarine investigations.

Groundwater - The Legislative Emergency Board recently awarded five state agencies a total of \$375,000 to assess groundwater problems and develop an aquifer management plan. Work will commence in Ontario, a farming community in Eastern Oregon, where a recent DEQ study found widespread pesticides and nitrates contamination in groundwater. The rural population's drinking water showed Dacthal contamination just below the health standard levels. Nitrate, above the drinking water standard, was found in 37% of the wells. DEQ will coordinate the project and assess water quality. Two DEQ positions have been funded, one at headquarters and one in the lab. In addition, a temporary employee has been hired to assemble the State's groundwater strategy.

Public hearings on DEQ's groundwater quality protection policy were conducted in FY 88. The DEQ will adopt the policy in FY 89. Guidance material for implementing the policy and conducting groundwater protection assessment activities will be developed.

Wellhead Protection Program - Although federal funding uncertainties remain, related program work will proceed as resources allow in the framework of the groundwater protection strategy and state comprehensive land-use policy.

401 Certification - The DEQ will continue to strengthen the 401 certification program and perform a more thorough and critical review of Corps of Engineers public notices under Section 404, particularly with respect to wetlands protection. Oregon Administrative Rules may also be revised to include wetland use categories, since wetlands are important for their value as sediment trays and nutrient uptake. These benefit in-stream water quality.

Strategy:

In FY 89, DEQ will continue to operate its historic program of preventing the creation of new water quality problems. To accomplish this, DEQ will continue to carefully regulate existing and new sources of water and waste-generating activities. Efforts to assure the protection of beneficial uses will be

furthered by the reduction of bacterial contamination through controls of both point and nonpoint sources of fecal coliform. In the groundwater program, the DEQ will implement the comprehensive groundwater protection strategy, though emphasis will continue in the impact pesticides have on groundwater. DEQ will also work to keep abreast of the new groundwater protection provisions of the 1986 Safe Drinking Water Act, including the Wellhead Protection Program and Sole Source Aquifer Demonstration Grant Program, and will encourage local governments to use appropriate provisions to protect the groundwater in "their" community. Efforts will continue to monitor identified groundwater pollution areas and to sewer those areas where groundwater pollution has been identified. The DEQ will direct activities toward toxics pollution by evaluating data collected in toxics screening surveys, oversee pretreatment of municipal wastes, and define areas where technical assistance is needed.

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TABLE 1
ASSESSMENT OF
USE SUPPORT FOR RIVERS AND STREAMS

1986
Use Support Assessment
* (miles)

*Numbers subject to change after 305(b) report becomes available

Stream Name	Miles Catalogued	Uses Supported	Uses Partially Supported	Uses Not Supported	Unknown
North Coast Basin/L. Columbia	1129	569	84		476
Mid Coast Basin	878	643	45		190
South Coast Basin	1381	656	165		560
Umpqua Basin	2007	1060	83		864
Rogue Basin	2232	1233	54	27	918
Willamette Basin	4057	1975	319	33	1730
Sandy Basin	387	131			256
Hood Basin	402	52			350
Deschutes Basin	2574	868	181		1525
Grande Ronde Basin	1835	746	58		1031
Umatilla Basin	1140	135	57		948
Walla Walla Basin	475				
Klamath Basin	1183	249	32	70	833
Owyhee Basin	481	108		18	355
Malheur Lake Basin	1916	185	11		1722
Gonse and Summer Lake	951				
Malheur River Basin	1595	210		110	1275
John Day Basin	2288	521	688	2	1077
Powder River Basin	802	324	158		320
STATEWIDE TOTAL	27,715	9,665	1,935	260	
		82%	16%	2%	

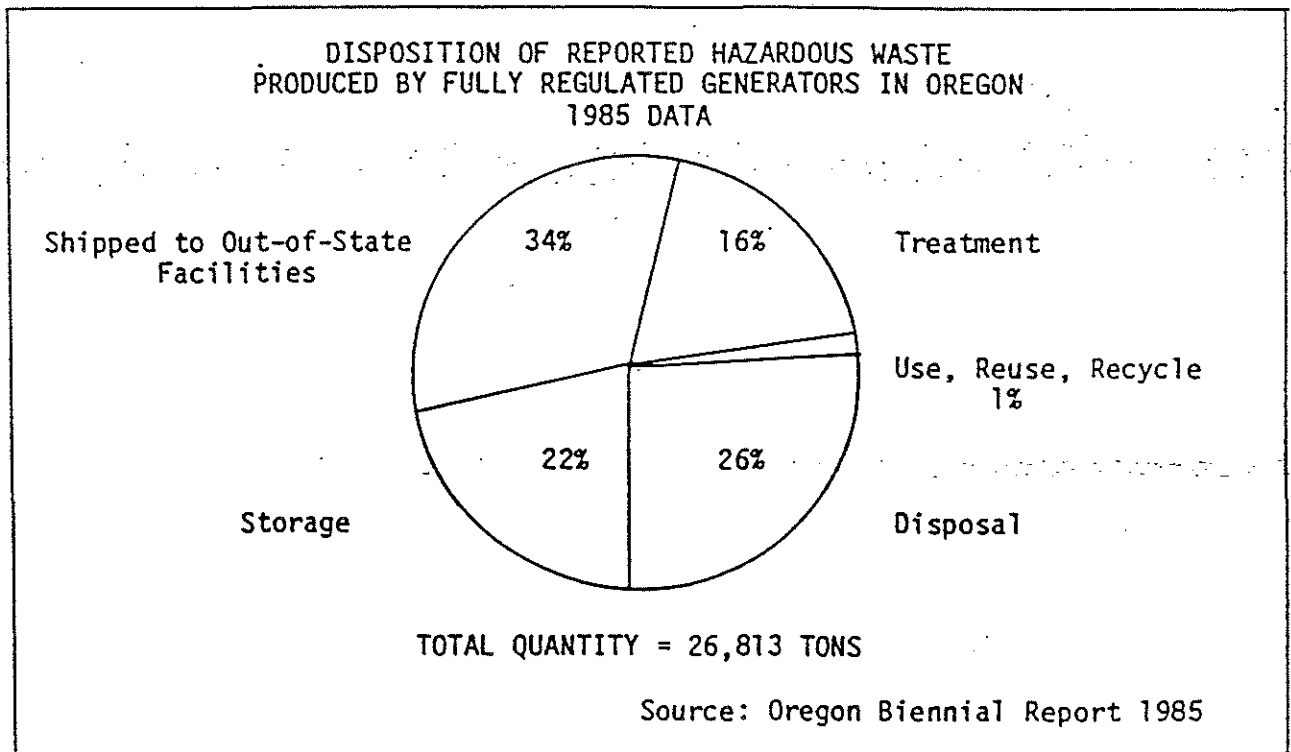
HAZARDOUS WASTE

Program Goal:

Hazardous Wastes, as defined by the Environmental Quality Commission, are produced by a variety of industrial and commercial operations. Approximately 206 fully regulated facilities in Oregon generated and reported the amount of hazardous waste produced in 1985. Small quantity generators also produced hazardous wastes, but they were not required to report.

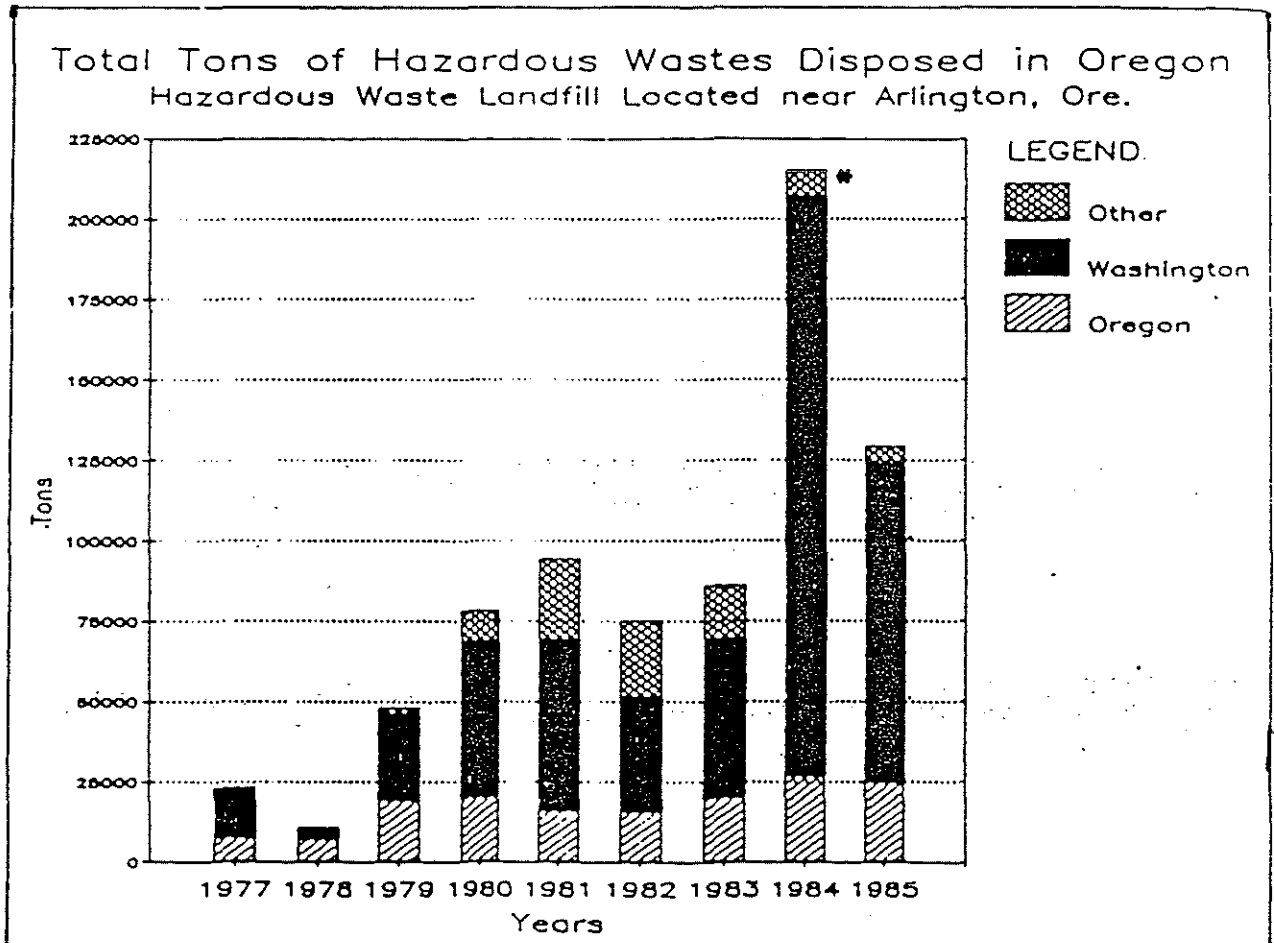
The disposition of hazardous wastes generated in Oregon is illustrated in Figure 3 below.

Figure 3



A hazardous waste disposal site is located in Arlington and operated by a private licensee. A final RCRA Part B permit was issued jointly by the Environmental Quality Commission, DEQ, and EPA in March, 1988 for operation of the facility. This site provides the state with a basic tool to implement its comprehensive hazardous waste regulatory program. The Arlington site receives wastes from outside of Oregon as well as from Oregon companies, as shown in Figure 4.

Figure 4



*THE LARGE INCREASE FOR 1984 IS ATTRIBUTABLE TO A SUPERFUND CLEANUP IN WASHINGTON STATE

Since 1971, the Oregon Legislature has improved and expanded the Department of Environmental Quality's authority and regulatory tools for hazardous waste management. Today, a comprehensive regulatory framework exists and provides which provides not only "cradle-to-grave" control over the generation, transport, and disposal of hazardous wastes, but includes authority to address problems associated with past waste handling practices.

Under the Resource Conservation and Recovery Act of 1976 (RCRA), state hazardous waste programs may be approved by the federal government to operate in lieu of the federal program. Oregon was granted Final Authorization for the base hazardous waste program on January 31, 1986. The state received statutory authority through the 1987 state legislature to develop rules and seek authorization for Hazardous and Solid Waste Act Amendments (HSWA) of 1984.

The 1987 Oregon Legislature passed Senate Bill 122 creating an Oregon State Superfund Program to clean up hazardous waste sites. The bill also established the Hazardous Substances Remedial Action Fund to cover the state's cleanup cost. The legislation provides the state with authority and funding for a remedial action program to address the need for clean-up at non-NPL sites and fully participate in the federal Superfund program. During FY 88, the state entered into cooperative agreements for core program development, management assistance at NPL sites, to carry out preliminary assessments, and, eventually site investigations for sites listed on the CERCLA Inventory.

The Department of Environmental Quality has launched a new statewide program for the regulation of underground storage tanks (USTs) used to store regulated substances including petroleum products and most hazardous chemicals. The HSWA amendments of 1984 established a national program to detect leaks from existing USTs and reduce, through prevention measures, leaks from new tank installations. The 1985 Oregon Legislature authorized DEQ to develop and implement a uniform, statewide underground storage tank program and seek authorization to operate a state program in lieu of the federal program. The state's program has initially focused on notifications, developing a fee system to support the program, and providing public outreach.

The 1987 Legislature expanded the state's authority through SB 115 which authorized the Environmental Quality Commission to adopt technical standards for new installations and existing operations of underground tanks. The bill also provided for establishment of financial responsibility requirements for corrective actions. The new legislation provides the state with the authority to develop an UST program consistent with RCRA Subtitle I and SARA and meet EPA requirements for state program approval.

PRIORITIES

RCRA - DEQ will continue to develop program capabilities and to seek authorization for HSWA amendments.

- Emphasize inspections that focus on the requirements of the land ban, California list and small quantity generators
- Emphasize facility closures
- Emphasize waste minimization and waste reduction
- Continue to process permits and to emphasize alternatives to land disposal of hazardous waste
- Continue to emphasize cross-media activities relating to discharges of hazardous waste to POTWS and to solid waste landfills

- Increase enforcement capability by adopting corrective action rules for land disposal activities
- Continue to develop rules related to HSWA
- Continue to train staff
- Coordinate training efforts with the EPA to continue to build state capability in the areas of land ban inspections and corrective action
- Emphasize the continuing development of data management capability
- Continue to develop a public education and technical assistance capability.

Cleanup of National Priorities List Sites

- Implementation of the remedial action phase for the United Chrome Products site.
- Initiation and substantial progress toward completion of the design and construction phases at the Gould Battery and the Martin Marietta sites.
- Initiation and substantial progress toward completion of the remedial investigation and feasibility study for the Teledyne Wah Chang site.
- Initiation and substantial progress toward completion of the remedial investigation for the Allied Plating site.

Enhanced State Participation in Federal Superfund Program

- Maintain and renew cooperative agreements for management assistance on NPL sites, preliminary assessments, site inspection, and core program.
- State lead at Joseph Forest Products of site becomes an NPL site.
- State participation in other activities to be identified by EPA regulations on state involvement.

Strengthen DEQ Remedial Capability

- Develop non-site-specific contract, accounting, tracking, oversight capability.
- Develop level of cleanup rules.
- Lab capability
- Staff recruitment and training.
- Contractor capability.

Underground Storage Tank Program Development

- Develop regulations incorporating the final federal rules
- Develop guidelines for establishment of local UST programs.
- Develop staff capability to implement enforcement activities and carry out permitting program.

Establish UST Remedial Action Program

- Develop and maintain cooperative agreements for spending federal UST Trust Fund on Tank cleanups.
- Funding and staffing for state UST cleanup fund.
- Develop a joint compliance/corrective action data management tracking system for USTs.

STRATEGY

RCRA

The Department of Environmental Quality, through the issuance of permits and conduct of an extensive compliance inspection, monitoring and enforcement program, will continue to implement the state program in FY 88. Under Final Authorization, the state program operates in lieu of the base federal program for those requirements promulgated prior to the HSWA Amendments of 1984. DEQ will develop implementing rules and prepare application for HSWA authorization.

EPA and DEQ will continue to focus on hazardous waste management system alternatives to land disposal during FY 89. The HSWA amendments included a schedule for phasing out the land disposal of untreated hazardous wastes. Currently, there are few options available for hazardous waste handlers because suitable alternative capacity is very limited. The development of policy and regulatory options will be a high priority for EPA and all the states in Region 10 in FY 89.

SUPERFUND

The State of Oregon will continue to develop program capability to fully participate in the federal Superfund program and strengthen the state's remedial action program. This will include continued staff recruitment and training, lab support, contract capability, and new rulemaking. Participation in the Federal Superfund program will continue through cooperative agreements for management assistance on NPL sites and conducting preliminary assessments for sites listed on the CERCLA Inventory. The State will continue to develop a program to conduct investigations, require clean-up by responsible parties, and take remedial action at uncontrolled hazardous waste sites.

UNDERGROUND STORAGE TANKS

The State has adopted regulations that establish a basic UST program, including a permit system, interim requirements, UST decommission criteria, and notification requirements. Additional regulatory activity is expected in FY 1989 (ie, financial responsibility, leak detection, corrective action, etc.). The State will work toward UST program approval by EPA in FY 89. Staff recruitment will be ongoing, and coordination between DEQ Headquarters and Regional Offices will be a priority activity. Support from the federal Leaking Underground Storage Tank Trust fund will continue under a State/EPA cooperative agreement with program development and establishing cleanup criteria as priority activities.

DRAFT AGREEMENT

FY '89 SEA - Air Program Section
Draft - April 4, 1988

I Ambient Air Monitoring

II Program Planning and Development

- a. Toxic Air Pollutants
- b. Ozone attainment
- c. CO attainment
- d. PM₁₀ SIP development
- e. SIP administration

III Air Source Compliance

IV Field and Slash Burning

V Vehicle Inspection Program

OREGON AIR QUALITY PROGRAM PLAN

Introduction

The Oregon Air Quality Program plan describes how the Department of Environmental Quality will implement the state's plan to attain and maintain compliance with air quality standards and prevent significant deterioration of air quality in clean air areas of the state. The program plan is based on identified priority program objectives and on available resources. It is consistent with the EPA FY 89 Air Program Guidance.

Responsibility for implementing the program plan is assigned to the Air Quality Division, Division of Laboratory and Applied Research and Regional Operations Divisions.

The program plan consists of the following five subprograms:

- I Air Quality Monitoring
- II Program Planning and Development
- III Air Source Compliance
- IV Field and Slash Burning
- V Vehicle Inspection and Maintenance

Each subprogram is primarily responsible for specific topic areas. Workplans for these topic areas are presented below. They contain information about each topic including purpose, priority, resource allocation and output.

I. AMBIENT AIR MONITORING

1. Introduction

Purpose - Ambient air monitoring is conducted to identify problem areas, track trends and provide general baseline information. EPA requires the National Air Monitoring Station (NAMS) and the State and Local Air Monitoring Station (SLAMS) networks to be in conformance with 40CFR58, including the quality assurance requirements of Appendix A. EPA also requires that a permanent PM₁₀ monitoring network and any special project networks are operated per the EPA-approved O&M/QA manual to the extent possible. Precision and accuracy reports from the networks must be submitted to EPA within 60 days of the end of each calendar quarter and the Pollution Standards Index (PSI) must be reported at least in the Portland area.

Priority - Highest priority will be given to operating monitors of known non-attainment, then to operating sites in areas of suspected non-attainment. Obtaining such data is critical to control strategy, development and tracking.

2. Strategy

PSI Reporting

Pollution Standard Indexes are calculated and reported for Portland, Eugene and Medford daily including weekends and holidays. The indexes are transmitted automatically to the National Weather Service AFOS data system and made available to news media on the NWS Weather Wire. In addition the indices are available to the public through tape recorded messages in Portland, Eugene and Medford during normal work days.

The program was modified following the July 1, 1987 adoption of the Federal PM₁₀ standards to replace the TSP elements of the index and incorporate an index for PM₁₀ in all areas where either a nephelometer or an automatic particle monitor is available. An updated documented copy of the computer program that calculates the PSI will be submitted to EPA. A version of the program that can be used on air quality data available on phone accessed data loggers has also been developed and is in use in areas outside the three listed above on a seasonal basis.

The Department will continue to report PSIs twice daily in the three major cities. In addition, inclusion of a visibility index in being investigated through the use of automated teleradiometers.

SLAMS/NAMS Monitoring

The Oregon SLAMS network consists of approximately 50 monitors of which about 19 are designated as NAMS. All monitors in the network meet the sighting and operational requirements of 40CFR58 as revised with the exception of the medium volume PM₁₀ which is being used with the permission of EPA. The Department will seek equivalency of the medium volume method prior to the end of this calendar year. The Department commits to the continued operation of this network. Prior to making modifications to the SLAMS/NAMS network, the Department agrees to seek concurrence, in writing when time permits, from EPA Region 10. EPA in turn must agree to respond in a reasonable time frame to DEQ's requests for network modifications. Operation of monitors included in the SLAMS/NAMS but not operated by the Department are coordinated through the Department for network consistency. All requests to modify the such monitor will be submitted to EPA through the Department and all approvals for modification must be received by the Department prior to modification.

Additional monitoring within the state by the Department and other reporting agencies is being done under the Special Purpose Monitoring (SPM) network. The SPM network is operated under the same principles and procedures as the SLAMS network inasmuch as they apply except that data from the SPM network may not be routinely reported to EPA.

Reports of air quality data collected by the network (SLAMS, NAMS and selected SPM sites) and quality assurance data from only the SLAMS network (including NAMS) are submitted electronically to EPA within 60 days of the end of each calendar quarter. The AQ data is submitted in AEROS format on magnetic tape according to EPA specifications. When EPA makes the necessary hardware and software available for submittal of AQ data in the AIRS data system, DEQ will coordinate the conversion for submittal within 6 months.

Raw QA reports will be made to EPA on floppy disk or via telephone transmission per the new reporting specifications. Additionally, an annual SLAMS summary of both AQ and QA data will be submitted to EPA by July 1 of each year. The Department is committed to continue these reporting procedures. The Department is committed to continued participation in the EPA National Performance Audit and the National Particulate Network Programs.

Emergency Action

The Department operates its Emergency Action program in accordance with the EPA approved Emergency Action Plan. Prior to modification of the approved plan, the Department will notify and obtain approval of said modifications from EPA. The Department commits to maintain the emergency episode capabilities as outlined in the EPA approved plan.

Quality Assurance

The Department operates its air monitoring networks under documented Standard Operating Procedures (SOP) following a Quality Assurance (QA) plan. These documents were written in accordance with EPA guidelines as much as they were available and were approved by EPA. Changes in the SOP and QA procedures are approved by EPA in advance of implementation whenever possible. By July 1, 1988, DEQ will submit a complete set of its Operation and Maintenance and Quality Assurance manuals to EPA.

The Department reports the results of its quality assurance checks of network performance to EPA quarterly on the same schedule it reports Air Quality data. The QA reports are made on floppy disk per EPA request.

The Department participates in the EPA National Performance Audit for all subject criteria pollutants. The Department will continue to operate all monitoring according to these procedures and ensure that all monitoring done within the state which produces data supplied to EPA will also be operated according to these procedures.

In order to maintain operational consistency throughout the entire reporting agency, the Department conducts biannual systems audits of all local agencies and operators of private air quality networks submitting data that is reported to EPA. Such audits include review of SOP and QA procedures and traceability of materials necessary to produce or reference standards against which calibrations and audits are performed. The results of these audits are reported to EPA within six months of the end of the calendar year. The Department is committed to continue this activity.

As much as possible, networks operated as portions of specially funded studies follow the same SOP and QA procedures used on the SLAMS network. Further, all special studies conducted under EPA funding are accomplished under the guidelines of an EPA approved work plan which describes project purpose, method, time frame and output. The Department will continue to conduct special studies under these directions.

3. Resource Allocation

Laboratory Activities	17.45 FTE
Program Activities	3.0 FTE

4. Outputs

A. Pollution Standard Index Reporting

1. Revised PSI reporting program to include daily reporting. Documented program submitted to EPA by Dec 31, 1988.

B. SLAMS/NAMS Monitoring

1. Report of annual network review by July 1 of each year.
2. Air Quality and Quality Assurance data submitted to EPA within 60 days of end of each calendar quarter.
3. Detailed reasons for data gaps to EPA upon request.
4. Annual summary of data collected in SLAMS network by July 1 of each year.

C. Emergency Action Program

1. Revised Emergency Action Plan as required by new standards submitted to EPA for approval within one year of adoption of new standard.

D. Quality Assurance

1. A monitoring system audit is performed on each local agency at least once every two years. The audit will be performed by January of odd years. The results will be reported to EPA by July 1 following the audit.
2. SOP and QA plans revised within 6 months of adoption of a new standard to reflect new State and Federal monitoring requirements. Revised plans submitted to EPA for approval.

E. Workload Indicators

- A. No. of continuous monitors reporting to EPA - 19
- B. Particulate samples collected - 6,000/yr
- C. No. of analysis - 9,000/yr
- D. No. of Field data points - 412,000/yr
- E. No. PSIs reported - 1095/yr

II. PROGRAM PLANNING AND DEVELOPMENT

The Program Planning and Development section directs its efforts toward identifying major air quality problems, identifying solutions and assisting in implementation of the solutions. The emphasis of work is toward assuring that existing strategies are carried through to bring "non-attainment areas" into compliance with federal air quality standards. Major efforts will continue to address areas in non-attainment with the new federal PM₁₀ standard and development of a program to address air toxics.

A. TOXIC AIR POLLUTANTS

1. Introduction

Purpose - Oregon's Toxic Air Pollutant (TAP) Program is intended to identify, evaluate, prevent, and solve problems which may occur from the emission of non-criteria air pollutants from new and existing sources. A multi-faceted approach is necessary to address the diverse and complex hazards which toxic air pollutants present to public health welfare, and to the environment.

Priority - Highest priority will be placed on program development and integration of toxic air pollutant review into the current air quality program.

2. Strategy

Oregon has drafted a risk assessment methodology and a draft risk management methodology based on a balance between a pure risk and pure control technology based scheme. A simplified approach is being used to evaluate point and area risks until a final program is adopted.

Multi-Year Development Plan (MYDP)

The MYDP will be followed, updated annually, and cover a minimum of three years. It will continue to address the following four components with milestone dates for each activity.

- a. NESHAP delegation and enforcement.
- b. Evaluation and control of new and existing high risk point sources.
- c. Evaluation and control of multi-point/multi-pollutant high risk problems in urban areas, and from non-traditional and area sources.
- d. Improvement of technical, legal, and administrative capabilities to address toxic air pollutants.

General Status Reports

Oregon will provide semi-annual reports to EPA Region 10 on the status of the four MYDP components listed above. These reports will also cover program development and implementation and an assessment of environmental effectiveness.

NESHAP

Oregon will continue to adopt new NESHAP regulations and request delegation for applicable source/pollutant categories as they are promulgated.

High Risk Point Sources

- a. Permit review procedures for new and existing sources will be reviewed and finalized. A strategy for applying these procedures to existing sources, or source categories will be developed.
- b. Semi-annual reports will provide the following information on existing sources (including SIC codes).
- c. Participate in appropriate workshops and training.
- d. Coordinate Air Quality Program toxic pollutant activities with those of the other Programs to assure consistency within the Department.

Residential Wood Heating Emission Control Strategy

WOOD HEATING EMISSION CONTROL STRATEGY

Oregon's certification program was designed to deal with particulate pollution problems and probably the largest source of toxic air pollutants in the state on a long term basis. Recent in home testing of DEQ certified stoves has shown that emission reductions when tested in the field average lower than conventional stoves but not as low as expected based on lab tests. To help resolve inconsistent emission performance DEQ has initiated a program to identify design and operational problems and identify units that will work up to potential. This work is known as the BEST design project.

Additional work will be focused on developing incentive programs to either accelerate the use of the BEST certified stoves and approved retrofits or replacing wood heaters with conventional less polluting fuels in PM₁₀ non-attainment areas. Public education efforts will continue to promote methods of reducing emissions from both conventional and certified appliances.

The Oregon DEQ Certification program will be phased into the emerging national EPA wood heater program. This will require administrative rule revisions.

Monitoring

Oregon will require source and ambient monitoring of toxic air pollutants at new and existing sources as needed to assure that public health and welfare, and the environment, are adequately protected.

3. Allocation

Toxic Air Pollutants	1.5	FTE
Residential Wood Heating	<u>2.125</u>	FTE
Total	3.625	FTE

4. Outputs

- a. Draft annual MYDP update by August 1, 1988. Final MYDP update to be submitted within 30 days after EPA review.
- b. Reports, by January 31, 1989, and June 30, 1989, on the status of Oregon's TAP program with respect to the following activities.
 - 1) NESHAP - summary of adoptions or delegations accepted. Summary of any non-asbestos enforcement actions.
 - 2) High Risk Point Sources - For existing sources a list of sources selected for assessment, a list of sources needing further evaluation and control, and a list of sources for which additional controls for toxic air pollutants were required. For new sources a list of sources assessed, and a list of sources for which additional controls for toxic air pollutants were required. (SIC codes included).
 - 3) High Risk Urban Area and Non-Traditional/Area Sources Report on the status, of MYDP activities involving these sources.
 - 4) Program Development - Report on the status of the TAP emission inventory update; on the support and use of NATICH and CTC; and on the implementation of procedures to assure consistency with other toxic pollutant programs within the Department.
 - 5) Program Effectiveness - To the extent possible quantitatively evaluate the program's environmental effectiveness (eg. reductions in emissions of specific compounds, reductions in cancer/non-cancer risk, reductions in ambient concentrations).
 - 6) SIP Integration - Report on any activities in which the reduction of Toxic Air Pollutants has resulted from SIP control strategies.

- c. Adopt new NESHAP regulations and submit delegation requests for applicable source/pollutant categories.
- d. Asbestos (Refer to separate Asbestos Section).
- e. Assess the Portland area "urban soup" using the available ambient monitoring data and, if needed, draft a mitigation plan.
- f. Prepare and submit to EPA Region 10 an updated TAP monitoring strategy by January 1, 1989.
- g. Revise Oregon Woodstove Certification Rules to mesh with EPA program by first quarter in FY '89.
- h. Assist in developing a financial incentive program for at least Klamath Falls and Medford to facilitate replacement and conversion to cleaner burning residential heat sources. Providing funding is obtainable from Texaco Oil overcharge monies and other sources such as the Northwest Area Foundation.
- i. Work with the Oregon Public Utility Commission to gain approval of a demonstration conservation program to provide lower rates in PM₁₀ non-attainment areas.
- j. Pursue legislation for a tax credit program to accelerate stove replacements, an opacity standard for existing stoves enforceable by local governments, and a new stove excise tax to provide base funding for a public educational program.
- k. Complete BEST project in first quarter of FY '89, and attempt to deploy several BEST designs in homes for emission performance evaluation in the 88-89 heating season providing funding is available from BPA. Provide list of units eligible for financial incentive programs by third quarter FY '89.
- l. The generic wood stove curtailment public education program funded by EPA will be developed in the first quarter of FY '89 and applied to applicable PM₁₀ non-attainment areas during the 88-89 heating season.

B. Carbon Monoxide and Ozone

Introduction

Purpose -- Attain CO standards by December 1990 in Grants Pass, maintain compliance with CO and Ozone standards in other areas of Oregon.

Priority -- Continued high priority, but secondary to the critical PM₁₀ problems in Group I areas of Oregon.

Strategy

CO/Ozone control strategies have been adopted by the EQC and approved by EPA for all of the CO/Ozone nonattainment areas of Oregon. These control strategies were designed to meet ambient air quality standards on or before the dates identified in the federal Clean Air Act and were approved by EPA as adequate to do so. The strategies have been implemented as committed in the SIP and have generally reduced ambient pollutant concentrations as expected.

The CO control strategy for Grants Pass is proceeding on schedule. This strategy is primarily the combination of the federal motor vehicle emission control program (requiring progressively more effective pollution control equipment on new automobiles and trucks) and a third bridge over the Rogue River. The third bridge will significantly reduce traffic congestion and CO emissions in the downtown nonattainment area. The bridge is scheduled for completion by December 1990.

It appears that the CO/Ozone control strategies in the other areas of Oregon are also on or ahead of schedule. The scheduled and achieved attainment dates are compared below:

<u>Area/Pollutant</u>	<u>Date Scheduled</u>	<u>Date Achieved</u>
Portland/CO	December 1985	December 1984
Eugene/CO	December 1985	December 1983
Salem/CO	December 1982	December 1980*
Medford/CO	December 1987	December 1987
Grants Pass/CO	December 1990	To be determined

*Except for exceptional event in December 1985
(four exceedances) caused by combination of bridge
construction and severe air stagnation episode.

Portland/Ozone	December 1987	December 1986
Salem/Ozone	December 1982	December 1981
Medford/Ozone	December 1982	December 1978

The two areas/pollutants that were potentially affected by the 1987 deadline of the federal Clean Air Act were Portland/Ozone and Medford/CO. For Portland/Ozone, the number of ozone exceedances averaged one or less per year at all monitoring sites during 1982-86; during 1987, zero or the allowed one exceedance were recorded at all sites including three new temporary sites. For Medford/CO in 1987, there were no CO exceedances at the downtown site and four exceedances at the north Medford site; during the 1987-88 winter CO season there were no exceedances downtown and only one marginal exceedance at the north Medford site (9.7 ppm on 11/05/87); there have not been any CO exceedances at either Medford site thus far in 1988.

The Department will continue to monitor CO/Ozone in the marginal CO/Ozone attainment areas to ensure maintenance of ambient air quality standards. Maintenance plans will be proposed to replace the existing attainment plans.

Allocation

1.0 FTE.

Outputs

- a. The Department will continue to report ambient air quality information to EPA on a quarterly and annual basis to demonstrate attainment (by 1990 for Grants Pass CO) and maintenance (for all other areas) of CO and Ozone ambient air quality standards.
- b. The Department will continue to report annual CO and VOC emissions for each area to EPA in the RFP report by October 31 of each year until redesignation as attainment. The RFP report will include a summary of the Oregon I/M program.
- c. If EPA sends any CO/Ozone SIP calls to Oregon, the Department will respond with its proposed course of action within three months of the SIP call.
- d. The Department will propose maintenance plans to replace the attainment plans as SIP revisions for each area as part of the redesignation to attainment process. Medford/Ozone has already been redesignated as attainment by both the EQC and EPA. Salem/Ozone has been redesignated by the EQC and is currently being reviewed by EPA. The Department expects to propose redesignation of all other areas except Grants Pass/CO by the end of FY89.

C. PM₁₀ SIP Development

Introduction

Purpose -- Develop and implement PM₁₀ plans.

Priority -- Group I, II, and then III areas.

Strategy

The Department has concurred with EPA on the grouping of PM₁₀ areas in Oregon. For the non-LRAPA Group I areas, the Department has calculated design concentrations, prepared emission inventories, and estimated the relative source contributions to the PM₁₀ concentrations. The potential control measures have been evaluated, costs and benefits estimated, and packages of measures adequate to meet PM₁₀ standards have been identified by local government advisory committees.

The next critical step is to negotiate the necessary local ordinances with local governments, followed by the proposal and adoption of local residential wood burning ordinances and additional state industrial rules. The overall PM₁₀ SIP would be adopted at the same time as or following the adoption of the state industrial rules. Local ordinances are needed for mandatory curtailment of wood burning during pollution episodes in Klamath Falls and Medford but these ordinances have been extremely controversial and local governments have backed off their direct pursuit. The Department will continue to work with and urge local governments to develop and implement a specific plan and schedule which will lead towards expeditious adoption of an adequate strategy.

Allocation

2.0 FTE

Outputs

- a. This information is currently available to EPA: list of Group I/II/III areas, PM₁₀ design values, PM₁₀ emission inventories, PM₁₀ source contribution estimates, potential PM₁₀ control measures, cost and benefit evaluations, and preliminary packages of measures adequate to meet PM₁₀ standards in each Group I area. This information will be updated as necessary and made available to EPA.
- b. Assuming schedules can be obtained from local governments in Medford and Klamath Falls which describe a program that will lead toward adoption of an adequate local woodheating strategies, the Department will immediately submit a schedule to EPA which will lead to expeditious adoption of PM₁₀ control strategy SIP revisions.
- c. The Department will review the progress of PM₁₀ control strategy development with EPA via monthly conference calls until final SIP submittals are complete.

D. SIP Administration and Other EPA Requirements

Introduction

Purpose -- Continually, there are new rules and modifications to rules which must be incorporated into the SIP to meet Clean Air Act requirements.

Additionally, certain reporting and program requirements must be met to satisfy commitments in the SIP, such as implementation of Class I area visibility protection.

Priority -- Moderate. Immediate action is not generally required as federal rules may apply until adequate state rules are adopted.

Strategy

RFP reports in accordance with EPA guidelines will be submitted annually to address attainment of all criteria pollutants.

Upset rules will be revised to address EPA concerns about enforceability of the present rule.

Stack height rules will be revised to address changes in EPA's rule.

Class I area visibility strategy effectiveness will be documented annually.

Allocation

3.5 FTE

Output

- a. RFP Report by October 31
- b. Upset Rule revised by October 1988.
- c. Stack Height Rule revised within 6 months of promulgation of new EPA Rules.
- d. Report on Class I area visibility strategy effectiveness by May 1989.
- e. Action on other potential SIP calls involving pulp mills, BUBBLES, continuous emission monitoring (CEM's) and remote opacity requirements will be negotiated with EPA within 3 months of calls.
- f. Maintain delegation of NSPS/NESHAP's and negotiate and adopt new applicable and appropriate EPA Rules within 9 months of EPA promulgation.

III AIR SOURCE COMPLIANCE

A. Air Contaminant Discharge Permit Program

1. Introduction

Purpose -- The Clean Air Act requires a permit program as part of the State Implementation Plan which meets the requirements of Parts C and D. The permit program is a key element of the stationary source control program and ensures that emissions are controlled and that sources are in compliance.

Priority -- High. The air permit program is the primary means of regulating stationary sources.

2. Strategy

The Department implements a comprehensive permit program for new and existing sources. The program includes permit fees, preconstruction review requirements, operating requirements, and specific emission limits. The program also includes New Source Review, Prevention of Significant Deterioration and generic offset, bubbling and banking provisions which have been approved by EPA. The Department will continue to implement this program and does not see a need for significant changes at this time. As changes are made to EPA PSD/NSR regulations, DEQ will review the changes and submit appropriate changes in State rules to EPA.

3. Resources

Resources to implement the Air Contaminant Discharge Permit program include Regional Office personnel and Air Quality Division personnel for a total of 10.5 positions that review source emissions and control equipment, prepare draft permits, and ensure that the permits are complied with.

4. Outputs

New source permits	-	30/yr
Permit Modifications	-	50/yr
Permit Renewals	-	120/yr

B. Source Inspections and Enforcement

1. Introduction

Purpose -- Inspection of sources is necessary to assure compliance with regulations and permit conditions. Enforcement actions must be taken for sources that do not achieve compliance.

Priority -- High. Source inspections and enforcement actions are the means of maintaining a high level of compliance with air pollution requirements.

2. Strategy

The Department will inspect all A1 sources and all NESHAP sources at least once annually. All A2 sources will be inspected at least biannually. Inspection reports documenting the source compliance status are prepared as outlined in the compliance assurance agreement. Enforcement actions will be initiated where necessary to bring non-complying sources into compliance.

The source inspection schedule for 1988 is attached.

A compliance assurance agreement has been negotiated with EPA and is attached to the SEA.

3. Resources

Resources to conduct the inspection and enforcement activities include Regional Office personnel and Air Quality Division personnel for a total of 10.5 positions. These conduct inspections and prepare enforcement actions as necessary to assure source compliance.

4. Outputs

Inspections - - A1 sources	- 106
A2 sources	- 240
NESHAP sources	- 4

Enforcement actions - - as needed to assure compliance

C. VOC Source Compliance

1. Introduction

Purpose -- The stationary sources of VOC in the Portland area are generally in compliance with emission standards. On-going inspections must be conducted to ensure continued to ensure continued compliance.

Priority -- High. VOC sources must be in compliance to help maintain attainment with the ozone standard.

2. Strategy

All A1 and A2 sources of VOC in the Portland metropolitan area will be inspected to insure compliance. Violations of VOC emission requirements will be identified and appropriate follow-up enforcement actions taken.

An inspection program for gasoline marketing sources including gasoline stations, delivery trucks, bulk plants, and gasoline terminals will be conducted to insure compliance of those VOC sources.

3. Resources

Resources to conduct VOC inspections and enforcement actions for A1 and A2 sources are included in the resources identified in B above. A special project grant of \$15,000 from EPA will be used to hire inspectors from the Department's Vehicle Inspection Program to conduct the gasoline marketing inspections.

4. Outputs

Inspections -- A1 and A2 VOC sources	- 40/yr
Gasoline Marketing	- 150 stations
	- 200 trucks

D. Compliance Data System (CDS)

1. Introduction

Purpose -- The Compliance Data System (CDS) is used to track permit actions, inspections, fees, compliance status, and enforcement actions. CDS provides a management tool for both the Department and EPA for tracking source information.

Priority

High. CDS is needed to track and coordinate State and EPA source activities.

2. Strategy

The Department will track all data negotiated between the Department and EPA in CDS (inspections, enforcement actions, source tests, etc.) on a timely basis. Every effort will be made to ensure master file compatibility and current data.

3. Resources

Resources to maintain the CDS consists of 0.5 position in the Program Operations Section of the Air Quality Division.

4. Outputs

Monthly CDS reports on inspections, permit status, compliance status, and compliance schedules will be provided. In addition, CDS data will be transmitted to EPA for input into the National Compliance Data System each month.

E. Source Testing

1. Introduction

Purpose -- In many cases, source compliance cannot be determined by inspection. Source testing is increasingly important for determining if sources are in compliance with air pollution requirements.

Priority -- High. Emissions must be measured to determine compliance with emission limits.

2. Strategy

The Department requires stationary sources to conduct source testing to determine compliance. These tests are normally conducted by independent consultants with a Department observer present to verify that proper test methods are used and that the process is operating under normal conditions. Source test results are reported to the Department, reviewed and used for determining compliance.

3. Resources

Resources to implement the source testing program consist of one position in the Program Operations Section of the Air Quality Division.

4. Outputs

Source test observations - 60/yr.

F. Continuous Emission Monitoring

1. Introduction

Purpose -- Continuous compliance of sources with emission limitations is increasingly being verified by Continuous Emission Monitors (CEMS). The validity of the data recorded by CEMS must be reviewed and audits of CEMS must be conducted.

Priority -- High. Emission measurements from CEMS must be reviewed and verified to insure source compliance.

2. Strategy

Specified sources are required to install and operate CEMS to provide assurance that emission limitations are being met on a continuous basis. These sources report CEM data to the Department on a regular basis. The data is reviewed by compliance personnel in the Regional Operations and Air Quality Divisions. When violations are reported corrective actions, including enforcement actions are initiated.

The Department's Laboratory Division conducts audits of CEMs to verify that the data being reported is valid for determining compliance.

3. Resources

Resources to review CEM data, establish compliance status, and follow-up discrepancies are included in the Source Inspection and Enforcement resources identified above. The Laboratory Division has one position (1 FTE) to conduct CEM audits.

4. Outputs

CEM reports reviewed	100/yr
CEM audits conducted	20/yr

G. Update of Emission Inventory

1. Introduction

Purpose -- The emission inventory must be updated each year in order to track emissions in both non-attainment and attainment areas.

Priority -- Medium. The emission inventory and ambient monitoring are the only ways to track air quality status.

2. Strategy

The emission inventory (EI) is a comprehensive statewide inventory of air contaminants emitted to the atmosphere from all types and classes of sources recognized by the Department. An adequate and current emission inventory of source emissions is a database and management tool for determining status, planning air quality program strategies, evaluating program effectiveness, determining reasonable further progress towards attainment of standards, source modeling, and for research and development needs.

The Department commits to completing the 1986 EI for non-attainment areas as required by EPA using the requirements for point sources contained in 40 CFR 51.322 and 51.323. In addition, area source emissions, emissions contributing to acid rain, PM₁₀ emissions, and toxic air pollutant emissions will be inventoried as needed to support program development.

3. Resources

Resources to conduct the statewide emission inventory consist of 1.5 positions in the Program Operations Section of the Air Quality Division.

4. Outputs

The annual statewide point source EI update will be completed by July 1 of each year, and a data tape will be submitted to EPA.

IV. ASBESTOS CONTROL

1. Introduction

Purpose -- Asbestos emissions from sources emitting asbestos, including renovation and demolition activity and manufacturing sources continue to be a major health concern.

Priority -- High. Asbestos exposure must be controlled by continued implementation of the NESHAPs regulations, finalization and implementation of the contractor licensing and worker certification programs, and other programs to reduce asbestos emissions and exposure.

2. Strategy

1987 legislation authorized the establishment of contractor licensing, worker certification, and training provider accreditation programs. Regulations to implement these programs are being developed and must be adopted by the Environmental Quality Commission by July 1, 1988. The programs will be mandatory for asbestos abatement on January 1, 1989. During FY 1989 the Department will be accrediting and auditing training course providers for the small-scale workers, full-scale workers, full-scale supervisors, and refresher courses. The Department will license full-scale and small-scale contractors and will implement licensing of the three categories of workers.

The Department will continue to implement the demolition and renovation program with the assistance of the state Accident Prevention Division. Appropriate enforcement actions will be initiated against violators. Emphasis will continue to be given to discovery of non-notifiers.

The Department will continue to provide assistance to homeowners, heating and ventilating contractors, and the general public in the area of asbestos abatement. Homeowner education efforts will utilize the display material and revised "Asbestos in the Home" brochures provided by EPA.

The Department will also continue inspections of NESHAPs manufacturing sources (four in the state).

3. Resources

The Asbestos Control Program is implemented by Asbestos Control Analysts, who conduct compliance and enforcement activities and provide public assistance, one position for the training, licensing, and certification programs, a supervisor, and one half position in the Laboratory to perform asbestos analysis. The number of Asbestos Control Analysts added to the current staffing level of one permanent position and one temporary one-time only position will be dependent on the amount of revenue generated through project notification fees, accreditation fees, licensing fees, and certification fees.

4. Outputs

The Department's enforcement strategy will include the following components:

- a. Inspection of all contractors doing asbestos removal
 - Inspect each contractor annually
 - Concentrate inspections on less conscientious contractors
 - Inspect the first project conducted by each new contractor subject to NESHAPs, or the earliest possible project
 - Inspect each new small scale contractor within the first three months of operation.
- b. Inspect 150-250 NESHAP projects.
- c. Inspect each asbestos disposal site annually.
- d. Maintain current emphasis on discovery of non-notifiers and pre-project inspections.
- e. Include the following AHERA components in the inspection of K-12 school projects: documentation that accredited persons were used to conduct asbestos removals, and verification that proper disposal methods were used for asbestos-containing material.
- f. Increase the emphasis on inspection of facilities prior to demolition to ensure that asbestos-containing materials have been removed.

NOTE: All inspections will be performed using appropriate respiratory and personal protective equipment as specified by Accident Prevention Division requirements.

The Department will provide quarterly reporting on the following:

- a. Total number of notifications received.
- b. Total number of inspections made, including the number of NESHAP inspections, number of final demolition inspections, number of school inspections, and the number of waste disposal site inspections.

- c. Number and types of enforcement actions, including the name of the contractor or owner committing the violation, the type of violation (administrative or procedural), and the enforcement action taken.
- d. Current listing of active contractors through 12/31/88 reporting period. Current listing of licensed contractors after 1/1/89.

IV Field and Slash Burning

Field Burning Smoke Management

1. Introduction

Purpose -- Control and minimize population exposures to smoke from grass field burning while allowing a maximum number of acres to be burned, up to the 250,000 acre annual limit, as prescribed by law. Burning is controlled to prevent any exceedance of air quality standards and limit visibility degradation in federal Class I areas.

2. Strategy

Field burning in the Willamette Valley is regulated through a smoke management program in which the times, places, and amounts of burning are controlled on a continuous (hourly) basis with respect to prevailing meteorological conditions. Principal program elements include field registration, issuance of permits by local fire districts, continuous monitoring of air quality and winds at key locations, and enforcement. The Department has contracted with the Oregon Seed Council to organize growers and fire districts and to provide radio communications, meteorological forecasting, technical and field support personnel, and aerial surveillance. Operational improvements and new techniques are continuously being investigated, promoted, and employed. These include the use of early season burning when possible. Restrictions on weekend burning will continue to be employed as part of the recently adopted visibility protection plan for Class I areas. The use of less-polluting alternatives to burning are studied and encouraged. Studies of voluntary smoke control programs in the La Grande and Madras areas indicate major improvements are needed in these programs to address public complaints. Program improvements are intended to be made through negotiations with burners.

Priority -- High. This program is essential to meet Air Quality standards and protect public health.

3. Allocation

4.75 FTE.

4. Outputs

- a. Annual report on field burning including smoke intrusion analysis.
- b. Improved smoke management plan proposals for La Grande and Madras by January 1, 1989.

Field Burning Research and Development

1. Introduction

Purpose -- Evaluate and develop viable alternatives to the annual practice of open field burning. The effect of field burning smoke on air quality and public health are also investigated.

Priority -- The program is moderately high priority.

2. Strategy

An on-going research and development (R & D) funding program is conducted to seek and develop reasonable and economically feasible alternatives to grass field burning. Areas of study include:

- a. Utilization and marketing of crop residue;
- b. Development of alternate crops not requiring burning;
- c. Improvement of air quality and smoke management;
- d. Alternative field sanitation methods;
- e. Alternative weed, pest, and disease controls; and
- f. Health effects.

An Advisory Committee advises the Department on the allocation of funds. Grants are made for worthy projects on a competitive basis. Projects which fill critical information needs, are applied in nature, and are most likely to reduce smoke impacts from field burning in the near term are favored.

3. Allocation

1.5 FTE. Approximately \$300,000 are allocated annually to fund field burning R & D projects.

4. Output

- a. Annual report on field burning which includes an assessment of the effectiveness of smoke management and a discussion on the progress being made to research and develop alternatives to burning.

Slash Burning Smoke Management

1. Introduction

Purpose -- Ensure that the burning of forest slash in western Oregon is closely regulated by the Oregon Department of Forestry (ODF) to minimize smoke impacts in designated areas.

Priority -- High. This program is essential to meet Air Quality standards and protect public health.

2. Strategy

DEQ and ODF recently completed the first modification to the Smoke Management Plan since its adoption in 1972. The changes include additional areas designated for smoke protection, restrictions on summertime burning to protect visibility in federal Class I areas, and provisions to ensure compliance and improve slash burning inventories and coordination between affected agencies. DEQ personnel maintain daily contact with ODF smoke managers throughout the slash burning season, particularly during the summer months, to review burn plans and assess likely air quality effects. Information from DEQ's real-time air monitoring network is made available to ODF decision makers. DEQ reports smoke impact observations and measurements to ODF and will request cessation of burning if and when air quality standards are threatened or exceeded. The Director and staff meet annually with ODF's Director and staff to review smoke management effectiveness and discuss improvements.

3. Allocation

DEQ personnel allocations are included in the 4.75 FTE identified under Field Burning Smoke Management.

4. Outputs

- a. Annual analysis of smoke intrusions and visibility impacts and effectiveness of smoke management plan by June 30, 1989.
- b. Assessment of PM₁₀ near property line impact data gathered from DEQ herbicide burning special project and state of Washington slash burning special project within 3 months of completion of Washington study.

V Motor Vehicle Inspection

1. Introduction

Purpose -- To reduce the air pollution contribution of motor vehicles within designated airsheds by identifying motor vehicles that have high emissions. The greater Portland and Medford areas in the state are identified in the SIP as needing the Motor Vehicle Inspection/Maintenance Program.

Priority -- High. Program is essential for meeting air quality standards.

2. Strategy

Vehicle emissions are regulated through the operation of a motor vehicle emission inspection/maintenance program. This operation compliments the effects of the emission reductions obtained from the federal New Motor Vehicle Emission Regulations. Light and heavy duty gasoline vehicles, 20 years of age and newer, are inspected. Carbon monoxide and hydrocarbon gas emissions are measured using an EPA approved two-speed idle test. An inspection of the vehicle's pollution control equipment is conducted on 1975 and newer vehicles. The Department operates the inspection centers in both the Portland and Medford areas.

The Oregon Motor Vehicle Division requires a Certificate of Compliance from a DEQ inspection center as a prerequisite to registration. Most vehicle classes are registered, and thus inspected, on a biennial basis. Gasoline powered heavy duty trucks are inspected annually. There is no cost waiver mechanism, so all vehicles tested must be brought into compliance with emission standards. The inspection program is supported by the certificate fee. Test equipment replacement and data handling improvement projects are being studied.

3. Allocation

56.46 FTE (FY 87/89)

4. Outputs

The Department prepares biennial reports on the inspection program detailing operational highlights and air quality analysis. Quarterly activity reports for the I/M program are submitted to EPA.

I. WATER QUALITY MONITORING

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II. WATER QUALITY PLANNING

III. SEWERAGE TREATMENT WORK GRANTS AND LOANS

IV. SEWAGE DISPOSAL

V. INDUSTRIAL WASTE

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- I. WATER QUALITY MONITORING
 - A. AMBIENT MONITORING
 - B. INVESTIGATIVE STUDIES
 - C. SOURCE RELATED STUDIES
 - D. QUALITY ASSURANCE
 - E. SEDIMENT TOXICITY TESTING
 - F. DATA SYSTEM SUPPORT

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Water Quality Division
Dept. of Environmental Quality

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I. WATER QUALITY MONITORING

Monitoring can be divided into three major categories based on purpose:

- * AMBIENT MONITORING -- Baseline and problem identification monitoring.
- * INVESTIGATIVE MONITORING -- Problem investigation/characterization monitoring.
- * SOURCE RELATED STUDIES -- Post implementation follow-up monitoring.

Major tasks that comprise monitoring related activities are as follows and will not be further detailed:

- 1) Prioritize, evaluate, plan and design monitoring needs.
- 2) Collect and analyze samples.
- 3) Perform proper quality assurance.
- 4) Store and verify data on computer system.(s)
- 5) Analyze and report data.
- 6) Maintain equipment and vehicles.
- 7) Conduct proper training and development.
- 8) Provide needed technical and administrative assistance.

It should be noted that many of the above tasks may be performed by more than one work unit; therefore, resource estimates are either subdivided or support from other units is implied. For example: water and biological monitoring, inorganic and organic sections of the lab may perform Tasks 2-4 and 7-8; whereas planning, sewage or industrial waste sections may perform Task 1, 5, 7 for the second and third category of activities noted above.

A. AMBIENT MONITORING

1. Introduction

Purpose -- To determine baseline quality, general problem areas and long-term trends of Oregon's water resources.

Priority -- High. Understanding and knowledge of the State's

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water quality is essential to proper management.

2. Strategies

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Rivers & Streams

Continue to collect at historic, and key locations in major and important waterways to provide data we currently consider essential to track water quality. Frequencies are often determined by critical flow concerns, and population pressure tempered in significant measure by resource continuation. We share our data with other agencies and attempt to coordinate our own efforts to provide overall broad coverage by mutual effort. Interagency agreements are developed to provide a more formal framework for these combined efforts.

The network is reviewed annually. As might be expected, maintaining long term trend data for important but distant purposes, often has some difficulty maintaining priority against more immediate needs. Pressures in recent years have clearly driven the base network to a viable, but minimal desirable tracking system. The flexibility to address immediate needs, not anticipated during annual planning, is often attained by adjustment of sampling frequencies and acts as the contingency resource reservoir.

Biological Monitoring

Biological Monitoring is gaining favor with others and ourselves as a means of assessing broad summary WQ impacts in streams and water bodies. The growing interest in toxic pollutants, concerns about bioaccumulation and sediment concentration of pollutants is likely to increase pressure for this work, probably at the expense of some more conventional chemical and physical monitoring parameters. It will be an increasing task to develop adequate data and knowledge to make this important tool assume its ultimate share of the monitoring burden.

Groundwater Monitoring

Groundwater concerns and work are increasing. There is not likely to be adequate resource available to develop a complete ambient network although significant data is available for assessment in other data base. Consequently the strategy for monitoring groundwater is primarily focused on problem assessment. Our ambient effort this year will involve, with the assistance of water resources, completion of ambient groundwater assessment in the Boring area and begin similar work in the Grants Pass area. As we evaluate available groundwater data we will identify areas suspected to be in trouble, and track defined difficulties.

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Lake WQ Monitoring:

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Our efforts in lakes have been restricted to assessment of specific source related impacts. Very little of this work is being done. It is extremely unlikely, given the current and anticipated work during the next two seasons, that any additional lake monitoring will be done before the 1990 guidance date without specific funds being provided to support that effort.

Toxics Monitoring:

The strategy in toxics monitoring has revolved around organizing the information in the current data base. This year our efforts will focus on the lower Willamette River, where with the help of EPA we will augment the surface water quality special study work with additional toxics analyses of sediments.

3. Allocation

Laboratory staff are responsible for all associated tasks:

	<u>Total</u>	<u>WBM</u>	<u>Analytical</u>	<u>Priority</u>
Rivers	4.81	1.84	2.97	High
Estuaries	0.75	0.65	0.10	Med
Groundwater	0.05	0.20	.30	Med
Toxics - Tissue	0.67	0.36	0.31	High
Toxics - Sediment	0.27	0.26	0.01	High
Lakes	0.06	0.01	0.05	Low
Biological	0.00	0.00	0.00	—
Interagency	1.08	0.01	1.07	High
TOTAL FTE	8.14	3.33	4.81	

4. OUTPUTS

DEQ

- a. 47 primary river sites -- 10-12x/yr, 22 parameters.
- b. 40 secondary river sites -- 4.6x/yr, 22 parameters
- c. 42 Bay sites 10x/yr, 21 Bay sites 4x/yr, 4 parameters.

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- d. 10 groundwater sites -- 5-6x/yr, 15 parameters.
- e. Above data entered into STORET and summarize in the 305b report.
- f. Composite fish samples and analyses from 12 sites -- 1x/yr.
- g. Sediment samples from 12 sites -- 1x/yr.
- h. Quality Assessment Plans for all major activities.

EPA:

- a. *Sediment analyses for priority pollutants excluding volatile organics from 20 sites.
- b. *Above data entered into STORET.

DEQ and EPA:

- a. Joint Regional/State report evaluating biological and habitat indicators to assess if they can be incorporated into monitoring network.

B. INVESTIGATIVE STUDIES

1. Introduction

Purpose -- To develop cause/effect relationships, define extent of a problem area, and/or determine beneficial uses and use impact in order to develop proper management plans.

Priority -- High. Detailed data are required to properly evaluate potential problems and to develop appropriate management plans.

2. Strategies

Surface Water Study

Studies are developed as individual plans, which are scaled to provide ambient data to assess and resolve technical concerns in the study area. Currently these studies are focused on TMDL/WLA efforts. A number of related studies are planned for this season, designed to develop data for setting TMDL and WLA for portions of Bear Creek, the Willamette River and the Yamhill rivers.

* Samples may be collected from the lower Willamette River for the Lower Willamette river toxics study

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Groundwater Study

Continued work in follow-up investigation of pesticide/agricultural impacts on groundwater are planned in conjunction with interested state and federal agencies. Some non-point sources are being studied in conjunction with TMDL work being done as described above. Agricultural and Forest practices are two that are being considered in this NPS work.

Nonpoint Source Study

The primary strategy for nonpoint source data collection is to add monitoring sites to the intensive study of river basins and increase the ambient sampling in some basins to help characterize nonpoint source impacts.

A biological assessment of container nursery discharges on receiving streams is also planned. Container nurseries currently do not require discharge permits though discharges are often more similar to point sources than nonpoint agricultural impacts therefore, this task is also closely related to source related studies.

Toxics

A two year study of toxics contamination in the lower Willamette River is scheduled to begin in the summer of 1988. This study will be designed to utilize biological screening methods such as, in situ fish tissue contamination and growth studies to evaluate chronic affects of toxics in the lower Willamette River. Ambient sediment sampling will also be incorporated into this study. EPA will provide support through grant money (approximately \$5,000 to be used for DEQ monitoring and sample analyses plus \$10,000 for contract lab analyses as needed) and personnel assistance 1 person for 3-4 weeks during July/August).

3. Resources

Planning or Regional staff are usually responsible for project development, coordination and follow-up. Laboratory staff are responsible for logistical, monitoring, analytical and data support. The following indicates monitoring and laboratory support only. The section (as noted) of this agreement should be referenced for total resource estimate:

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	<u>Total</u>	<u>WBM</u>	<u>Analytical</u>	<u>Priority</u>
<u>BASIN</u>				
River	4.55	1.28	3.27	High
Lake	—	—	—	—
Near Coastal	—	—	—	—
<u>NON-POINT</u>				
River	0.24	0.08	0.16	Medium
Groundwater	0.50	0.20	0.30	High
Biological	0.20	0.07	0.13	High
<u>TOTAL FTE</u>	5.49	1.63	3.86	

4. Outputs

DEQ

- a. TMDL related studies on Bear Creek and Yamhill River.
- b. Willamette River assessment (includes lower Willamette River toxics study).
- c. Develop and refine methods for monitoring toxics.
- d. Container nursery discharge assessment.
- e. QA plans for all projects.

EPA

- a. Technical support for lower Willamette toxics study (1 person for 3-4 weeks of field assistance in July/August).
- b. \$5,000 for DEQ monitoring and lab analyses support.
- c. \$10,000 for contract lab support for special analyses if needed.

G. SOURCE RELATED STUDIES

1. Introduction

Purpose -- To determine if sources comply with permit, basin management plan or water quality standards; to evaluate spill, discharge, or material for toxicity or toxic properties.

Priority -- Generally High. The assurance that a source (both point and non-point) is in compliance and not causing standard exceedence is a necessary part of the agency's function.

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2. Strategy

Source related studies will include UIC groundwater assessments plus municipal and industrial source compliance studies. Techniques will include acute and chronic bioassays, rapid biological assessments and monitoring water quality of receiving streams and effluents. TMDL studies will also involve assessment of source discharges in the study streams which will contribute to the source related data base.

Source compliance is conducted periodically by regional staff and samples are analyzed by laboratory staff. Special evaluations are made by a combination of program, regional and laboratory staff efforts. These include: self-monitoring quality assurance audits, mixing zone studies, and bioassays of source effluents.

3. Resources

These efforts involve strong coordination and resource support throughout the agency. The following indicates monitoring and laboratory support only; other sections (as noted) of this agreement should be referenced for total resource estimate:

	<u>Total</u>	<u>WBM</u>	<u>Analytical</u>	<u>Priority</u>
Municipal Waste	2.42	1.19	1.23	High
Industrial Waste	2.21	0.87	1.34	High
UIC	0.05	0.20	0.30	Medium
Spills	0.22	0.00	0.22	High
TOTAL FTE	5.35	2.26	3.09	

4. a. 12 source related bioassays.
- b. 12 mixing zone studies
- c. Tillamook Bay follow-up study final report.
- UIC ground water effort continues to provide information about groundwater contamination problems.

D. QUALITY ASSURANCE

The Department operates its water monitoring networks under documented

Standard Operating Procedures (SOP) following a Quality Assurance (QA) plan. These documents were written in accordance with EPA guidelines as far as they apply, and were approved by EPA. QA plans and SOP procedures and subsequent changes are available for EPA review. In addition, the Department participates in the EPA National Performance audit Program for all applicable criteria pollutants. The Department will continue this level of operation.

Source self monitoring QA work is increasing as the Dept. provides increased QA oversight and technical assistance to sources during self monitoring.

E. SEDIMENT TOXICITY TESTING

1. Introduction

Purpose -- To enable the DEQ Lab to further refine their bioassay capabilities.

Priority -- High.

2. Strategy

DEQ will collect sediments from selected sites and conduct sediment bioassays using one or more invertebrate species. Sediments from those sites that show the highest toxicity tests will then be candidates for follow-up chemical analysis.

3. Output

Refined bioassay capabilities at DEQ Lab and sediment bioassay results from selected sites.

F. DATA SYSTEM SUPPORT

1. Introduction

Purpose -- To aid the DEQ in setting up and implementing PC STORET on DEQ micros.

Priority -- High

2. Strategy

The lab is developing a lab information management systems. We expect to develop faster water reporting and entry to STORET the system is brought online. We are also interested in developing and facilitating easy data downloading from STORET to Dept. PC's for data assessment work.

3. Resources

Region X will provide support when available upon request.

4. Outputs

PC STORET up and running on DEQ computers.
Lab information system providing data to both systems.

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II. WATER QUALITY PLANNING

- A. River Basin Planning
 - 1. Water Quality Assessment
 - 2. Waterbody Tracking System
 - 3. Total Maximum Daily Loads/Waste Allocations

- B. Water Quality Standards
 - 1. Dissolved Oxygen Standard

- C. Nonpoint Sources
 - 1. NPS Management Program Report
 - 2. U.S. Forest Service National Forest Management Plans Review

- D. Groundwater Program
 - 1. Consolidated Groundwater Work Plan

- E. Water Planning Support to Construction Grants Program
 - 1. Water Quality Assessments of Construction Grants Projects

- F. Special Projects
 - 1. Toxic Control Program
 - 2. Oregon Estuaries Plan

II. WATER QUALITY PLANNING

A. RIVER BASIN PLANNING

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Water Quality Assessment

1. Introduction

Purpose -- With limited resources, it is necessary to ensure that program efforts are focused where water quality problems are known to exist. In addition, Sections 106 and 305 of the Clean Water Act require each state to develop a program to monitor the quality of its surface and groundwaters. EPA uses this information to: 1) report to the public on programs, status, and future needs; 2) determine program needs; 3) develop budget proposals; and 4) determine the need for legislation, guidance, and regulations. Oregon will continue to assess water quality throughout the state. It must be noted that the Department has a commitment to assess the Willamette River and this will be the primary work item under this program element. It should also be noted that with this work and the heavy commitment to TDML, additional assessment work will be limited.

Priority -- High. Required by law.

2. Strategy

Evaluate available surface and groundwater monitoring data with particular emphasis on the entire Willamette River system. The assessment will also include other information (i.e., fisheries, etc.). The 1988 Status Assessment will identify waters not supporting beneficial uses. These "water quality limited" waterbodies will be prioritized by ^{the State Clean Water} Strategy Targeting system. The Department will then work to develop proposed TMDL (Phase I) as resources are available. Because of very limited resources lake assessment work suggested in the SEA guidance cannot be conducted.

3. Allocation

1.0 FTE.

4. Outputs

- a. Water quality assessment of the Willamette River and the revision of the Willamette River Basin plan to include new or revised standards. December 1989.
- b. Phase I proposed TMDLs on 3-5 new water quality limited segments that are identified in the 1988 305 (b) report.

Waterbody Tracking System

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1. Introduction

Purpose -- In Oregon's 1986 305(b) report, Appendix A contained a computer-generated inventory and tracking system for waterbodies. EPA has proposed a similar system and would like DEQ to work with them in developing such a tracking system. This system was to be ready for state review in the summer of 1987. This, however, did not happen. The Department is still interested in reviewing this system during the coming year but with our present work commitments, not a great deal of activity is planned.

Priority -- Low.

2. Strategy

Review the State of Washington's pilot test software when it is provided by EPA. Review data entered by EPA. The state understands that EPA will be entering the majority of the data listed in the 1988 305(b) report. The state will verify and add minor update information to the system. Review tracking system document as it becomes available.

3. Allocation

0.1 FTE.

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4. Output

- a. Provide review comments to EPA on tracking system.
- b. EPA enters into final system the data from the 1988 305 (b) report.
- c. State will verify and make minor updates.

Total Maximum Daily Loads/Wasteload Allocations

1. Introduction

Purpose -- The Clean Water Act (CWA) and Water Quality Management (WQM) regulations require states to: 1) identify and rank "water quality limited" waterbodies with parameters causing the problems; 2) prepare total maximum daily loads (TMDLs) and wasteload allocations (WLAs) for such waterbodies; and 3) submit all TMDLs/WLAs to EPA for approval.

Priority -- High. The State and EPA have been involved in a lawsuit regarding the requirements described above.

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2. Strategy

DEQ has proposed a process and schedule to the Environmental Quality Commission for establishing TMDLs on "water quality limited" stream segments. The proposed approach to establish and implement TMDLs and WLAs consists of the following key elements:

- o Identify the "water quality limited" stream segments on which TMDLs and WLAs will be developed. Describe how other waterbodies will be assessed and additional "water quality limited" segments will be identified, ranked, and addressed in the future.
- o Describe how TMDLs/WLAs will be developed.
- o Establish a generic process to be used by the Department to develop and adopt the TMDLs/WLAs for each "water quality limited" segment.
- o Describe how the Department will address applications for discharge permits during the period from the time a "water quality limited" segment is identified and the time TMDLs/WLAs are adopted.
- o Describe the basic procedure for developing strategies which will be used to implement the TMDs/WLAs through the NPDES permit process.

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Eleven stream segments were identified for which TMDLs need to be established. A date for preparing an initial definition of the loading capacity on these segments has been established in the lawsuit settlement consent decree. In addition, TMDLs/WLAs were recommended for the Tualatin River during FY88. The formal process for adopting TMDLs/WLAs will also be initiated on two other "water quality limited" segments during FY88 and completed in FY89. These two segments are Bear Creek in Medford and the South Yamhill. All initial or Phase I TMDL should be established by 6/30/88.

3. Allocation

.60 FTE

Although the lawsuit was against the federal government, DEQ is working cooperatively with EPA to resolve the issue. In order to ensure that the state's TMDL/WLA process satisfies EPA's legal concerns, DEQ will need EPA technical assistance. The current workload to complete two TMDL assessments per year cannot be met with .60 FTE. This is all the staff time DEQ has available to support this activity. Without additional support settlement commitments will not be met.

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4. Outputs

- a. Submit TMDLs/WLAs to EPA for approval according to the following schedule:

Yamhill	06/89
Bear Creek	06/89

SEA Guidance request a two-year schedule for TMDL/WLA work. The Department intends to utilize the State's Clean Water Strategy targeting process to set future TMDL work priorities; therefore, the second year TMDL work cannot be identified ~~at this time~~ until the SCWG is completed and up and running.

B. WATER QUALITY STANDARDS

Dissolved Oxygen Standard

1. Introduction

Purpose -- EPA adopted new ambient dissolved oxygen criteria in 1986. Oregon will review its current dissolved oxygen standard and evaluate whether a revision is necessary and appropriate to

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provide consistency with the federal policy and develop an issue paper by June 1988. During the following year, the Department will move to set an appropriate DO standard.

Priority -- EPA requires revision of state standards when new criteria are published.

2. Strategy

The issue paper developed will be used to develop a rule package that will be presented to the EQC.

3. Allocation

0.2 FTE.

4. Output

Dissolved oxygen criteria for Oregon with a schedule for revision of rules by June 1989.

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C. NONPOINT SOURCES

NPS Management Program Report

1. Introduction

Purpose -- The Water Quality Act (WQA) of 1987 required that the state submit a report which describes the NPS management program to be implemented to control NPS problems in Oregon. The Water Quality Division intends to respond to this requirement of the WQA.

Priority -- High, since this task is a requirement of the WQA. Public awareness and pressure on the DEQ also causes this task to be a high priority.

2. Strategy

The Water Quality Division will use the specific WQA requirements to develop this report. The report will be the culmination of two separate efforts -- the Citizen Advisory Committee (CAC) effort and close coordination with the currently designated NPS management agencies. The CAC effort will provide "generic" guidance to the DEQ on the components of a strategy to deal with NPS. The guidance will form the framework for the designated management agency and DEQ to develop specific management strategies for appropriate NPS elements.

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Once the CAC generic process and ^{is completed} revised strategies are completed, the Department will proceed to develop management agreements with the designated management agencies. These strategies will satisfy the requirements of Section 319, States Management Programs. This includes the number and type of BMPs applied, the anticipated improvements in water quality, etc. described in the WQA and regional and national guidance from EPA. The state will collect the information necessary to report to EPA by September 1, 1989, for EPA report to Congress on the implementation of the NPS program.

The Water Quality Division will also continue to specifically respond to the need to conduct assessment on "water quality limited" stream segments thought to be affected by NPS. Appropriate NPS management programs will also be developed as resources are available.

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3. Allocation

Total resources need 1.0 FTE (source of funding 106).

4. Outputs

- a. Final Management Project Report (8/88).
- b. Development and finalize MOU with designated NPS management agencies.
- c. Implement BMP monitoring effort.
- d. NPS assessments on "Water Quality Limited" stream segments.

U.S. Forest Service National Forest Management Plans Review

1. Introduction

Purpose -- The U.S. Forest Service manages public lands in 13 National Forests in Oregon. The National Forest Management Act requires that management plans be prepared for all national forests. To date, a majority of these drafts have been published. Oregon's Governor, through Executive Order, ordered applicable state agencies to develop a coordinated state response to each forest plan. The Water Quality Division responded to the

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Governor's order and submitted comments on each plan. During the next year, the Forest Service will respond to the State's comments. The DEQ will need to review each of these responses to determine if they adequately address the concerns identified.

Priority -- High, since the DEQ has been ordered by the Governor to respond to the Executive Order. Public awareness and pressure on the DEQ to protect water quality in forest lands also require this to be a high priority.

2. Strategy

The Water Quality Division will use the coordinated response procedures designed by the Governor's Federal Plans Coordinator to respond to the Forest Service. The procedures require intense coordination between agencies and agencies with the public. The Governor requires that agency personnel are available during this time between the draft comment period and the final plan to interact with the Forest's staff on Oregon's comments.

3. Allocation

0.25 FTE.

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4. Output

- a. Review of USFS response to state review comments on draft management plans.

D. GROUNDWATER PROGRAM

Consolidated Groundwater Work Plan

1. Introduction

Purposes -- The Water Quality Division has made great progress during the past year on developing and implementing a groundwater quality protection program. The revised statewide groundwater quality protection policy is expected to go to the EQC in June 1988.

As a result fo the focus that has been placed on groundwater protection through the development of the groundwater rules, and awareness of activities in other states. The Department and the governor's office are going to proceed with preparation of major new groundwater legislation, an Oregon Groundwater Act, to submit to the 1989 Oregon legislature. 1989 106 groundwater funds will be used to help develop that legislation. The FY89 106 supplemental groundwater funds will also be used to implement the ongoing activities established as a result of groundwater quality

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protection programs developed through the FY 85 to FY 88 work plans. This will include the development of a implementation document for the groundwater rules.

State general funds have been appropriated to implement groundwater quality protection enhancement activities. This activity includes: comprehensive interagency groundwater studies in two aquifers where groundwater concerns are the highest; the development of comprehensive aquifer management plans for those areas; and the implementation of at least one of the aquifer management plans.

Priority -- HIGH -- This is essential program development and implementation work.

2. Strategy

EPA approved work plans have been submitted for those activities and tasks identified in the FY 85 to FY 88 106 supplemental groundwater programs. The following tasks are ongoing implementation activities that would be supported by FY 89 106 supplemental groundwater funds:

- a. Monitor and keep up to date a computer inventory of all significant permitted sources. This would include locational information located in a geographical information system.

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- b. Incorporate groundwater protection requirements into source permits.
- c. Review plans for significant sources.
- d. Continue to identify and prioritize problem areas according to the State Clean Water Strategy and maintain a computer inventory of current and suspected problem areas.
- e. Develop assessment plans for new problem areas.
- f. Conduct assessments in problem areas.
- g. Review and monitor groundwater monitoring system design and installation for both source and areawide groundwater quality assessments.
- h. Continue to develop and implement a comprehensive groundwater data management system. System components include: permitted sources, problem areas, source monitoring water quality data, area wide water quality monitoring data, public water supplies, and geographic information.
- i. Revise and update groundwater quality standards.
- j. Conduct statewide ambient groundwater monitoring program in cooperation with WRD.

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The state has enhanced its inter-agency groundwater management program by receiving \$370,000 in general funds for five separate agencies. A portion of these funds would be distributed to the Water Resources Department, the Health Division, the Department of Agriculture, Oregon State University and the Department of Environmental Quality. These agencies would cooperate in conducting studies in two priority areas to assess groundwater quality, flow, storage, and protection. A comprehensive groundwater management plan for each of these areas will be prepared and will be implemented in at least one of the areas. This management plan will coordinate both ground water quality and groundwater quality management.

3. Allocation

Four and one-half FTE (3.0 Planning Section plus 1.5 in Monitoring). Funding for the positions as follows:

- a. 3.0 FTE 106 Supplemental groundwater grant;
- b. 1.5 FTE General Funds;

4. Outputs

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- a. Proposed legislation for Oregon Groundwater Act.
- b. Implementation document for revised Groundwater Quality Protection Policy by October 1988.
- c. On-going groundwater quality assessment studies.
- d. Ambient groundwater monitoring program data, and reports on ambient water quality characteristics of at least two aquifer units by June 1989.
- e. Inventory of significant: permitted sources, areas of concern and special studies (on-going).
- f. Assessment plans for problem areas (on-going).
- g. Data from problem area monitoring, with data analyses and report for each area (on-going).
- h. Adopted state groundwater quality protection strategy, and the two documents that describe the strategy, one that is comprehensive and one that will be for general public distribution by June 1988.
- i. On-going groundwater studies in two priority aquifers,

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identification of sources of contamination in those areas, and a working model for the assessment of the effectiveness of contamination controls for the three study areas by June 1989.

E. WATER PLANNING SUPPORT TO CONSTRUCTION GRANTS PROGRAM

Water Quality Assessments of Construction Grants Program

1. Introduction

Purpose - The Water Quality Planning section provides support to the Construction Grants program by conducting special water quality assessments before and after new municipal facilities are constructed or improved.

Priority - High

2. Strategy

Evaluate existing water quality data to support the development of the needs list and evaluate the water quality problems associated with POTWs. Provide support to construction grants to demonstrate water quality improvements resulting from grant projects.

3. Allocation

MAF

1.0 FTE

4. Outputs

Water Quality assessments on construction grants projects.

F. SPECIAL PROJECTS

Toxic Control Program

1. Introduction

Purpose - The Department will have a preliminary 304 (1) list in the 1988 305 (b) report. This list identifies potential areas of concern related to toxics contamination. The 305(b) report will also contain a description of the toxics control program.

Priority - High

2. Strategy

The April 1988 preliminary 304(1) list will be refined and finalized by February 4, 1989. The Department will, at that time, submit a list of point sources discharging 307(a) pollutants to impaired waters. Also at that time, final individual control

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strategies will be submitted. In addition to the work conducted on the 304(1) list the Department will work to correct deficiencies in the toxics control program.

3. Allocation

0.5 FTE

4. Output

1. Final 304 (1) list
2. Individual Control Strategies for appropriate facilities.

OREGON ESTUARIES PLAN

1. Introduction

Purpose -- The Department of Environmental Quality has identified a need to thoroughly examine water quality and critical biological resources along Oregon's coast, bays, and estuaries. This assessment is necessary given that land use activities, point source discharges and non-point source of pollution may be creating a threat to the designated beneficial uses of near

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coastal systems. In addition, the Department must often review new proposals for coastal zone developments without the desirable amount of information to make regulatory decisions. The Department has prepared and submitted proposals to EPA to review and classify the environmental status of Oregon's estuaries, and to conduct a detailed investigation of specific pollution problems and means to solve them for the Coquille Estuary.

Priority -- HIGH -- If EPA funds the projects, a more coordinated effort for coastal zone management will result.

2. Strategy

The Department has developed a two phase 18 month program plan identifying specific objectives and tasks that need to be accomplished for more effective coastal environmental management. Specifically, the first phase of the program will investigate environmental quality problems in the Coquille Estuary and develop a comprehensive management action plan to protect the Oregon coast. Coquille Estuary is a major estuarine drainage system on the southern Oregon coast. The Department identified the Coquille Basin as a waterbody of concern in the 1986 Status Assessment report because of sediment and bacteria problems from point and non-point sources. A critical habitat and breeding area, it suffers from problems typical of other Oregon near-shore waters.

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The goal of the Coquille Estuary study is to produce an integrated and innovative approach to solving water quality and habitat problems.

In addition, the project focuses on developing the interagency coordination necessary for implementing short and long term coastal management strategies for point and nonpoint sources. The impact of these problems on coastal and ocean resources is recognized in Oregon's new Ocean Resources Management Act, which mandates a comprehensive, interagency process for managing ocean resources and coastal development.

The management process worked out in Coquille Estuary will be a model for the second-phase of the pilot, developing a similar action plan for controlling land-based pollution sources and for managing coastline development along the rest of Oregon's coast. It will also provide experience in solving complex technical and management problems, and in dealing with comprehensive coastal issues. Such experience will provide vital information that will enable the Department to go forward more successfully with near shore planning efforts, managing and controlling pollutants affecting nearshore water quality and in making future regulatory decisions.

3. Allocation

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2.0 FTE.

TASKS

1. Establish a public/agency advisory task force to implement management decisions: The task force will establish project priorities and goals, assign agency responsibilities, review land uses, and monitor progress. successful implementation of a watershed management plan depends on the support of the local and regulated communities. Involving local, state, and federal groups at the outset in management decisions give them a stake in the success of the project and sustains long-term planning.

2. Data Compilation and Resource Inventory

Existing data available on environmental conditions and trends in water quality and critical habitat changes (wetland, tideflats, spawning areas) will be identified and compiled on the Coquille River Basin. A review will be conducted to identify the types of management decisions that are made, what resource information is used to make decisions, and whether the information available is adequate.

3. Sewage Treatment Plant Outfall Relocation

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The Department requested that the City of Bandon relocate the sewage treatment plant outfall, and monitor to document the recovery of a critical tideflat. The product of this task will be a summary of outfall relocation procedures, and environmental assessment and documentation of changes in the tideflat after the relocation is completed.

4. Water Quality Monitoring and Total Maximum Daily Loads

The Coquille River will be monitored intensively to obtain water quality information during high and low flow conditions. a water quality model will be produced that calculated tidal _____ effects and potential pollutant transport and dispersion during high and low tides. In addition, calculations of the allowable pollutant loads and prediction of water quality improvement will be completed.

5. Wetland Restoration

An inventory of historical and current wetlands in the Coquille Basin will serve to determine the location of implementing a wetland restoration program to improve fish and wildlife habitat and water quality. The product from this task will be

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documentation of the process of restoring a wetland, and the subsequent recovery of biological resources.

6. Toxic Substances Assessment

Sediments and water quality in the Coquille River and Estuary will be screened for the most common or highest priority toxic substances that may be present. Management actions will be developed to control the toxics, if found, through permits, public education, and through review of best management practices.

7. Video Production for Public Education

To document the improvement in the estuary as a result of project actions, a documentary video will be prepared that focuses on the innovative planning and management processes developed in the Coquille Estuary, particularly the partnerships among governmental agencies and between the government and the public. The video will be used to educate other coastal communities who could benefit from similar solutions.

8. Ocean Resources Management Plan (ORMP)

The Department is involved in creating coordinated nearshore and offshore management plan for future development activities that

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may affect ocean water quality. Information compiled for the Coquille study, and involvement in the ORMP, will serve as a model methodology for future investigations.

III. SEWERAGE TREATMENT WORK GRANTS AND LOANS

- A. Introduction
- b. Activities to Accomplish
- c. Outputs

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III. Sewerage Treatment Work Grants and Loans

A. Introduction

1. Purpose - To manage EPA municipal wastewater construction grant funds and state revolving funds made to local units of government for the construction or modification of wastewater treatment facilities.
2. Priority - HIGH -- Municipal construction grants and revolving fund capitalization grants provide a major source of funds for improving municipal wastewater systems and thereby reducing contaminants discharged into the states surface and groundwater.

B. Activities to Accomplish

1. Allocation - Federal 205(g) monies currently, fund 12 construction grants and supporting positions. The Department is new in the process of having the remaining 7 positions for a total of 19 positions authorized by the legislature.
2. Activities - The construction grants section activities described below are intended to meet federal construction grant (Title II) and State Revolving Fund (Title IV) requirements.

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- a. Development and maintenance of a state priority management system and annual preparation of construction grant and construction loan lists.
- b. Preparation of a biennial survey construction works needs assessment.
- c. On-going work with communities to assist them in qualifying for a federal construction grant.
- d. Active grant management.
- e. Completion of functional subagreements and delegation of specified activities.
- f. Assistance to communities through the outreach program.
- g. Preparation of necessary rules and policies to implement the State revolving Fund.
- h. Preparation for the construction grant portion of the 305b biennial water quality and program assessment.

C. Outputs

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1. FY 88 Grant Awards - Grant awards for 10-12 projects are anticipated during July - September 1988. To facilitate the review and approval process, a substantial number of certifications will be for STEP 4 project awards.

2. State Revolving Funds - The SRF implementation program and project pre-award activities are scheduled for completion by June 30, 1989.
 - a. Implementing Rules
 - Task Force Recommendation 9/88
 - Draft Rules/Hearings 10-12/88
 - EQC Adoption 3/89

 - b. SRF Priority List
 - Draft List 12/88
 - EQC Adoption 3/89

 - c. Transition Strategy 3/89

 - d. Grant agreement, operating agreement 3/89

 - e. IUP, application for funds 6/89

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3. Outreach Program - The small community outreach program is implemented by the construction grants section (finance) and the Sewage Disposal Section (O&M, technical assistance, construction grants section FY 89 outputs include the following:

- a. Local government financing assistance study * 8/88
- b. Safety net program implementation Ongoing
- c. Tax deduction program Ongoing
- d. User change reviews of 5 selected communities 1/6/89
- e. Recommended legislation for expanded safety net program 1/89
- f. Recommended legislation for state financial assistance to local governments 1/89

* contract with consulting firm

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4. FY 89 Qualitative Commitments - The construction grant section will endeavor to meet high priority EPA qualitative requirements subject to available resources and delegation for subagreement.
 - a. Utilize COE resources effectively
 - b. Participate in mid-year revenue and other program evaluations as scheduled.
 - c. Administrative completions - cannot specify number until activity delegated.
 - d. Performance certifications - zero backlog after January 1, 1989.
 - e. Outlays - within \pm 10% of target.

5. Delegation - The FY 88 State/EPA agreement requires partial delegation of all functional subagreements by 9/30/88, a three transition period, and full delegation by 1/1/89. The Department is proposing a revised schedule as follows:
 - a. Negotiations with EPA and COE to determine if some activities should remain with COE (CME's, interim

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inspections, project management conferences, final physical inspections).

- b. Completion of remaining draft subagreements by May 1, 1988.
 - c. Partial delegation of all agreed-on functional subagreements by 9/30/88.
 - d. Full delegation of all agreed on functional subagreements by 3/31/89.
6. Quantitative FY 89 Project Commitments. - following is an estimate of construction grant project outputs for FY 89. The actual quantity may change depending on actual project awards made for FY 88 projects (by 9/30/88).

<u>Output</u>	<u>Quantity</u>
(a) Draft 1989 Priority List	1
(b) Final FY 89 Priority List	1
(c) FY 88 Priority List updates	2
(d) Facility Plan reviews	15
(e) Environmental Assessments to Regional Office	15
(f) Plan and Specification Reviews	15

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(g) User charge and sewer use ordinances	15
(h) Financial management system reviews	15
(i) Grant application reviews	15
(j) Review and certification of new grants	15
(k) A/E subagreement reviews	15
(l) Force account reviews	5
(m) B/C reviews	15
(n) VE studies reviews	1
(o) Change order reviews	100
(p) O & M manual reviews	15
(q) Plan of operation reviews	15
(r) Performance certification reviews	15
(s) Fund balance and activity reports	4

7. Later FY 89 Commitments - Required project commitments for many items cannot be specified until October 1988. The actual commitment will depend on final negotiations pertaining to delegations and on project awards made for FY 88 projects (by 9/30/88).

- a. Outlays
- b. Obligation
- c. Preconstruction logs
- d. Treatment plants initiating operations
- e. Step 3 and 4 administrative completions

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- f. Construction management evaluations
- g. O & M inspections
- h. Plants returned to compliance or on schedule as a result of an OME.
- i. COE funds utilized.

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IV. SEWAGE DISPOSAL

- A. NPDES PERMIT ISSUANCE
- B. COMPLIANCE ASSURANCE AND ENFORCEMENT
- C. SLUDGE MANAGEMENT
- D. NATIONAL MUNICIPAL COMPLIANCE
- E. PRETREATMENT
- F. OPERATOR TRAINING, TECHNICAL ASSISTANCE, AND CERTIFICATION

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IV. SEWAGE DISPOSAL

The Sewage Disposal Subprogram is responsible for: (1) regulating sewage treatment and disposal including conveyance, treatment and disposal facilities that serve municipalities, state, federal, and private developments, and (2) administering a statewide program for regulating the installation of on-site sewage disposal systems for individuals and public and private establishments that generate under 5,000 gallons per day of wastewater. For the purpose of the State/EPA Agreement, only the former will be addressed.

The primary mechanism for managing sewage treatment and disposal systems are permits. Besides permit issuance functions, the subprogram is engaged in permit compliance assurance and technical assistance activities through: (1) inspections, (2) complaint and spill investigations, (3) compliance tracking and follow-up, (4) review of facility plans, preliminary engineering reports and engineering plans and specifications, (5) pretreatment program audits, inspections, and review of annual reports, (6) sludge management plan review, sludge application site authorizations, and sludge management plan compliance assurance, and (7) assistance to treatment plant operators, training and certification.

Assistance is also provided to the Sewerage Works Construction Grants Unit with sewage disposal program staff assisting in preplanning conferences with potential grantees, providing technical review of facility plans, engineering plan review and approval, change order review and approval, plan of operation review, operation and maintenance manual reviews, operation and maintenance inspections, priority list development and project evaluation and compilation of the Needs Survey. Considerable resources are devoted to offering guidance to new sources and sources in need of expansion or upgrade about sewerage works planning, STP upgrade and expansion policies, and water quality standards.

Incidental responsibilities of the subprogram include reviewing and commenting on Land Use Comprehensive Plans, grants involving the A-95 review process, and responding to public inquiries.

A. NPDES PERMIT ISSUANCE

1. Introduction

Purpose -- National Pollutant Discharge Elimination System (NPDES), Water Pollution Control Facility (WPCF) and General permits provide the basic regulatory mechanisms for insuring that sewage treatment facilities (and collection systems served by sewage treatment facilities) meet the requirements of the federal Clean Water Act and Oregon Administrative Rules pertaining to sewage treatment and disposal. The State is committed to timely issuance of high quality permits, permit renewals and permit modifications that contain appropriate, clear

and enforceable requirements. Permits and permit applications are tracked and status reports prepared and distributed to minimize unnecessary delays in permit processing and issuance.

Priority -- High. Timely issuance of permits is critical to all source control activities.

2. Strategy

During FY89, it is intended that permits be issued, renewed, and, as needed, modified and transferred in a timely fashion consistent with DEQ policies and requirements. The objectives are to eliminate and prevent backlog of expired permits. However, first priority is placed on issuance of new source permits. In the past year, a greater number of new source permit applications were received. This trend is likely to continue.

3. Allocations

- a. 0.75 FTE for NPDES and WPCF permit issuance oversight -- Sewage Disposal Section.
- b. Regions.*

4. Outputs/Schedule

New Permits:	As needed	--	Est. 20
Renewals:	Major NPDES Domestic	--	8
	General		
	NPDES	--	47
	Backlog	--	Remaining
			backlog as of
			June 30, 1988
Modifications:	As needed	--	Est. 5

B. COMPLIANCE ASSURANCE AND ENFORCEMENT

1. Introduction

Purpose -- The purpose of compliance assurance activities are to:

- a. Evaluate and track compliance of sewage treatment and disposal facilities.

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

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- b. Maintain compliance of these facilities currently in compliance.
- c. To identify and track implementation of remedial actions and progress toward achieving compliance by those facilities that are marginally in compliance or out of compliance.

A variety of subprogram activities are directed toward compliance assurance, such as conducting source inspections; reviewing discharge monitoring reports; conducting compliance negotiations; responding to complaint and spills; developing, tracking and evaluating conditions and schedules; evaluating effluent and water quality effects (e.g., mixing zone surveys and bioassays); and taking enforcement actions. For the purpose of this subpart, however, the routine compliance assurance activities are itemized. Special focus areas such as Compliance with the National Municipal Policy, Pretreatment and Sludge Management Program guidance are discussed in subsequent sections.

Priority -- Compliance assurance activities are high priority to the Department.

2. Strategy

- a. Prior to July 1, 1988, the Regions will submit a schedule for all major municipal facilities to be inspected in FY88.
- b. Facilities covered by minor NPDES permits will be inspected about 6 months before the permit expires.
- c. Regions will follow-up with appropriate enforcement action on all NPDES permittees found in significant non-compliance.

3. Allocation

- a. 0.75 FTE for NPDES Permitted Sources -- Sewage Disposal Section, including data entry clerk.
- b. Regions.*

4. Outputs/Schedule

- a. Review and follow-up as needed on DMR -- (Regions) submittals.

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

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- b. DMR data for Major Municipal Permitted -- (Division) sources entered into PCS.
- c. WEMB data elements for Major Municipals -- (Division) entered into PCS.

C. SLUDGE MANAGEMENT

1. Introduction

Purpose -- Domestic sewage treatment facilities generate an estimated 26,000 dry tons of sludge annually as a product of the treatment process. In addition, DEQ licensed septic tank pumpers collect, transport, and dispose or land apply septage at beneficial use rates. Sludges and septage must be managed without creating health hazards, nuisance conditions or water pollution. Oregon encourages the land application of domestic sludges, sludge derived products, including composted sludge, and septage at rates which promote crop growth where appropriate and the safe disposal of sludges and septage which are unsuitable for land utilization.

Rules for sludge and septage use and disposal were adopted by the EQC in August 1984. Sludge use and disposal are regulated under water quality or solid waste permits while septage handling is regulated under water quality on-site sewage disposal service business licenses. Sludge rules require sludge generators and septage pumpers to submit and receive DEQ approval of sludge management plans.

EPA has notified the Department of its intent to promulgate rules covering state management of domestic wastewater treatment plant sludges and septage. Guidance information received to date indicates regulations will describe minimum standards for the content and approval of state sludge management programs; define procedures for obtaining EPA approval; indicate contents of EPA/State compliance assurance agreements; and provide guidance on state compliance activities relating to sludge and septage. The Department also understands EPA intends to promulgate regulations on technical criteria for sludge and septage management. Federal regulations may require the Department to revise its sludge rules and guidelines.

In order to accelerate the rate of evaluating sludge management activities at major and intermediate sized domestic sources, the Department applied for and was awarded a \$150,000 104(b)(3) grant to augment its current sludge program. The grant will enable the Department to increase its capability to better assist sources in their selection and use of prospective sludge sites and to insure sludge digestion processes and site management operations accomplish the objectives. Funding will facilitate the review of

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sludge management plans for all major and most intermediate-sized sources; expedite development of a comprehensive program for inventorying sludge handling activities; and enable the development of a technical informational brochure to guide permittees in the selection and regulators in the evaluation and approval of prospective sludge land application sites, and acceptable site operating conditions. In addition, grant funding will enable the Department to increase the number of source inspections and sludge land application site visits to better determine if Oregon's current sludge management practices fulfill anticipated provisions of the Federal Water Quality Act of 1987.

Priority -- Sludge management is a high priority to the Department.

2. Strategy

Sludge management program activities will include the review and evaluation of domestic source sludge management plans; continued technical assistance to sources on sludge management plan development and prospective land application site use; development of a program plan submittal to EPA for delegation to operate a sludge program on the state level; continued review of documentation characterizing prospective sludge sites and preparation of approval letters which specify means of site operation; and follow up on compliance related to sludge management permit conditions. Depending upon DEQ staff workload, field evaluations of proposed sludge land application sites will be conducted for some sources. The Department will also begin incorporating specific sludge-related language into all high-priority permits, new permits, and renewed permits during the agreement period.

Besides activities described above, the Department intends to evaluate sludge management plans of at least 11 major sources and 12 minor sources; evaluate at least one sludge application site at each of those sources; and provide technical assistance to affected sources on sludge management plan development and site selection.

The Department will also work with Oregon State University Extension Service to develop a publication which will provide a systematic approach in selecting and evaluating prospective municipal sludge application sites. The publication will include examples of appropriate sludge site operations and suggest relevant operating conditions. In addition, the Department will initiate an inventory of sludge treatment processes; land application sites; and land application site operating conditions for permitted sources. This comprehensive inventory will be integrated into a permit tracking data base system.

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3. Allocation

- a. 1.25 FTE for Sludge and Septage Management (including inventory data input) -- Sewage Disposal Section.
- b. Regions.*

4. Outputs/Schedule

- a. Department's sludge management program plan submittal to EPA for approval within 8 months of final rule adoption by EPA; -- (Division)
- b. Review and approval of 23 (est.) priority of sludge management plans; -- (Division)
- c. Technical assistance to permitted sources, their consultants and septage pumpers, and DEQ region staff; -- (Division)
- d. Sludge disposal site documentation review and site use authorization letter preparation; -- (Division and Regions)
- e. Review and follow-up (as needed) on sludge analysis data; -- (Division and Regions)
- f. Coordination of task force on sludge management technical guidance, sludge technical rules revision, and other sludge related matters; -- (Division)
- g. Incorporation of appropriate sludge related language is in "high priority", new, and renewed permits; -- (Division and Regions)
- h. Sludge data base inventory development and recording; -- (Division)
- i. Oversight and coordination with Oregon State University Extension Service on sludge site guidance document; -- (Division)
- j. Compliance assurance of required sludge analysis; -- (Division and Regions)

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

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- k. Assurance of sludge management plan submitted in accordance with permit schedules; -- (Regions)
- l. Comprehensive inspection of at least one sludge site during annual compliance assurance inspection; and -- (Division and Regions)
- m. Assurance that adequate documentation of sludge handling exists in DMR entries, site logs, and that agronomic loading rate and site life data are present during source compliance inspections; -- (Division and Regions)

D. NATIONAL MUNICIPAL COMPLIANCE

1. Introduction

Purpose -- Several Oregon municipal treatment facilities are affected by the National Municipal Policy requiring secondary treatment by July 1, 1988. Compliance of facilities is being addressed through Stipulated Consent Agreements. In addition, those facilities later found to be unable to meet secondary limits are being placed under compliance schedules incorporated into Stipulated Consent Agreements.

Priority -- High.

2. Strategy

- a. Continue to identify those facilities unable to meet a minimum of secondary treatment.
- b. Evaluate impacts of discharges on receiving streams.
- c. Conduct compliance negotiation meetings with responsible officials of noncomplying STPs.
- d. Provide accelerated review of facility plans and technical review of engineering plans and specifications to expedite approvals for municipal sewerage works construction.
- e. Ensure effective coordination between grant and compliance schedules.
- f. Track and report on compliance with enforceable schedules, take enforcement action, as appropriate.

3. Allocation

- a. 0.5 FTE -- Sewage Disposal Section, WQD

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- b. Regions.*
- c. Laboratory -- _____

4. Outputs/Schedule

- a. Outputs: 5 Mixing Zone Studies.
- b. Outputs: Permit addenda, permit renewals or compliance orders with appropriate enforceable compliance conditions and schedules.

Schedule: July 1, 1988 - June 30, 1989.

- c. Outputs: Status report on compliance with schedules in Stipulated Consent Agreements.

E. **PRETREATMENT**

1. Introduction

Purpose -- The purpose of this effort is to improve Oregon's pretreatment program oversight and implementation and to assist municipalities in fine-tuning their pretreatment program. Pretreatment program efforts are directed toward assuring that industrial waste discharges into sewerage systems comply with EPA categorical standards, do not cause treatment plant upsets, contaminate sludge and render it unusable for beneficial land application, or result in effluent toxicity and water quality impacts.

Priority -- High.

2. Strategy

- a. Identify, schedule and conduct pretreatment program reviews, review annual reports, provide technical assistance to municipalities.
- b. Conduct chronic toxicity bioassays on municipal effluent in order to complete testing of all POTWs with approved pretreatment programs within 104 supplemental grant funding period.

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

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- c. Identify needs and develop pretreatment program status and permit effluent data tracking system for incorporation into the comprehensive compliance tracking system developed for DEQ's computer. Determine and implement data interface with EPA computer system.

3. Allocation

- a. 1.0 FTE -- Sewage Disposal Section, WQD, including 0.25 data entry clerk.
- b. Regions.*

4. Outputs

- a. Audit reports on 20 percent and inspection reports 80 percent of POTWs with formal pretreatment programs.
- b. Review and follow-up on pretreatment annual reports required by permit.
- c. Chronic bioassay reports on effluent of 5 STPs with pretreatment programs.
- d. Entry and tracking of pretreatment programs on PVCS for data elements on attached PPETS/RNC worksheet.

F. OPERATOR TRAINING, TECHNICAL ASSISTANCE, AND CERTIFICATION

1. Introduction

Purpose -- The purpose of this activity is to continue to upgrade the knowledge and performance of sewage treatment plant operators. High levels of municipal sewage treatment plant compliance have been attributed to the strong technical assistance, training and trouble-shooting effort of DEQ and the strong rapport DEQ staff have with the sewage treatment plant operators.

Priority -- High: Well trained operators who are informed on operations, monitoring, and maintenance can save communities monies by reducing the need for expensive capital expenditures.

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

2. Strategy

The Sewage Disposal Subprogram will continue to provide technical assistance and training to operators. Technical presentations, short school and one-on-one operator training sessions will be conducted on such topics as: sludge management and site identification, pretreatment program issues, sewage disinfection, and treatment. The Construction Grants Subprogram will support the Sewage Disposal Subprogram by providing financial management assistance to small communities in the areas of municipal finance, financial capability analyses, and sewer user rates and ordinances.

In addition, the Sewage Disposal Section will administer an operator certification program as required by ORS 448 and rules presently being developed.

3. Allocations

- a. 2.5 FTE -- Sewage Disposal Section, WQD. (0.5 FTE contingent upon special 104 grant award.)
- b. Regions.*

4. Outputs

- a. Operator Short School -- Basics and Intermediate 2 -- (Division)
- b. Lagoon Short School 1 -- (Division)
- Small Community System -- Short School 1 -- (Division)
- c. Technical Presentations 12 -- (Division)
- d. One-on-one site visit training session and report on facilities brought into compliance as a result of training (provided special 104 grant is awarded) 13 -- (Division)
- e. Certified Operators 400 -- (Division)
- f. One-on-one financial management to small communities 5-10 -- (Division)

* There are approximately 6.57 FTE in the five Regional Offices dedicated to domestic waste permitted sources. This includes: enforcement, inspections, permit drafting, monitoring, report evaluation, pretreatment, sludge, and complaint response activities for NPDES and WPCF permitted facilities.

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OREGON MUNICIPAL MAJORS LIST AS OF APRIL 1, 1988

Albany, City of	OR-002880-1	North Bend, City of	OR-002336-1
Ashland, City of	OR-002625-5	Oak Lodge S.D.	OR-002614-0
Astoria, City of	OR-002756-1	Pendleton, City of	OR-002639-5
Clackamas Co. Ser. Dist. #1	OR-002622-1	Portland, City of (Col. Blvd.)	OR-002690-5
Coos Bay, City of #1	OR-002357-4	Portland, City of (Tryon Cr.)	OR-002689-1
Coos Bay, City of #2	OR-002358-2	RUSA (Roseburg)	OR-002258-6
Corvallis, City of	OR-002636-1	Salem, City of (Willow Lake)	OR-002640-9
Cottage Grove, City of	OR-002055-9	South Suburban S.D.	OR-002387-6
Grants Pass, City of	OR-002884-3	St. Helens, City of	OR-002083-4
Gresham, City of	OR-002613-1	The Dalles, City of	OR-002088-5
Hood River, City of	OR-002078-8	Tillamook, City of	OR-002066-4
Klamath Falls, City of	OR-002630-1	Tri-City Ser. Dist. (Oregon City)	OR-002829-1
La Grande, City of	OR-002046-0	U.S.A. (Durham)	OR-002811-8
Lebanon, City of	OR-002081-8	U.S.A. (Forest Grove)	OR-002016-8
McMinnville, City of	OR-002619-1	U.S.A. (Rock Creek)	OR-002977-7
Medford, City of	OR-002626-3	U.S.A. (Westside)	OR-002334-5
MWMC	OR-003122-4	Woodburn, City of	OR-002000-1
Newberg, City of	OR-002025-7		

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V. INDUSTRIAL WASTE

- A. NPDES Permit Renewal
- B. Compliance Assurance and Enforcement
- C. Biomonitoring and Toxics Evaluation
- D. Storm Water Permits
- E. Underground Injection Control (UIC)
- F. Section 401 Certifications

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V. INDUSTRIAL WASTE

A. NPDES PERMIT RENEWAL

1. Introduction

Purpose -- The Department is continuing to minimize the backlog of renewal permits. In order to keep from generating a new permit renewal backlog, permits will be renewed before they expire, wherever practicable.

Priority -- Issuing new permits is the highest priority. Next comes the re-issuance of major permits and those minor permits which involve an increase in effluent limits or some other significant permit modification.

2. Strategy to Accomplish

- All new NPDES permit applications will be processed within 180 days of the receipt of a complete application.
- Renewal applications will be sent out 8 months in advance of the expiration date. The review of major permit renewal applications will be initiated as soon as a renewal application is received in order to maximize the time available for processing.
- In order to prevent further backlog, all expiring permits will be issued before they expire, wherever possible.

3. Allocation

To be negotiated with each Region

4. Outputs

By the end of FY88 all of the old pre-88 backlog will have been eliminated. The newly generated backlog going into FY89 will be about 6 non-municipal permits. The number of permits expiring during FY89 is 32. Therefore, in order to have no backlog by the end of FY89 a total of 38 renewal permits must be issued.

B. COMPLIANCE ASSURANCE AND ENFORCEMENT

1. Introduction

Purpose -- In order to conduct a viable permit program, it is essential to have an active compliance assurance program. This consists of enforceable permits, adequate DMR review, compliance inspections, and enforcement action, when necessary. Although most compliance can be

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achieved through voluntary means, more formal enforcement action should be taken when appropriate, including the assessment of civil penalties.

Priority -- Compliance of major sources will be the highest priority. After that, attention should be given to those minor sources which are most likely to create water quality problems if non-compliance occurs. Those permittees which are less cooperative or have a continuing problem with non-compliance should also be given special attention.

2. Strategy to Accomplish

- Prior to July 1, 1988, the regional managers will schedule all major industrial inspection for FY89 to assure that they will all be completed.
- Those minor permittees which will be expiring during the fiscal year will also be inspected about 6 months prior to the time the permit expires. Other minor permittees will be inspected as time permits.
- The regional staff will review all DMRs as they are received. All violations will be noted. A Notice of Violation will be sent to the permittee on all violations which are significant and not adequately explained on the DMR.
- All major permittees will be required to participate in the EPA DMR-QA program. The Department will follow-up on failed DMR-QA tests to determine why failure occurred.

3. Allocations

To be negotiated with each Region.

4. Outputs

- The total number of major industrial permittees to be inspected during FY89 will be 23, or 100%.
- The total number of minor permittees to be inspected will be about 26, which is 16% of the total number of non-municipal sources on individual NPDES permits. There will be no commitment for inspecting those permittees on general permits.

C. BIOMONITORING AND TOXICS EVALUATION

1. Introduction

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Purpose -- This year a greater emphasis will be placed upon the effects of toxic pollutants in discharges and the removal of those toxic discharges which are causing water quality problems. As we become aware of toxicity problems, a strategy will be established for affected permittees and a time schedule will be put into the applicable NPDES permits for correcting the problem.

Priority -- Those large sources with known or suspected toxic constituents will be the first to be evaluated. Most of the data currently available is acute toxicity data. The Department will start gathering chronic toxicity data and requiring chronic toxicity monitoring by those major industrial permittees where chronic toxicity is likely to occur.

Strategy to Accomplish

- As major industrial permits are renewed, the need to include a condition requiring either acute or chronic bioassays will be evaluated. Where acute tests have been required in the past, some amount of chronic testing will be required in the future.
- The need for biomonitoring by minor permittees with known or suspected toxic constituents will be evaluated upon permit issuance.
- In stream reaches where ambient biomonitoring indicates possible toxicity, point sources contributing to that reach will be evaluated for possible inclusion in a toxicity monitoring program.

Allocations

To be negotiated with each Region.

Outputs

Four major industrial permits will expire during FY89. Of these, three are industries which are likely to discharge some toxic constituents. Additional acute toxicity testing will be added where appropriate. In addition, chronic testing considered and be added to permits where appropriate.

D. STORM WATER PERMITS

1. Introduction

Purpose -- Storm water discharges associated with industrial sites and large municipalities will be required to have NPDES permits within the next few years. The first step in that process is to get

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applications from the affected municipalities and industries. Those applications can be solicited as soon as EPA completes the rules regarding storm water applications.

Priority -- Industrial sites which yield contaminated runoff will be the first priority. Next will be the municipal areas serving more than 250,000 people with storm sewers. The municipal areas which are serving between 100,000 and 250,000 people will be the next priority. They will not be addressed for at least two years after the higher priority areas are addressed.

Strategy to Accomplish

- After EPA promulgates their rules pertaining to the storm water application requirements, applications will be requested from the affected sources. Some of this activity may take place in FY89.
- As industrial facilities with NPDES permits come up for renewal, storm water issues will be considered and conditions put into the permits where appropriate.
- Where appropriate, the storm water discharges will be covered by a general permit. A storm water general permit may be issued during FY89, provided the EPA regulations for storm water discharges are promulgated soon enough.

Allocations

To be negotiated with each Region

Outputs

The Portland metropolitan area is probably the only area which serves more than 250,000 with storm sewers. It may be necessary to issue individual permits for the affected municipalities in this area. Issuance of a general permit should be able to handle most of the affected industries in the state.

E. UNDERGROUND INJECTION CONTROL (UIC)

1. Introduction

Purpose -- The purpose of the UIC program is to protect underground sources of drinking water from waste water injection activities. Since most of the sources of injection in the state have been inventoried, the next step is to evaluate the injection activities and to add control where additional control is needed. An initial

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assessment has been made. Some additional work in those areas where the contamination potential is greatest should be undertaken this fiscal year.

Priority -- The most significant UIC activities are on Water Pollution Control Facilities Permits. Reviewing monitoring reports, inspecting the sources and assuring compliance with the permit conditions will be the highest priority activity. Significant non-compliance (SNC) will be dealt with promptly and appropriately.

2. Strategy to Accomplish

- An inspection of all of the Class II wells and 50% of the permitted Class V wells will be inspected during FY89.
- DMRs from all permitted UIC activities will be reviewed and enforcement action taken when appropriate.
- As any additional Class IV wells become known, prompt action will be taken to eliminate those wells.
- As additional Class V wells are found, they will be included in the Class V inventory.

3. Allocation

To be negotiated with each Region

4. Outputs

There is currently 1 permitted Class II well. There will probably be at least one additional Class II well permitted before the end of FY89. At least one inspection will be made of each permitted Class II well. There are currently -- permitted Class V wells. At least -- of these wells, or 25%, will be inspected during FY89.

F. SECTION 401 CERTIFICATIONS

1. Introduction

Purpose -- Under Section 401 of the Clean Water Act, the Department must evaluate what water quality impact federal licensing activities have in the state and certify whether or not the proposed activity will violate water quality standards and other water quality provisions of the Clean Water Act. Of specific interest is the impact on Sections 301, 302, 306, and 307 of the Clean Water Act. Wetlands and their ability to affect

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water quality are often involved in the evaluation process.

Priority -- Wetlands and their ability to treat urban runoff and provide other water quality related benefits is considered a high priority for evaluation in the 401 process.

Strategy

- The Department will be cognizant of the water quality related wetland protection issues while reviewing projects requiring 401 certification.

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Oregon Underground Storage Tank Program
SEA Grant Application
Fiscal Year 1989
July 1, 1988 - June 30, 1989

INTRODUCTION

Oregon's Underground Storage Tank Program (UST) grant application describes how the Oregon Department of Environmental Quality (Department) is developing a statewide program to establish regulatory controls over an increasingly serious environmental problem, leaking underground tanks. Over the past two years, significant progress has been made in developing the necessary statutory and regulatory framework that will allow the Department to actively manage underground tanks. Even so, additional federal regulations due in June 1988 will pose new challenges as Oregon moves to incorporate these regulations into its existing UST program. Concurrently, regulations already adopted will require an increasing level of effort by UST program and regional staff to achieve successful implementation.

This grant application, for the first time, is being incorporated within the existing State/EPA grant which covers a wide range of Department programs. Previous UST grants have been based on the federal fiscal year and an adjustment in the current grant (FFY'88), resulting in a carryover of funds, is necessary.

This grant application contains the following sections:

- Background
- Program Description
- UST Workplan
- Staffing Requirements
- Resource Allocations

Included as attachments to this application are:

- Oregon's Interim UST Regulations
- UST Organization Chart

BACKGROUND

Investigations of leaking underground tanks are continuing and, indeed, have increased over the past year. In part, this is due to an increasing number of tanks that are being permanently decommissioned. There are several reasons that account for this activity, but a major reason appears to be an effort by the business community to eliminate a source of potential liability from future UST releases. To a considerable degree, attention on the UST problem has developed in response to a lack of available insurance, an awareness that tanks are leaking with increasing frequency, and the imminence of potentially costly regulations. Each of these factors is imposing additional demands for Department resources.

Underground Storage Tank Program
SEA Grant Application
Fiscal Year 1989
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PROGRAM DESCRIPTION

Significant progress has been made toward establishing a regulatory framework that will allow the Department to effectively manage the UST problem. Legislation passed by the Oregon Legislative Assembly in 1985 first addressed the UST problem by creating authority for the development of a statewide plan for underground tanks. In the 1987 Legislative Assembly, passage of SB 115 significantly added to the Department's ability to develop a comprehensive UST program. A major provision of this legislation gave to the Department the requisite authority to incorporate appropriate elements of the HSWA Subtitle I and SARA federal statutes. More specifically, SB 115 provided for:

1. Authorization for adoption by the Environmental Quality Commission of technical standards for new installations and existing operations of underground tanks;
2. Establishment of financial responsibility requirements for corrective actions and third party damages on owners and permittees of underground tanks. The bill would allow the Commission to create a state-administered insurance fund to meet financial responsibility requirements under the following conditions: (1) completion of a feasibility study for such a fund with recommendations made to the Legislature for establishment of the fund; (2) final approval by the Legislature for establishment of the fund.
3. Preemption of existing and future local underground storage tank programs which cover the same environmental regulations as the Department's state-wide program. The bill provides for local administration of the state program by contract with the Department;
4. Creation of a licensing program for underground storage tank installers and retrofitters, leak detection testors, and inspectors;
5. Fee schedules for the following:
 - a. Compliance fee payable by permittees of underground tanks to support program administration;
 - b. If a state insurance fund is created by the Commission, an insurance fee or premium payable by permittees to meet financial responsibility requirements;
 - c. Licensing fee payable by installers and retrofitters, leak detection testors, and inspectors to support the licensing program.

Status of the Oregon UST Program

During the previous grant period (FFY'88), the Department has continued to expand the scope of the UST program. Tasks completed include:

1. Initial development, evaluation, public review and comment, formal consideration and adoption by the Environmental Quality Commission of UST regulations incorporating provisions from the federal interim UST prohibitions and establishing a comprehensive statewide permitting system for USTs.
2. Initiation of a state insurance fund workgroup to review financial assurance mechanisms available through state legislation (first meeting scheduled for April 14, 1988).
3. Review of certification programs existing in other states and their potential applicability to Oregon. Possible certification approaches are currently being evaluated.
4. Data entry of notification forms received in 1985 is complete. Data for all existing tanks will be updated as new survey information becomes available (updated information is being provided through corrections made to the permit application process underway).
5. A permit application system has been developed and is currently in progress. All regulated USTs within Oregon are required to submit permit applications by May 1, 1988.
6. Proposed final federal UST regulations are being reviewed and evaluated. Initiation of the process to incorporate the final federal regulations into the Oregon UST program is expected to commence immediately following formal promulgation.
7. Positions are being filled in the regional offices to conduct in-field investigations of UST compliance (three positions scheduled for April 1, 1988).
8. Extensive public outreach efforts are being made to encourage and promote voluntary compliance. Tank owners are being made aware of the permitting requirements and all applicable regulations through publication and distribution of factsheets, Tankline newsletter, advisory board activities, participation of UST program staff in public events and association activities.
9. Technical training is being conducted by the UST program staff to make the regulated community aware of UST regulatory requirements. An in-house training program is being developed and will be presented in April 1988 for new regional staff.

Program Goals for FY '89

Although significant progress has been made in FFY'88 to establish a comprehensive regulatory program, much additional progress will be made in FY'89. Program development remains the highest priority, however, the

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Underground Storage Tank Program
SEA Grant Application
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addition of regional staff to pursue field enforcement activities and the implementation of the permitting program (allowing data verification and updating) indicate increasing resource demands in these areas. Development of regulations incorporating the final federal rules, and continuing a strong voluntary compliance program will both be major FY89 program activities. Areas that will be receiving increasing levels of effort in FY'89 include evaluation and possible establishment of an insurance fund, review of certification issues, and development of guidelines for establishment of local UST programs.

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State of Oregon FY'89
Underground Storage Tank Program Workplan

Task 1: STATE PROGRAM DEVELOPMENT/IMPLEMENTATION

Regulation Development

- A. Review final federal UST regulations (to be available June 1988) and identify additional statutory authorities that may be required to implement corollary state regulations
- B. Develop legislative concepts necessary to adopt state program regulations meeting the intent of the final federal regulations
- C. Provide technical information to assist legislative consideration of measures related to UST program
- D. Draft proposed final state UST rules to ensure consistency with final federal regulations
- E. Review draft final state rules with UST Advisory Committee
- F. Prepare staff report to Environmental Quality Commission to request authorization for public hearing on proposed rules
- G. Conduct public hearings on proposed final regulations
- H. Prepare summary of and response to comments received during public hearing and public comment period.

Program Management

- A. Prepare/review operating plan/budget
- B. Evaluate the federal financial responsibility requirements and implementation options available. Review with UST Advisory Committee
- C. Evaluate applicability and options available for development of a certification program. Prepare recommendations and review with UST Advisory Committee and Department staff.
- D. Coordinate and provide staff support to the UST advisory committee to provide consistent and comprehensive public involvement in the development of regulations and program activities
- E. Continue to improve the tank database processing notification forms, by upgrading the system software and updating tank databased on new tank information received through the statewide tank permitting program
- F. Continue to develop a data management tracking system for compliance, corrective action and enforcement activities
- G. Management and coordination of federal grant for UST program including grant preparation, monitoring and reporting

- H. Develop permit and invoice system to update tank information and support program funding

Program Implementation

Conduct permit and fee program

Task 2: PROGRAM APPROVAL APPLICATION

- A. Prepare action plan for state program approval
- B. Begin preparation of draft program authorization application

Task 3: COMPLIANCE MONITORING AND ENFORCEMENT

- A. Develop an enforcement policy guidance document to outline levels of enforcement to be taken by the Department
- B. Utilize database and other resources (contact with tank installers, etc.) to locate, where practical, violations of the federal interim prohibition (codified as Oregon Administrative Rule 340-150-120)
- C. Conduct field investigations to enforce violations of interim state regulations and, when applicable, final tank regulations
- D. Maintain a log of field activities including but not limited to: Tank installations/replacements, tank decommissionings, tank leaks and cleanup actions, enforcement actions of tank regulations

Task 4: UPDATING OF FY'88 STATE STRATEGY

- A. Review existing strategy outline and obtain EPA comments
- B. Develop new strategy based on comments received from EPA

Task 5: ESTABLISH COMMUNICATION BETWEEN STATE HQ AND REGIONAL OFFICES

- A. Conduct informal monthly EPA Region/DEQ program assessment meetings to review UST activities conducted by the state
- B. Maintain frequent communication to expedite program decision-making

Task 6: VOLUNTARY COMPLIANCE

- A. Communicate information to the public and regulated community on requirements of the UST program by:
 - (1) distribution of department publications providing summary and detailed information on the UST regulatory program

- (2) presentations given by department staff at appropriate technical and public information forums
- (3) participate in and/or coordinate seminars to disseminate information on the state UST program
- (4) maintain communication with local and county governments
- (5) public outreach to bring unregistered tanks into system

Task 7: TECHNICAL ASSISTANCE AND TRAINING

- A. Develop and conduct introductory training programs for new UST regional and program staff
- B. Revise informational slide presentation on state UST program for use by program staff
- C. Develop and distribute written programmatic information to the regulated community and members of the interested public (e.g., Tankline, program brochures, guidance documents, etc.)
- D. Provide technical training for UST program and regional staff, as required, to maintain and enhance personal expertise
- E. Provide technical assistance to local communities consistent with legislative mandate

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Staffing Requirements for FY'89
Oregon Underground Storage Tank Program

Federally Funded Positions

<u>Position</u>	<u>FTE</u>	<u>Funded Amount</u>
Senior Environmental Analyst	1.00	65,381
Senior Environmental Engineer	1.00	71,590
Clerical Specialist	1.00	28,828
Environmental Analyst 1	0.50	22,620
Environmental Specialist 2	<u>0.50</u>	<u>23,598</u>
Total	4.00	\$212,017

State Funded Positions

<u>Position</u>	<u>FTE</u>	<u>Funded Amount</u>
Environmental Manager B	0.33	28,311
Environmental Analyst	0.40	18,096
Environmental Analyst	0.40	18,096
Environmental Specialist 2	<u>0.17</u>	<u>8,023</u>
Total	1.28	72,526
Total Program Funding		\$284,543
Total FTE	5.28	

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RESOURCE ALLOCATION FOR FY'89
OREGON UNDERGROUND STORAGE TANK PROGRAM

<u>PROGRAM ELEMENT</u>	<u>FTE</u>	<u>RESOURCES</u> <u>Expenditures</u>	<u>FUNDING</u>
<u>State Program Development (Task 1)</u>			
Regulation Development			
Legislative Concepts			
Final Rules			
State Insurance Fund			
Certification			
Data Management/Updating			
Program Management/Coordination			
Staff Requirements	2.0	17,158 104,066	State Federal
<u>State Program Approval Application</u> (Task 2)			
Action Plan			
Begin Draft Application Document			
Staff Requirements	0.23	2,573 9,731	State Federal
<u>Compliance Monitoring and</u> <u>Enforcement (Task 3)</u>			
Develop Enforcement Policy			
Identify and Investigate			
Violations			
Staff Requirements	1.37	26,599 33,096	State Federal
<u>Updating of the FY'89</u> <u>State Strategy (Task 4)</u>			
Develop modifications to			
state UST program strategy			
Staff Requirements	0.07	1,716 3,269	State Federal

PROGRAM ELEMENT	FTE	RESOURCES Expenditures	FUNDING
<u>Establish Communication Between State HQ and Regional Offices (Task 5)</u>			
Conduct Monthly Meetings Maintain Frequent Liaison			
Staff Requirements	0.12	1,716 6,848	State Federal
 <u>Voluntary Compliance (Task 6)</u>			
Publications Presentations Informal Communication			
Staff Requirements	1.22	21,048 42,006	State Federal
 <u>Technical Assistance and Training (Task 7)</u>			
Workshops Training program development Training presentations Informal Training			
Staff Requirements	<u>0.27</u>	1,716 <u>13,001</u>	State Federal
Totals	5.28	\$284,543	
 Total fund distribution:			
	Federal Funds	\$212,017	
	State Funds	72,526	

Please Note: Staff requirements include personal services, other personal services, services and supplies, indirect costs and capital outlay.

Draft Hazardous Waste Work Plan

Detailed D R A F T Hazardous Waste Workplan to follow.

HAZARDOUS WASTE

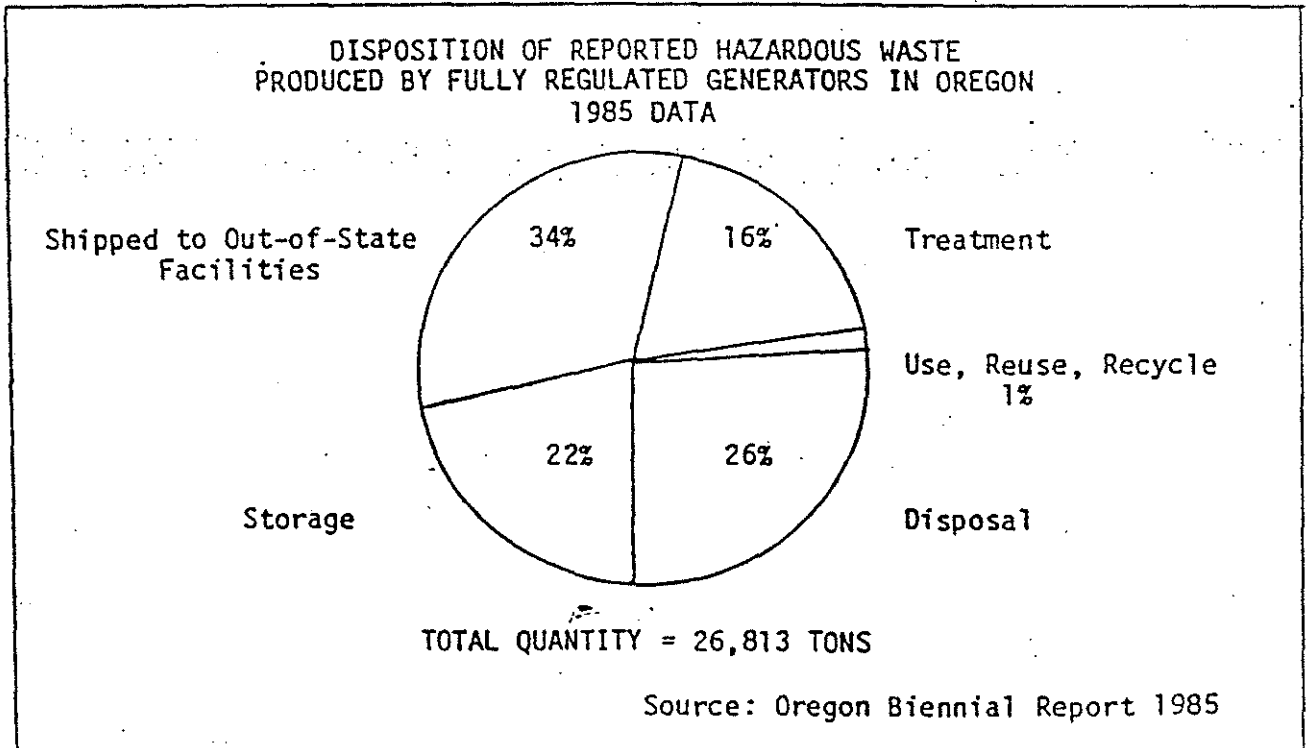
*distributed to
DEA -
Kathi Futornick
Gary Calaba
Mary Wahl
Dennis A-Dickerson*

Program Goal:

Hazardous Wastes, as defined by the Environmental Quality Commission, are produced by a variety of industrial and commercial operations. Approximately 206 fully regulated facilities in Oregon generated and reported the amount of hazardous waste produced in 1985. Small quantity generators also produced hazardous wastes, but they were not required to report.

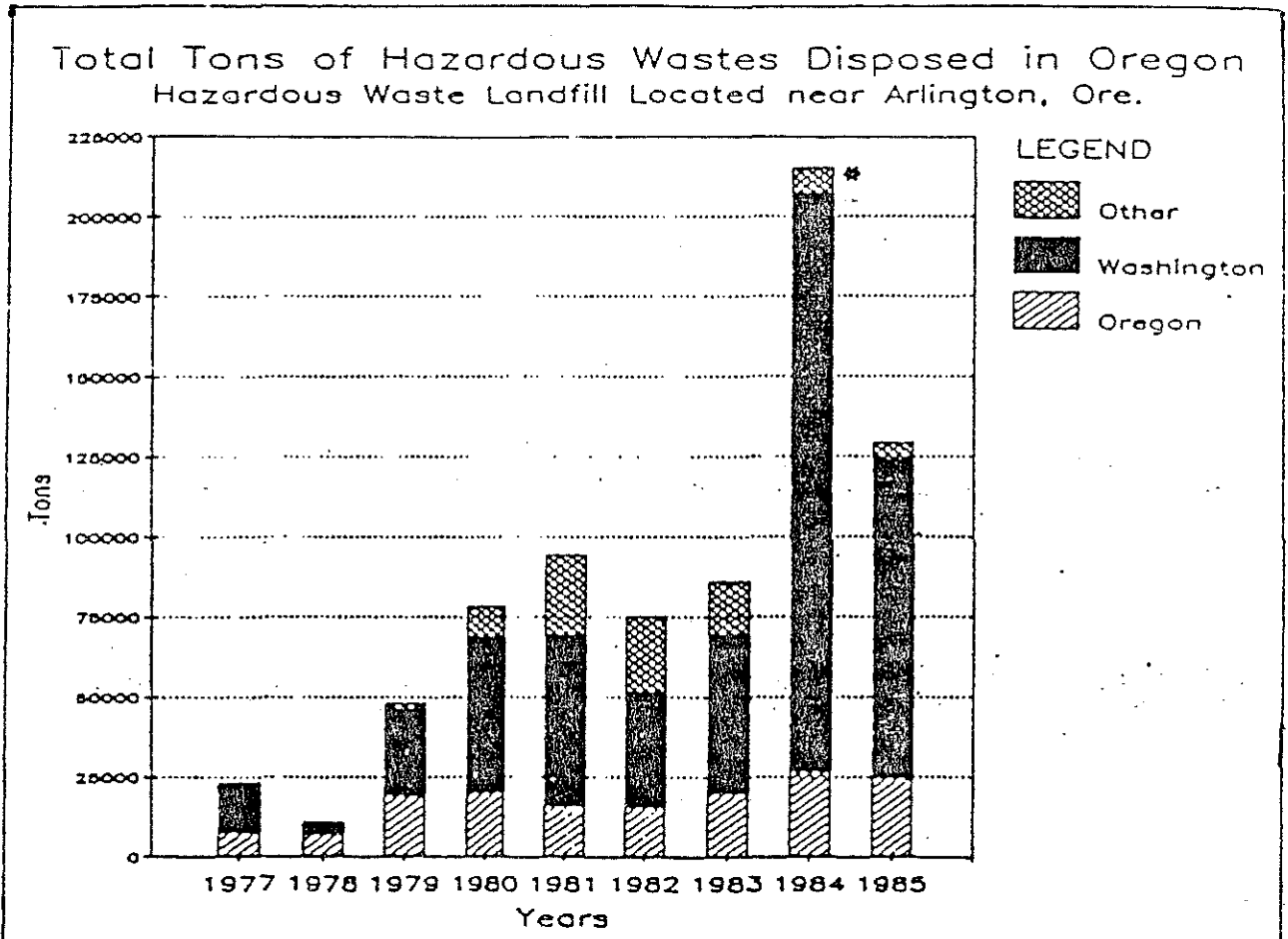
The disposition of hazardous wastes generated in Oregon is illustrated in Figure 3 below.

Figure 3



A hazardous waste disposal site is located in Arlington and operated by a private licensee. A final RCRA Part B permit was issued jointly by the Environmental Quality Commission, DEQ, and EPA in March, 1988 for operation of the facility. ~~This site provides the state with a basic tool to implement its comprehensive hazardous waste regulatory program.~~ The Arlington site receives wastes from outside of Oregon as well as from Oregon companies, as shown in Figure 4.

Figure 4



*THE LARGE INCREASE FOR 1984 IS ATTRIBUTABLE TO A SUPERFUND CLEANUP IN WASHINGTON STATE

Since 1971, the Oregon Legislature has improved and expanded the Department of Environmental Quality's authority and regulatory tools for hazardous waste management. Today, a comprehensive regulatory framework exists and provides which provides not only "cradle-to-grave" control over the generation, transport, and disposal of hazardous wastes, but includes authority to address problems associated with past waste handling practices.

Under the Resource Conservation and Recovery Act of 1976 (RCRA), state hazardous waste programs may be approved by the federal government to operate in lieu of the federal program. Oregon was granted Final Authorization for the base hazardous waste program on January 31, 1986. The state received statutory authority through the 1987 state legislature to develop rules and seek authorization for Hazardous and Solid Waste Act Amendments (HSWA) of 1984.

The 1987 Oregon Legislature passed Senate Bill 122 creating an Oregon State Superfund Program to clean up hazardous waste sites. The bill also established the Hazardous Substances Remedial Action Fund to cover the state's cleanup cost. The legislation provides the state with authority and funding for a remedial action program to address the need for clean-up at non-NPL sites and fully participate in the federal Superfund program. During FY 88, the state entered into cooperative agreements for core program development, management assistance at NPL sites, to carry out preliminary assessments, and, eventually site investigations for sites listed on the CERCLA Inventory.

The Department of Environmental Quality has launched a new statewide program for the regulation of underground storage tanks (USTs) used to store regulated substances including petroleum products and most hazardous chemicals. The HSWA amendments of 1984 established a national program to detect leaks from existing USTs and reduce, through prevention measures, leaks from new tank installations. The 1985 Oregon Legislature authorized DEQ to develop and implement a uniform, statewide underground storage tank program and seek authorization to operate a state program in lieu of the federal program. The state's program has initially focused on notifications, developing a fee system to support the program, and providing public outreach.

The 1987 Legislature expanded the state's authority through SB 115 which authorized the Environmental Quality Commission to adopt technical standards for new installations and existing operations of underground tanks. The bill also provided for establishment of financial responsibility requirements for corrective actions. The new legislation provides the state with the authority to develop an UST program consistent with RCRA Subtitle I and SARA and meet EPA requirements for state program approval.

PRIORITIES

RCRA - DEQ will continue to develop program capabilities and to seek authorization for HSWA amendments.

- Emphasize inspections that focus on the requirements of the land ban, California list and small quantity generators
- Emphasize facility closures
- Emphasize waste minimization and waste reduction
- Continue to process permits and to emphasize alternatives to land disposal of hazardous waste
- ~~Continue to emphasize~~ ^{Examine} cross-media activities relating to discharges of hazardous waste to POTWS and to solid waste landfills

- Increase enforcement capability by adopting corrective action rules for land disposal activities
- Continue to develop rules related to HSWA
- Continue to train staff
- Coordinate training efforts with the EPA to continue to build state capability in the areas of land ban inspections and corrective action
- Emphasize the continuing development of data management capability
- Continue to develop a public education and technical assistance capability.
- *undertake a comprehensive generator update program*

Cleanup of National Priorities List Sites

- Implementation of the remedial action phase for the United Chrome Products site.
- Initiation and substantial progress toward completion of the design and construction phases at the Gould Battery and the Martin Marietta sites.
- Initiation and substantial progress toward completion of the remedial investigation and feasibility study for the Teledyne Wah Chang site.
- Initiation and substantial progress toward completion of the remedial investigation for the Allied Plating site.

Enhanced State Participation in Federal Superfund Program

- Maintain and renew cooperative agreements for management assistance on NPL sites, preliminary assessments, site inspection, and core program.
- State lead at Joseph Forest Products of site becomes an NPL site.
- State participation in other activities to be identified by EPA regulations on state involvement.

Strengthen DEQ Remedial Capability

- Develop non-site-specific contract, accounting, tracking, oversight capability.
- Develop level of cleanup rules.
- Lab capability
- Staff recruitment and training.
- Contractor capability.

Underground Storage Tank Program Development

- Develop regulations incorporating the final federal rules
- Develop guidelines for establishment of local UST programs.
- Develop staff capability to implement enforcement activities and carry out permitting program.

Establish UST Remedial Action Program

- Develop and maintain cooperative agreements for spending federal UST Trust Fund on Tank cleanups.
- Funding and staffing for state UST cleanup fund.
- Develop a joint compliance/corrective action data management tracking system for USTs.

STRATEGY

RCRA

The Department of Environmental Quality, through the issuance of permits and conduct of an extensive compliance inspection, monitoring and enforcement program, will continue to implement the state program in FY 89. Under Final Authorization, the state program operates in lieu of the base federal program for those requirements promulgated prior to the HSWA Amendments of 1984. DEQ will develop implementing rules and ~~prepare~~ ^{continue} application for HSWA authorization.

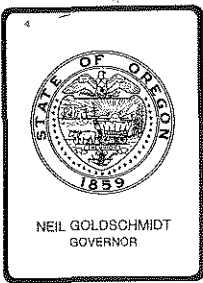
EPA and DEQ will continue to focus on hazardous waste management system alternatives to land disposal during FY 89. The HSWA amendments included a schedule for phasing out the land disposal of untreated hazardous wastes. Currently, there are few options available for hazardous waste handlers because suitable alternative capacity is very limited. The development of policy and regulatory options will be a high priority for EPA and all the states in Region 10 in FY 89.

SUPERFUND

The State of Oregon will continue to develop program capability to fully participate in the federal Superfund program and strengthen the state's remedial action program. This will include continued staff recruitment and training, lab support, contract capability, and new rulemaking. Participation in the Federal Superfund program will continue through cooperative agreements for management assistance on NPL sites and conducting preliminary assessments for sites listed on the CERCLA Inventory. The State will continue to develop a program to conduct investigations, require clean-up by responsible parties, and take remedial action at uncontrolled hazardous waste sites.

UNDERGROUND STORAGE TANKS

The State has adopted regulations that establish a basic UST program, including a permit system, interim requirements, UST decommission criteria, and notification requirements. Additional regulatory activity is expected in FY 1989 (ie, financial responsibility, leak detection, corrective action, etc.). The State will work toward UST program approval by EPA in FY 89. Staff recruitment will be ongoing, and coordination between DEQ Headquarters and Regional Offices will be a priority activity. Support from the federal Leaking Underground Storage Tank Trust fund will continue under a State/EPA cooperative agreement with program development and establishing cleanup criteria as priority activities.



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item Q, April 29, 1988, EQC Meeting

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

Background and Problem Statement

The Department is requesting that the Commission issue a compliance order to the City of Brookings. 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 Brookings, a coastal community of about 3500 located in southwest Curry County near the California border, operates and maintains sewage collection, treatment, and disposal facilities. The sewage collection system receives large quantities of extraneous flow during storm periods. These high flows occur even though past maintenance efforts have reportedly identified and corrected structural defects in the collection system. During these storm periods, the sewage treatment plant becomes hydraulically overloaded, resulting in reduced detention times in the system and lower treatment efficiency. The sewage treatment plant, consisting of primary treatment units constructed in the late 1950s and secondary treatment units constructed in 1973, also has design and operational deficiencies that reduce treatment capability. Once treated, the sewage is discharged to the Pacific Ocean via a short outfall line. This outfall is exposed during low tides and the treated sewage runs across the beach before it enters the ocean.

As a result of high flows and the limitations of its sewage treatment facilities, Brookings violates its NPDES permitted discharge limits (Attachment A). Monthly average biochemical oxygen demand (BOD) and suspended solids (SS) concentration limits were violated 23 and 12 percent of the time respectively from January 1983 to January 1988. Monthly average mass loading limits for BOD and SS were violated 57 and 43 percent of the time respectively during this same period. Attachment B is a graphical summary of effluent quality and effluent limit violations.

Schedule C of the existing NPDES permit requires the City to replace the currently inadequate disinfection facilities by July 1, 1988. Schedule C also requires an extension or relocation of the ocean outfall to a suitable

depth and location by July 1, 1988. These deadlines will not be met. The community, in coordination with the Department, has conscientiously decided to pursue a major upgrade and expansion of its entire sewage treatment and disposal facilities. The upgrade and expansion will take place according to a revised compliance schedule.

The City of Brookings violates provisions of the Clean Water Act by exceeding NPDES permitted discharge limits. The Environmental Protection Agency (EPA) introduced the National Municipal Policy (NMP) to address such violations, and to achieve the water quality objectives of the Act. The NMP, introduced in 1984, 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 than 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.

City officials have initiated work to achieve compliance with 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. An extension of the effluent outfall from its existing location out into the ocean where adequate dilution and mixing would occur is part of the plan's recommended alternative. The facilities plan is currently under review by the Department.

The City proposes to finance the alternative recommended in the facilities plan with local funds and an EPA sewerage works grant. A bond election is planned for securing local funds for the project and the grant application is being completed. To qualify for an EPA sewerage works grant, however, EPA maintains that the National Municipal Policy would require that the City be under an enforceable compliance schedule since construction activities would extend beyond July 1, 1988.

Brookings has completed a project implementation schedule as part of the facilities planning process. The implementation schedule identifies planning, design, and construction tasks and the expected dates for completing these tasks. The schedule would result in the community obtaining operational level of acceptable sewage collection, treatment, and disposal facilities according to the schedule in Attachment C.

Alternatives and Evaluation

The Department has identified the following alternatives for the Commission's consideration. Each alternative would address the City of Brookings' noncompliance with provisions of the Clean Water Act.

1. Direct the Department to modify the existing NPDES permit. The modified permit would include interim and final effluent limits and a revised compliance schedule that identifies dates to complete specific tasks that would bring the City into compliance.

Alternative 1 would not involve an EQC order or further EQC action. The NPDES permit would be used as a compliance mechanism and the City would be expected to meet the revised compliance schedule and conditions outlined in the permit.

The Department has been advised by EPA, however, that 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 prohibits them from awarding sewerage grants to municipalities not meeting secondary treatment standards, where construction of their 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 Brookings 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 implies that the City of Brookings is being uncooperative and it would not necessarily expedite compliance. City officials have been conscientiously trying to find a solution to their sewage treatment and disposal problems. They have submitted a facilities plan that addresses their sewerage needs and outlines an implementation schedule for coming into compliance with the Clean Water Act. They are also willing to contribute local funds and are pursuing a federal grant in order to pay for the required wastewater treatment facilities.

3. Issue a Stipulated Consent Agreement and Final Order to the City of Brookings. 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 C).

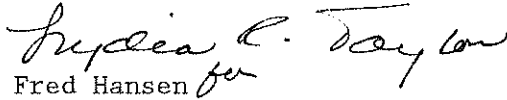
The Department staff recommends Alternative 3 for the following reasons: (1) it recognizes the Commission's authority to enforce water quality objectives of the State under ORS 468.090 et. seq., (2) this approach has been used in the past to address similar water quality violations by other municipalities, (3) the Commission Order recognizes that the terms of the existing NPDES permit cannot be met, (4) Commission Orders have satisfied EPA in the past with regard to the National Municipal Policy and compliance with the Clean Water Act, (5) the City of Brookings is agreeable to the Order, and (6) the Order would act to positively reinforce the City's ongoing sewer system planning efforts and act as a commitment by the city to attain a long-term solution to its sewage treatment and disposal needs in a timely manner.

Summation

1. The City of Brookings violates provisions of the Clean Water Act by failing to meet its NPDES permit requirements. The NPDES permit limits are exceeded due to limitations of the sewage treatment facilities and the occurrence of extraneous flow into the sewage collection system during storm periods.
2. The City of Brookings discharges treated effluent to the Pacific Ocean via an ocean outfall line. The outfall line is exposed during low tides and treated sewage runs across the beach before it enters the ocean.
3. City officials have submitted a facilities plan that outlines wastewater treatment and disposal options. They are pursuing local and federal funding to pay for an upgrade of their sewage treatment plant and an extension of their outfall line.
4. Each of the alternatives outlined in this report for addressing Brookings' compliance problems would involve setting interim and final effluent limits and establishing a compliance schedule. The first alternative would do this through the NPDES permit process; the second through litigation and a court order; and the third through an EQC order.
5. The Department staff prefer the issuance of an EQC order since it would address EPA concerns over noncompliance and the National Municipal Policy, address Department concerns about the improper outfall location, 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 discussed in Alternative 3 by signing the document prepared as Attachment C.


Fred Hansen *for*

Attachments: (3)

- A. NPDES permit number 100197
- B. Summary of NPDES permit violations Jan. 1983 to Oct. 1987
- C. Environmental Quality Commission Compliance Order

Kenneth M. Vigil:hs
(229-5622)
WH2538
April 7, 1988

Permit Number: 100197
 Expiration Date: 3-31-91
 File Number: 11297
 Page 1 of 4 Pages

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT

Department of Environmental Quality
 522 Southwest Fifth Avenue, Portland, OR
 Mailing Address: Box 1760, Portland, OR 97207
 Telephone: (503) 229-5696

Issued pursuant to ORS 468.740 and The Federal Clean Water Act

ISSUED TO:

City of Brookings
 898 Elk Drive
 Brookings, OR 97415

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Domestic Sewage	001	Pacific Ocean

PLANT TYPE AND LOCATION:

Trickling Filter STP South
 of Wharf street and east of road
 to Chetco Point

RECEIVING SYSTEM INFORMATION:

Major Basin: South Coast
 Minor Basin: Chetco
 Receiving Stream: Pacific Ocean
 County: Curry
 Applicable Standards: OAR 340-41-325

Issued in response to Application No. OR-202035-4 received July 30, 1984.

This permit is issued based on the land use findings in the permit record.


 Fred Hansen, Director

JUN 20 1986
 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:

	<u>Page</u>
Schedule A - Waste Disposal Limitations not to be Exceeded...	2
Schedule B - Minimum Monitoring and Reporting Requirements...	3
Schedule C - Compliance Conditions and Schedules.....	3-4
Schedule D - Special Conditions.....	4
General Conditions.....	Attached

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. Waste Discharge Limitations not to be Exceeded After Permit Issuance.

Outfall Number 001

Parameter	Average Effluent Concentrations		Monthly Average lb/day	Weekly Average lb/day	Daily Maximum lbs
	Monthly	Weekly			

May 1 - October 31:

BOD	30 mg/l	45 mg/l	250	375	500
TSS	30 mg/l	45 mg/l	250	375	500
FC per 100 ml	200	400			

November 1 - April 30:

BOD	30 mg/l	45 mg/l	250	375	500
TSS	30 mg/l	45 mg/l	250	375	500
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	1.0 MGD

2. 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 340-41-325 except in the following defined mixing zone:

The allowable mixing zone shall not exceed that portion of the Pacific Ocean within a 300 foot radius of 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)

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Total Flow (MGD)	Daily	Continuous Recorder
Quantity Chlorine Used	Daily	
Effluent Chlorine Residual	Daily	Grab
BOD-5 (influent)	2 Per Week	Composite
BOD-5 (effluent)	2 per week	Composite
TSS (influent)	2 per week	Composite
TSS (effluent)	2 per week	Composite
pH (influent and effluent)	3 per week	Grab
Fecal Coliform (effluent)	1 per week	Grab
Average Percent Removed (BOD & TSS)	Monthly	Calculation
Sludge analysis as defined in OAR 340-50-035 (2) (a)	Once Annually	Grab

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. By July 1, 1986, the permittee shall submit to the Department a detailed sludge management plan in accordance with requirements of OAR 340, Division 50.
2. On or before December 1, 1986, the permittee shall submit a report which identifies known sewerage system bypass locations and a plan for estimating the frequency, duration and quantity of sewage bypassing treatment.
3. On or before April 30, 1987, the permittee shall submit to the Department a plan which addresses relocation of the existing ocean outfall. The plan must identify alternatives for extension or relocation of the outfall to a suitable depth and location in order to comply with Schedule A of this permit and Oregon's Water Quality Standards. The plan must also include a correction schedule that culminates in relocation of the ocean outfall no later than July 1, 1988.

Any relocation, changes or modifications to the existing ocean outfall must be approved by the Department, in writing, prior to construction of modification.

4. On or before April 30, 1987, the permittee shall submit to the Department a plan which addresses alternatives for replacement of existing disinfection facilities. The disinfection facilities shall be upgraded or replaced on or before July 1, 1988.
5. On or before April 30, 1987, the permittee shall submit a facilities plan to the Department which evaluates the collection and treatment system and addresses how the City intends to finance and implement improvements to assure compliance with the effluent limitations set forth in Schedule A.
6. The permittee shall implement a program to identify and reduce excessive infiltration/inflow (I/I) into the Brookings sewerage system (as identified in the City's March, 1979 infiltration/inflow study) and any adjunct sewerage collection systems.

No later than January 15 of each year, the permittee shall submit to the Department a report of all I/I work completed the previous calendar year. Included shall be a proposal for the I/I work scheduled for the next calendar year. This report and proposal must address the Brookings and Harbor Sanitary District sewerage collection systems.

7. The permittee shall submit an annual report on the number of new connections into the Brookings and Harbor Sanitary District sewerage collection system(s).

This report shall be provided for each calendar year following permit issuance. The report is due on or before January 15 following each calendar year.

8. Effective the issuance date of this permit, the permittee is prohibited from accepting septage wastes in the sewerage collection system or wastewater treatment facility.
9. The permittee is expected to meet the compliance dates which have been established in this schedule. Either prior to or no later than 14 days following any lapsed compliance date, the permittee shall submit to the Department a notice of compliance or noncompliance with the established schedule. The director may revise a schedule of compliance if he determines good and valid cause resulting from events over which the permittee has little or no control.

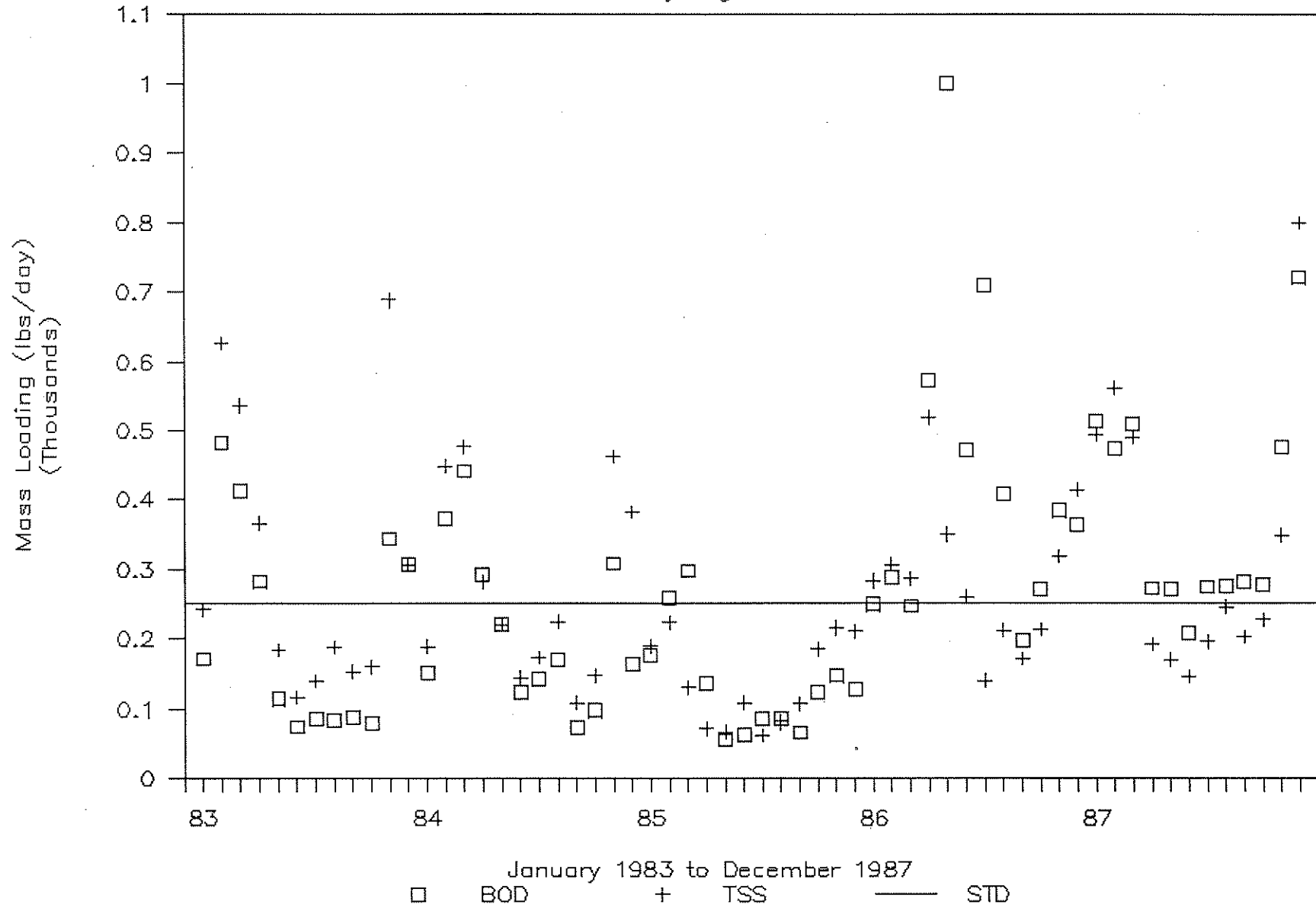
SCHEDULE D

Special Conditions

1. Prior to discharging any wastes into the waters of the state, the permittee shall provide waste collection, treatment and disposal facilities which are adequate to meet the standards of Schedule A of this permit with a reasonable factor of safety.

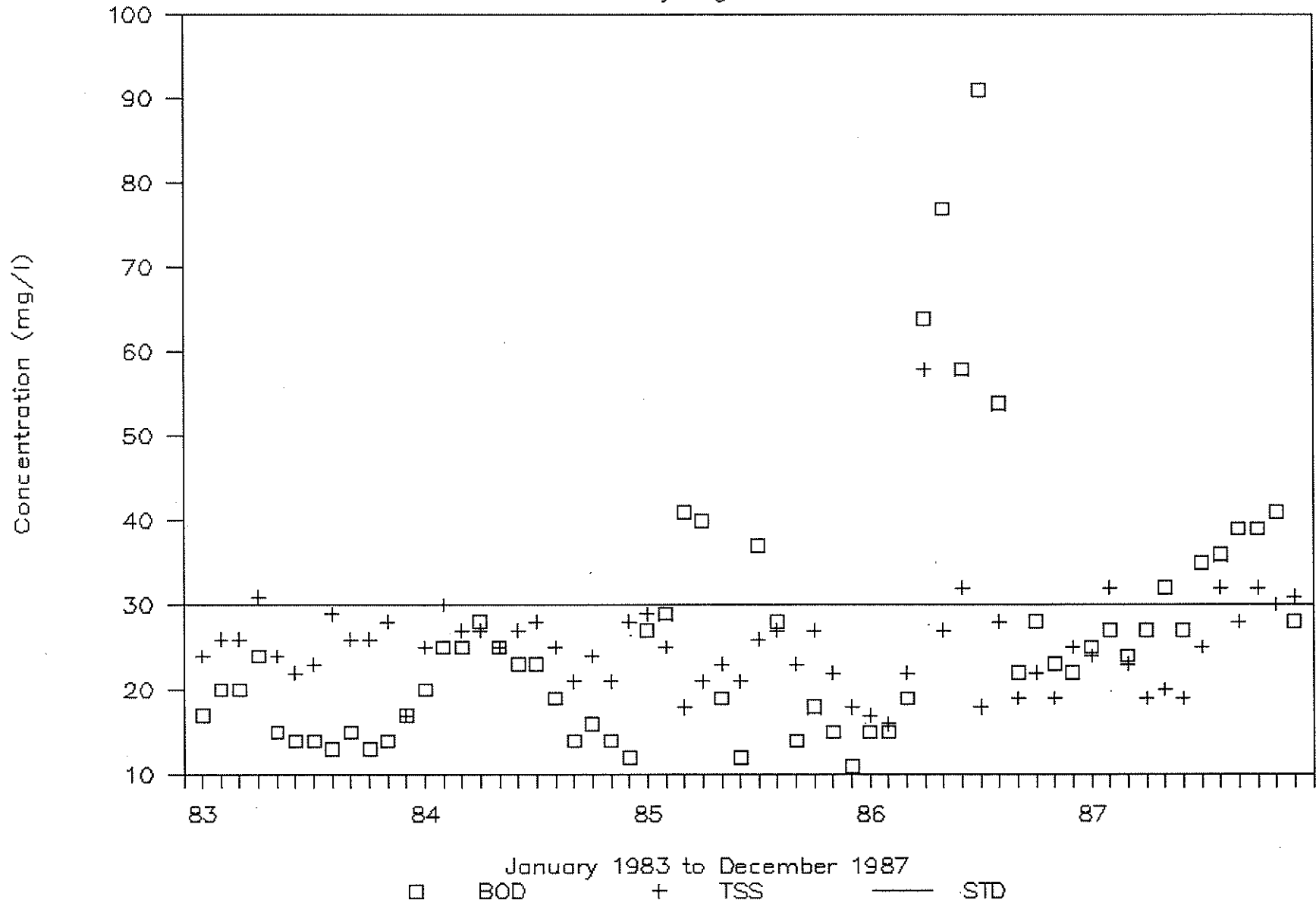
BROOKINGS EFFLUENT BOD/TSS

Monthly Avg. Values



BROOKINGS EFFLUENT BOD/TSS

Monthly Avg. Values



BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)	
OF THE STATE OF OREGON,)	
)	
Department,)	
)	STIPULATION AND FINAL ORDER
v.)	No. WQ-SWR-88-35
)	Curry County
)	
CITY OF BROOKINGS,)	
)	
Respondent.)	

WHEREAS:

1. On June 20, 1986, the Department of Environmental Quality ("Department") issued National Pollutant Discharge Elimination System ("NPDES") Waste Discharge Permit Number 100197 ("Permit") to City of Brookings, ("Respondent") pursuant to Oregon Revised Statutes ("ORS") 468.740 and the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes the Respondent to construct, install, modify or operate waste water treatment control and disposal facilities ("facilities") and discharge adequately treated waste waters into the Pacific Ocean, waters of the State, in conformance with the requirements, limitations and conditions set forth in the Permit. The Permit expires on March 31, 1991.

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1 5. Respondent presently is capable of treating its effluent so as to
 2 meet the following effluent limitations, measured as specified in the
 3 Permit:

<u>Parameter</u>	<u>Average Effluent Concentrations</u>		<u>Monthly Average lb/day</u>	<u>Effluent Loadings*</u>	
	<u>Monthly</u>	<u>Weekly</u>		<u>Weekly Average lb/day</u>	<u>Daily Maximum lbs</u>
BOD	45 mg/l	60 mg/l	375	500	600
TSS	45 mg/l	60 mg/l	375	500	600
FC per 100 ml	200	400			

<u>Other Parameters (year-around)</u>	<u>Limitations</u>
pH	Shall be within the range 6.0 - 9.0.
Average dry weather flow to the treatment facility	1.0 MGD

*Effluent loading limits do not apply when flow to the treatment facility exceeds 1.5 MGD.

6. The Department and Respondent recognize that the Environmental Quality Commission has the power to impose a civil penalty and to issue an abatement order for violations of conditions of the Permit. Therefore, pursuant to ORS 183.415(5), the Department and Respondent wish to settle those past violations referred to in Paragraph 3 and to limit and resolve the future violations referred to in Paragraph 4 in advance by this stipulated final order.

7. This stipulated final order is not intended to settle any violation of any interim effluent limitations set forth in Paragraph 5 above. Furthermore, this stipulated final order is not intended to limit, in any way, the Department's right to proceed against Respondent in any

1 forum for any past or future violation not expressly settled herein.

2 NOW THEREFORE, it is stipulated and agreed that:

3 A. The Environmental Quality Commission shall issue a final order:

4 (1) Requiring Respondent to comply with the following schedule:

5 (a) By October 1, 1988, arrange for financing of new or upgraded
6 sewage treatment and disposal facilities and notify the
7 Department in writing when such has been accomplished.

8 (b) Relocate or extend the existing ocean outfall, as follows:

9 (i) By October 1, 1988, submit draft engineering plans and
10 specifications to the Department.

11 (ii) By January 1, 1989, submit final engineering plans and
12 specifications to the Department.

13 (iii) By May 1, 1989, begin construction.

14 (iv) By September 1, 1989, complete construction and begin
15 operation.

16 (c) Construct and operate new or upgraded sewage treatment
17 facilities, as follows:

18 (i) By February 1, 1989, submit draft engineering plans and
19 specifications.

20 (ii) By June 1, 1989, submit final engineering plans and
21 specifications.

22 (iii) By March 1, 1990, begin construction.

23 (iv) By September 1, 1991, complete construction.

24 (v) By December 1, 1991, attain operational level and meet
25 all waste discharge limitations of the NPDES waste
26 discharge permit in effect at that time.

1 (2) Requiring Respondent to meet the interim effluent limitations set
2 forth in Paragraph 5 above until December 1, 1991.

3 (3) Requiring Respondent to comply with all the terms, schedules and
4 conditions of the Permit, except those modified by Paragraph A(2)
5 above and except for Conditions 3 and 4 of Schedule C of the
6 Permit, or of any other NPDES waste discharge permit issued to
7 Respondent while this stipulated final order is in effect.

8 (4) Requiring Respondent, should Respondent fail to comply with the
9 above schedule, to cease allowing new connections to Respondent's
10 sewage collection system upon written requirement of the
11 Department.

12 B. Regarding the violations set forth in Paragraph 3 and 4 above,
13 which are expressly settled herein without penalty, Respondent and
14 Department hereby waive any and all of their rights to any and all notices,
15 hearings, judicial review, and to service of a copy of the final order
16 herein. Department reserves the right to enforce this order through
17 appropriate administrative and judicial proceedings.

18 C. Regarding the schedule set forth in Paragraph A(1) above,
19 Respondent acknowledges that Respondent is responsible for complying with
20 that schedule regardless of the availability of any federal or state grant
21 monies.

22 D. Respondent acknowledges that it has actual notice of the contents
23 and requirements of this stipulated and final order and that failure to
24 fulfill any of the requirements hereof would constitute a violation of this
25 stipulated final order. Therefore, should Respondent commit any violation
26 of this stipulated order, Respondent hereby waives any rights it might have

1 to an ORS 468.125(1) advance notice prior to the assessment of civil
2 penalties. However, Respondent does not waive its rights to an ORS
3 468.135(1) notice of assessment of civil penalty.

4 RESPONDENT

5
6 _____
7 Date (Name _____)
8 (Title _____)

9
10 DEPARTMENT OF ENVIRONMENTAL QUALITY

11
12 _____
13 Date Fred Hansen
14 Director

14 FINAL ORDER

15 IT IS SO ORDERED:

16 ENVIRONMENTAL QUALITY COMMISSION

17
18 _____
19 Date James E. Petersen, Chairman

20 _____
21 Date Mary V. Bishop, Member

22 _____
23 Date Wallace B. Brill, Member

24 _____
25 Date Arno H. Denecke, Member

26 _____
Date William P. Hutchison, Jr., Member

6TH FL

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STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMO

TO: Director's Office
Environmental Quality Commission

DATE: April 19, 1988

FROM: Ken Vigil, Water Quality Division

SUBJECT: Agenda Item Q (Brookings' Order), Attachment C

The dates for the compliance schedule in Agenda Item Q, Attachment C have been finalized with the City of Brookings. The staff report on this agenda item that was mailed to the Commission did not have dates included. Please substitute the updated Attachment C in the staff report and inform the Commission of the new information. The original order has been sent to the City for signature.

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BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY,)	
OF THE STATE OF OREGON,)	
)	
Department,)	
)	STIPULATION AND FINAL ORDER
v.)	No. WQ-SWR-88-35
)	Curry County
)	
CITY OF BROOKINGS,)	
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Respondent.)	

WHEREAS:

1. On June 20, 1986, the Department of Environmental Quality ("Department") issued National Pollutant Discharge Elimination System ("NPDES") Waste Discharge Permit Number 100197 ("Permit") to City of Brookings, ("Respondent") pursuant to Oregon Revised Statutes ("ORS") 468.740 and the Federal Water Pollution Control Act Amendments of 1972, P.L. 92-500. The Permit authorizes the Respondent to construct, install, modify or operate waste water treatment control and disposal facilities ("facilities") and discharge adequately treated waste waters into the Pacific Ocean, waters of the State, in conformance with the requirements, limitations and conditions set forth in the Permit. The Permit expires on March 31, 1991.

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2. Condition 1 of Schedule A of the Permit does not allow Respondent to exceed the following waste discharge limitations after the Permit issuance date:

Outfall Number 001

<u>Parameter</u>	<u>Average Effluent Concentrations</u>		<u>Monthly Average lb/day</u>	<u>Effluent Loadings</u>	
	<u>Monthly</u>	<u>Weekly</u>		<u>Weekly Average lb/day</u>	<u>Daily Maximum lbs</u>
BOD	30 mg/l	45 mg/l	250	375	500
TSS	30 mg/l	45 mg/l	250	375	500
FC per 100 ml	200	400			

Other Parameters (year-around)

Limitations

pH Shall be within the range 6.0 - 9.0

Average dry weather flow to the treatment facility. 1.0 MGD

3. During the time period the Permit has been in effect, Respondent has not been able to consistently meet the above effluent limitations due to design and operational limitations of the sewage treatment plant and due to the high flows into the sewage collection system following storm events.

4. Department and Respondent recognize that until new or modified facilities are constructed and put into full operation, Respondent will continue to violate the permit effluent limitations at times. In addition, Respondent will not be able to meet portions of the compliance conditions contained in Conditions 3 and 4 of Schedule C of the Permit which requires extension or relocation of the ocean outfall and new or upgraded disinfection facilities by July 1, 1988.

///

1 5. Respondent presently is capable of treating its effluent so as to
 2 meet the following effluent limitations, measured as specified in the
 3 Permit:

<u>Parameter</u>	<u>Average Effluent Concentrations</u>		<u>Monthly Average lb/day</u>	<u>Effluent Loadings*</u>	
	<u>Monthly</u>	<u>Weekly</u>		<u>Weekly Average lb/day</u>	<u>Daily Maximum lbs</u>
BOD	45 mg/l	60 mg/l	375	500	600
TSS	45 mg/l	60 mg/l	375	500	600
FC per 100 ml	200	400			

<u>Other Parameters (year-around)</u>	<u>Limitations</u>
pH	Shall be within the range 6.0 - 9.0.
Average dry weather flow to the treatment facility	1.0 MGD

*Effluent loading limits do not apply when flow to the treatment facility exceeds 1.5 MGD.

6. The Department and Respondent recognize that the Environmental Quality Commission has the power to impose a civil penalty and to issue an abatement order for violations of conditions of the Permit. Therefore, pursuant to ORS 183.415(5), the Department and Respondent wish to settle those past violations referred to in Paragraph 3 and to limit and resolve the future violations referred to in Paragraph 4 in advance by this stipulated final order.

7. This stipulated final order is not intended to settle any violation of any interim effluent limitations set forth in Paragraph 5 above. Furthermore, this stipulated final order is not intended to limit, in any way, the Department's right to proceed against Respondent in any

1 forum for any past or future violation not expressly settled herein.

2 NOW THEREFORE, it is stipulated and agreed that:

3 A. The Environmental Quality Commission shall issue a final order:

4 (1) Requiring Respondent to comply with the following schedule:

5 (a) By October 1, 1988, arrange for financing of new or upgraded
6 sewage treatment and disposal facilities and notify the
7 Department in writing when such has been accomplished.

8 (b) Relocate or extend the existing ocean outfall, as follows:

9 (i) By October 1, 1988, submit draft engineering plans and
10 specifications to the Department.

11 (ii) By January 1, 1989, submit final engineering plans and
12 specifications to the Department.

13 (iii) By May 1, 1989, begin construction.

14 (iv) By September 1, 1989, complete construction and begin
15 operation.

16 (c) Construct and operate new or upgraded sewage treatment
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19 specifications.

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21 specifications.

22 (iii) By March 1, 1990, begin construction.

23 (iv) By September 1, 1991, complete construction.

24 (v) By December 1, 1991, attain operational level and meet
25 all waste discharge limitations of the NPDES waste
26 discharge permit in effect at that time.

1 (2) Requiring Respondent to meet the interim effluent limitations set
2 forth in Paragraph 5 above until December 1, 1991.

3 (3) Requiring Respondent to comply with all the terms, schedules and
4 conditions of the Permit, except those modified by Paragraph A(2)
5 above and except for Conditions 3 and 4 of Schedule C of the
6 Permit, or of any other NPDES waste discharge permit issued to
7 Respondent while this stipulated final order is in effect.

8 (4) Requiring Respondent, should Respondent fail to comply with the
9 above schedule, to cease allowing new connections to Respondent's
10 sewage collection system upon written requirement of the
11 Department.

12 B. Regarding the violations set forth in Paragraph 3 and 4 above,
13 which are expressly settled herein without penalty, Respondent and
14 Department hereby waive any and all of their rights to any and all notices,
15 hearings, judicial review, and to service of a copy of the final order
16 herein. Department reserves the right to enforce this order through
17 appropriate administrative and judicial proceedings.

18 C. Regarding the schedule set forth in Paragraph A(1) above,
19 Respondent acknowledges that Respondent is responsible for complying with
20 that schedule regardless of the availability of any federal or state grant
21 monies.

22 D. Respondent acknowledges that it has actual notice of the contents
23 and requirements of this stipulated and final order and that failure to
24 fulfill any of the requirements hereof would constitute a violation of this
25 stipulated final order. Therefore, should Respondent commit any violation
26 of this stipulated order, Respondent hereby waives any rights it might have

1 to an ORS 468.125(1) advance notice prior to the assessment of civil
2 penalties. However, Respondent does not waive its rights to an ORS
3 468.135(1) notice of assessment of civil penalty.

4 RESPONDENT

5
6 _____ (Name _____)
7 Date (Title _____)

8
9
10 DEPARTMENT OF ENVIRONMENTAL QUALITY

11
12 _____ Fred Hansen
13 Date Director

14 FINAL ORDER

15 IT IS SO ORDERED:

16 ENVIRONMENTAL QUALITY COMMISSION

17
18 _____ James E. Petersen, Chairman
Date

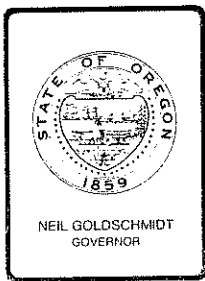
19
20 _____ Mary V. Bishop, Member
Date

21
22 _____ Wallace B. Brill, Member
Date

23
24 _____ Arno H. Denecke, Member
Date

25
26 _____ William P. Hutchison, Jr., Member
Date

Hansen



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: April 29, 1988, EQC Meeting

Recommended Legislative Concepts

On December 10, 1987, the Commission and appropriate Department staff discussed the Department's legislative concepts for the 1989 legislative session. Since that date, the Department, often with the assistance of citizen advisory committees or task forces, has refined those concepts. They are again presented for your review and comment at the breakfast meeting.

The schedule for consideration of legislative concepts is a tight one. The Governor's office has established the period of March 1 until June 30, 1988 for the Executive Department to receive legislative concepts from agencies. The Executive Department will ensure the legislative concepts are coordinated with the budget process.

Once concepts are reviewed and approved by the Governor's policy staff, they are forwarded to Legislative Counsel for drafting. Legislative Counsel must receive the bills by September 1, 1988. All draft legislation must be submitted to the Executive Department by November 15, 1988 for approval by the Governor and pre-session filing by the agency. Pre-session filing must occur by December 15, 1988 for the 1989 legislative session.

During this period, the Department will continue working with advisory committees or task forces to refine the proposals. The Department will incorporate changes recommended by the Commission or Governor. Only those concepts approved by the Governor will move forward. Our goal is to foster a general consensus on each of these concepts before the legislative session. We know that those proposals that have wide-spread support will usually be greeted favorably during the session.

Mike Down
for
Fred Hansen

Bob Danko
229-6266
ZB7449

Attachment: Proposed Legislative Concepts

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

1989 PRELIMINARY LEGISLATIVE CONCEPTS

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 - C. Indoor Air Quality John Kowalczyk
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- II. LABORATORY
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229-6485

April 29, 1988

LEGISLATIVE CONCEPT

COMPREHENSIVE WOOD HEATING CONTROL STRATEGY

INTRODUCTION

Several areas in the state are in non-attainment with the new Federal PM₁₀ air quality health standard. The problem is caused primarily by residential woodheating and is extremely severe in some cases such as in Klamath Falls. Oregon's woodstove certification program alone cannot solve this problem in the 3-5 year time frame required by EPA to meet the new standard. In addition, local governments are experiencing significant public reluctance to accept alternative woodheating control strategies. This air quality problem also presents localized barriers to economic growth and development, because woodstove emissions have used up all the airshed capacity.

CONCEPT

A bill similar to the comprehensive wood heating strategy passed by the 1987 Washington Legislature is needed, which would remove the residential wood space heating exemption in the statute and authorize the following:

1. A statewide opacity standard for existing homes, enforceable by local government upon complaint. (Similar to Washington state bill, and an effective means of dealing with severe public nuisance situations.)
2. A tax credit for new heating systems proportional to the amount of emissions reduction achieved by the specific system. Eligibility to include stove replacement with conventional heating systems, pellet stoves and new wood stoves and retrofits that meet DEQ optimum design criteria. (The latter provision would eliminate those currently available woodstoves that we know will not work well in homes yet will pass certification testing when new.) The tax credit would be restricted to only PM₁₀ non-attainment areas.
3. An excise tax on the sale of each new woodstove. Funds will be used by DEQ to support woodstove educational activities and by local governments to support compliance activities relating to complaints. (Similar to Washington state bill).
4. Require the State PUC to give consideration to environmental impacts from woodheating in any related action, and allowing base usage to be a criterion for discount electric rates for wood heated homes. (Would facilitate PUC approval of a "Clean Air Rate" proposed by Pacific Power and Light.)

5. Prohibit installation of new woodstoves except for replacements that meet optimum design criteria, in any PM₁₀ non-attainment area that fails to develop or implement an adequate strategy to meet PM₁₀ standards.

BACKGROUND AND PURPOSE

Passage of the new federal PM₁₀ air quality standards requires the state to submit a State Implementation Plan to EPA by May, 1988. The Plan must describe how each non attainment area will meet the annual and daily health standard within a 3 to 5 year time frame. Residential woodheating is considered to have the greatest impact on PM₁₀ air quality because woodsmoke is concentrated in densely populated areas and because of poor winter atmospheric ventilation, particularly in southern Oregon communities.

Oregon's Woodstove Certification Program implemented in 1986 was designed and intended to be a long-term control measure to bring about significant particulate emission reductions over a 15 to 20 year period. Recent in-home tests on some certified units have shown that some of these stoves are not performing as well in the home as they perform in laboratory testing and thus they may not achieve their full expected emission reductions. The use of certified stoves alone will not assure attainment of PM₁₀ standards in areas such as Klamath Falls and Medford because of the magnitude of the PM₁₀ problems and the time frame involved for full replacement of the population of stoves. Episodic curtailment of residential woodheating implemented through local government ordinances will help in these areas, but the control measures outlined above will be necessary as well to substantially diminish the threat to public health and economic development posed by residential space heating with wood. If the proposed legislation is not enacted, local governments may not implement the needed programs, air quality health standards may not be met, and various areas may be subject to federal sanctions, including growth prohibitions.

FISCAL IMPACT

One FTE will be needed for public information and other local government assistance. Funding for this position and pass through money to local government for compliance enforcement would be provided by an excise tax of \$20 per new stove sold in Oregon. This would amount to a total of \$200,000 per year for an estimated 10,000 units sold yearly. The tax credit for PM₁₀ non-attainment areas could be supported by the general fund or an excise tax on commercial fire wood sales. The fiscal impact of the tax credit could be up to \$10 million over the probable 10 year life of the program, or one million dollars per year. This estimate is based

on a \$400 credit for replacement of stoves with high efficiency conventional systems, a \$320 credit for replacement with pellet stoves, a \$200 credit for replacement with optimum design certified stoves, and a \$100 credit for replacement with optimum design woodstove retrofits. If levied state-wide, a tax of approximately two dollars per cord on commercial firewood would be necessary. If levied only in non-attainment areas, a tax of approximately \$20 per cord would be necessary.

PERSONS AFFECTED

This Concept affects Oregonians who burn wood for residential space heating, recreation/aesthetics. It affects all retailers, dealers and distributors who sell new woodheating appliances. This concept also affects all sellers of firewood.

CONTACT PERSON

John Kowalczyk, Air Quality, 229-6459

LEGISLATIVE CONCEPT
VEHICLE INSPECTION UPON TITLE TRANSFER

Introduction: A major complaint received by DEQ Vehicle Inspection is from people who bought a used car with missing emission control equipment. With the auto inspection operating in two major areas in the state, people believe that there is a requirement that when sold used cars or trucks must comply with the emission inspection requirements. Such is not necessarily the case. Under Oregon's two-year registration law, individuals may purchase a used vehicle and not have it subject to inspection requirements for almost the entire two year period. This causes difficulties for individuals who may have purchased vehicles with missing emission equipment from either dealers or private parties. This also places an extra burden upon dealers needing to handle customer complaints and allegations up to two years after the date of original sale.

Concept: This proposal would amend state registration law ORS 803.015 and 803.030 and 815.350 to provide that an inspection and Certificate of Compliance is required at time of title transfer in addition to registration renewal. There would be an exemption granted in ORS 803.030 to allow a new title to be issued when the title change is due solely for release of security interest.

Used vehicle sales are divided into two major groups, dealer sales and private party transactions. To implement this proposed concept different requirements covering the four types of vehicle sales are proposed. This would result in a change in the way both new and used car are bought and sold in this state.

(The Department realizes that this proposal will generate much comment. The problem is real, and the following solution is one way in which the problem could be handled. The Department is willing to discuss and consider alternatives to the concept. There would also be a significant fiscal impact on the Department because of increased testing volumes at the inspection stations.)

1. NEW VEHICLE SALES. When a new motor vehicle is sold to a resident of an I/M area, there would be established a requirement that the vehicle must be inspected for compliance. A Certificate of Compliance would be required before the Motor Vehicle Division would issue the final registration. This provision is very similar to what is now being done in Wisconsin.

2. USED VEHICLE SALES--DEALERS IN INSPECTION PROGRAM AREA. When a vehicle is sold by a dealer in an inspection program area, the dealer as a condition of sale, must present a Certificate of Compliance to the purchaser. The Certificate of Compliance must be included with the title transfer and registration in the documents that the dealer submits to the Motor Vehicle Division.

3. USED VEHICLE SALES--DEALERS NOT IN INSPECTION PROGRAM AREA.

When a vehicle is sold by a dealer that is not in the inspection program area, but the purchaser is from the inspection area, the dealer must notify the purchaser that a Certificate of Compliance is required, and that the buyer will be responsible to obtain the Certificate. The dealer must warrant that the vehicle is capable of meeting the inspection requirements. (This proposal would not effect dealers outside of Oregon, but would affect Oregonians who purchase vehicles out of the state.)

4. USED VEHICLE SALES BETWEEN PRIVATE PARTIES.

When private parties buy and sell vehicles, caveat emptor (let the buyer beware) rules. The proposed statute, however, would place the requirement that the purchaser obtain the Certificate of Compliance.

Background and Purpose: This legislative concept is in response to a problem that many customers of the DEQ inspection program now face, buying a used car with missing emission equipment. Because of the two year licensing law in Oregon, it may be up to two years before an individual would be required to have the used vehicle brought in for inspection. When the vehicle was sold with missing emission control equipment, a hardship is created for the new vehicle owner. It is not the intent of this proposal to eliminate all risk associated with vehicle sales, but it does provide that the new vehicle owner will be aware more rapidly of various shortcomings on a vehicle purchase.

The staff has been working with the Attorney General's Office of Financial Fraud for over three years on this subject. One of the earliest meetings was in December 1985. To date no administrative remedy has been developed. Part of the difficulty in developing administrative flexibility is that the air pollution statutes (that affect motor vehicle emissions) provide only criminal--not civil--enforcement authority. Therefore, a different enforcement standard for guilt, is at work. The criminal court system is overloaded and local prosecutors need to prioritize their criminal caseloads. The result is that there is little more than lip service to a problem that can be viewed as one that encompasses both consumer protection and air pollution control.

This proposal seeks to correct the problem associated with purchases of motor vehicles. By requiring that an inspection be made at the time of title transfer, in addition to registration renewal, consumers should gain protection or at least be more aware of the shortcomings of vehicles that are purchased used. The result would be improved vehicles at the time of sale, less consumer problems associated with vehicle sales, and improved air pollution control.

To meet these criteria, wording should be included that would allow civil mechanisms to be used for enforcement, in addition to current misdemeanor penalties. The civil mechanism is useful from an enforcement standpoint, because consent orders can be obtained,

rather than seeking remedies under the criminal code and clogging an already burdened court system.

Fiscal Impact: There would be significant fiscal impact. The Department would experience increased testing volume as a result of the change. Test volume increases of about a third are estimated. There could be an increase in voluntary testing of used vehicles at DEQ stations. There would also be increased revenue from certificate sales by about the same amount. Revenue gains would be offset by the need to supply improved service to meet the increased test volume.

The Attorney General's Office and Motor Vehicles Division would also be impacted. The price of used vehicles in the state would tend to rise, because the quality of the vehicles would be documented. This would result in individuals paying more for their used car when purchased from a dealer, and might also result in wise consumers paying additional fees to independent garages to check that the vehicles purchased from private parties were satisfactory.

Persons Affected: Department of Environmental Quality, Motor Vehicle Division, Attorney General, New and Used car dealers, Motorists and Car owners. Local Government, new and used car dealers associations, AAA, OSPRIG, consumer groups.

Contact Person: Ron Householder, Bill Jasper (229-6235)

lc3a 4/15/88

LEGISLATIVE CONCEPT

INDOOR AIR QUALITY PROGRAM - ESTABLISHMENT

Introduction

Traditionally the environmental movement has focused on protecting the outdoor world from pollution. However, there is an increasing demand for programs that address risks to human health associated with our more immediate surroundings. Serious hazards exist from indoor air pollution in our homes, offices, restaurants, shops and other public places.

Concept

A bill would authorize a comprehensive state indoor air program, specify agency(s) responsibility and identify a funding source for indoor air quality issues in residential and commercial buildings. The bill would be developed and submitted to the Governor in conjunction with the Oregon State Health Division. The bill could include:

- a public information, education, and assistance program.
- identifying acceptable concentrations for indoor air pollutants.
- a regulatory program to achieve compliance with acceptable ventilation and pollutant concentrations in commercial buildings.
- authorizing the setting of product standards relative to indoor emissions.
- requiring building code modifications to protect indoor air quality in new and remodeled residential buildings.
- accrediting labs for indoor air testing.
- providing low cost passive monitors to Oregon residents.

Background and Purpose

At the July 17, 1987 Environmental Quality Commission (EQC) meeting the EQC considered an informational report on the Oregon toxic air pollutant emission inventory and related indoor air quality issues. The report identified indoor releases of toxic air pollutants as a strong concern because the average person spends more than 80 percent of their time in indoor environments. After listening to comments from Joe Weller of the American Lung Association of Oregon and Steve Bodigheimer of the Oregon State Health Division the Commission directed the Department to work with the Health Division to introduce legislation which would identify agency responsibility and provide funding for a state program to address the indoor air quality problem. This Department is currently working with the Health Division to jointly set up an advisory committee to guide the development of the needed legislation. The purpose of this proposed legislation is to reduce the risk of adverse health effects resulting from

indoor air pollution in Oregon. Ways to address cigarette smoke will be explored when developing the specific legislative bill.

Fiscal Impact

Depends on scope of the program authorized. Estimate 2-6 FTE will be required. Funding could be through General Fund, utility tax, or other sources.

Persons Affected

Potentially affects every Oregonian by improving the quality of indoor environments, especially public access indoor spaces.

Contact Person

John Kowalczyk, Air Quality Division (229-6459)

LEGISLATIVE CONCEPTENVIRONMENTAL LABORATORY CERTIFICATIONIntroduction:

The Department of Environmental Quality is heavily dependent on compliance self-monitoring data submitted by sources on discharge permits to evaluate source compliance and plan future strategy for managing the impact of discharges to the environment. The analytical data reported comes either from the source in-house lab or a contract commercial lab. The Department should have confidence that the analytical data submitted is of suitable quality; comparable with data produced by DEQ, EPA, and other sources; documented, with respect to precision and accuracy, through use of quality control and quality assurance activities; and obtained using the proper sampling method so as to accurately represent the discharge or material being sampled.

Environmental concerns are currently being directed toward releases of toxic and/or hazardous chemicals into the environment; more chemical substances are being regulated and the "acceptable" concentrations in the environment are being reduced substantially. Analytical methods and instrumentation which allow measurement at the part-per-billion or part-per-trillion levels of concentration are extremely sophisticated and require high levels of quality control and quality assurance to obtain accurate data. Although quality control and quality assurance activities are very expensive, and the direct benefits are sometimes obscure, they must be performed if the resulting analytical data is to be meaningful.

Concept:

Part I. Authorize the Environmental Quality Commission to adopt rules for the certification of laboratories which conduct tests or prepare environmental data for submittal to the Department. Once the laboratory certification program is implemented, the Department will accept only environmental data produced by certified laboratories. This would include compliance self-monitoring, groundwater, RCRA hazard characteristic evaluation, Remedial Action monitoring, etc.

Certification criteria for consideration may include:

1. On-site inspections.
2. Successful performance on Performance Evaluation samples.
3. Written Quality Assurance Plan.
4. Laboratory facilities, equipment, and supplies.
5. Minimum personnel qualifications.
6. Analytical methods.
7. Sample collection, handling, and preservation.
8. Laboratory reports, records, and documentation.
9. Prior certification by another state or federal agency whose requirements are no less stringent.

Part II. Authorize the Department of Environmental Quality to assess an annual fee for laboratory certification which will cover the costs, to the Department, of administration and execution of the certification program activities.

Background and purpose:

The Department of Environmental Quality uses analytical data as a basis for regulatory actions. The Bergsoe lead recovery operation in St. Helens is an example: the Department decided, based on analytical data from a report originating in Sweden, that the waste from the plant was not hazardous. Subsequently, this data was found to be not representative of this particular source and the waste from Bergsoe was indeed hazardous. Now an extensive cleanup operation is necessary to remove the hazardous waste and contaminated soil. Had a lab certification program been in place the Swedish report would not have been accepted without a thorough review of data quality, documentation, and whether the data actually represented the situation at Bergsoe.

When the Department staff does compliance inspections at wastewater treatment plants or industry sources which have self-monitoring provisions in their permits, a split sample is frequently taken. The source and DEQ laboratories both analyze this sample for the permitted parameters and the results are compared. The basic set of parameters are Biological Oxygen Demand (BOD), Suspended Solids (SS), and pH. The analytical results of the DEQ lab are documented by frequent use of reference, quality control, and quality assurance standards. Differences observed for BOD range from -80 to +105% of the DEQ result; for SS range is -82 to +77% of DEQ value; and for pH the range is -2.3 to +0.9 pH unit.

The Laboratory responds to periodic requests by Regional staff to evaluate laboratory operations at a number of permitted sources over the past few years. We have observed laboratories using outdated standards (and in some cases no standards), analytical balances which have not been serviced or calibrated since purchased many years ago, improper collection and storage of samples, failure to calibrate instruments (or improper calibration procedures), failure to document any data except the final result, improper cleaning of laboratory glassware and sample containers, contaminated distilled water used for analysis, etc. The concepts, such as periodically analyzing an independent Quality Control or Quality Assurance sample; having on hand a National Bureau of Standards traceable mass or thermometer (to routinely check the accuracy of balances or incubator thermometers); documenting instrument responses to a standard, each time they are used, and all calculations performed during the analysis; and routine tracking of response to standards are entirely foreign to many people performing self-monitoring analysis. In some cases, the analyst has only an outdated copy of the method used or merely verbal instructions from the previous analyst.

Approximately 210 NPDES sources are required to do self-monitoring as a condition of their permits; currently, the DEQ Lab resources are inadequate to review and evaluate all of these laboratories. Laboratory Certification will provide the resources needed for us to conduct on-site inspections of these laboratories, and to review methods, standards, documentation, personnel qualifications, quality control and assurance plans and data, sample collection and handling procedures. Also, it will allow the Department to provide consultation and training to the sources, investigate existing and potential analytical problems, disseminate new methods and information about old methods, and evaluate the quality of self-monitoring or analytical data being submitted to the Department.

The Department is becoming more involved with regulating hazardous waste management and remedial action activities. Frequently the source contracts with a commercial laboratory to perform the sampling and analytical work on soil and/or groundwater samples. The outcome of the analytical work can result in considerable economic liability for the source, in addition to the cost of sampling and analysis, and could become embroiled in litigation for cleanup or treatment. All sampling and analytical work performed may be subjected to extreme scrutiny by the Department, EPA, or the Courts. This was the situation with ARNAV in Salem, formerly the site of an electronic circuit board etching operation. It contracted to drill monitoring wells and sample groundwater and soils. After data had been reported to the Department for five calendar quarters, review by the DEQ lab and EPA resulted in the Company having to start over again because the documentation, quality assurance, sampling locations and procedures were inadequate. Lab certification would provide some measure of protection to sources which contract for sampling and analytical work, as well as to the Department, by ensuring that contract labs were capable and equipped to perform the testing and that they were fully aware of what the Department expected before beginning the project.

It is inappropriate for the Department to assume that all analytical data submitted to it is of the quality necessary to provide the information sought. Equally inappropriate is the expectation that self-monitoring data is not biased in favor of the source; it is human nature to hesitate reporting information to a regulatory agency which will reflect negatively upon one's activities, particularly if an economic penalty could result. Rather than have the Department in the position of verifying and rationalizing test discrepancies after the testing has been done, it is more efficient to have an on-going program which requires routine documentation of all testing and assurances that the data meets standards.

Fiscal Impact:

Revenues/Expenditures: During the development phase, in which rules and regulations for lab certification are written (approximately one year), financing would be out of the General Fund using the existing 1 FTE (DMR QA) plus 1 additional FTE at the Chem 2 level. Upon implementation of certification activities (actual on-site inspections, etc) an additional 1 clerical FTE and 2 additional Chemist FTEs would be necessary (1 Chem 2 in the lab to prepare performance evaluation samples and analyze split samples and 1 additional field inspector.

Persons Affected:

Commercial laboratories, NPDES wastewater discharging sources doing self-monitoring or contracting the work to commercial labs, Engineering consultants, municipalities (large & small wastewater treatment plants), Hazardous waste cleanup contractors, persons or companies responsible for cleaning up hazardous waste spills, commercial laboratories located in other states who wish to do contract analysis in Oregon, and corporate labs located in other states who do self-monitoring analysis for industrial sources in Oregon.

The Department is utilizing an advisory committee to assist with the development of this legislative concept.

Contact Person: Claude Shinn, DEQ Lab, Portland, 229-5983.

LEGISLATIVE CONCEPT
SOLID WASTE RECYCLING AND FUNDING

INTRODUCTION

The challenges for solid waste management in Oregon are changing, as special wastes become of increasing concern, disposal costs escalate, public concern and federal regulations require better groundwater protection at existing landfills, and the Opportunity to Recycle Act struggles to achieve significant recycling levels amid some calls for mandatory recycling.

Within this changing environment, Oregon's major objectives for solid waste management need to be:

- . Avoiding a disposal capacity crisis
- . Putting the highest priority on waste reduction and recycling
- . Ensuring that the state's landfills are constructed, operated and closed in a manner that will protect the environment.

To obtain these goals will require a partnership between the state and local governments, with a major commitment of resources. It will require a local planning effort to address future capacity needs, especially for special wastes such as asbestos, incinerator ash, and biomedical waste. It will require a concentrated effort to improve implementation of the Opportunity to Recycle Act. It will require greater groundwater monitoring and protection measures at our landfills. It will require alternative disposal methods for household hazardous waste and exempt quantity generator hazardous waste, to reduce potential sources of contamination at solid waste landfills.

To support these efforts requires a bold new funding initiative. Present funding for these activities is artificially reduced by the competitive nature of garbage collection and disposal. Haulers and landfill operators are reluctant to initiate innovative programs, thereby incurring costs which reduce their competitiveness. Consequently, Oregon lags far behind many other states in its financial commitment to recycling and environmental protection in solid waste. What is needed is a state-wide funding mechanism which sets a per-ton fee on all municipal solid waste facilities, and returns most of those funds to local government to support local capacity planning, recycling programs, and environmental protection at landfills.

CONCEPT:

An amendment to ORS 459 that would: a) set a \$2 per ton fee on all municipal solid waste disposed in landfills primarily to fund local solid waste planning and waste reduction programs, b) require that at least half of the funds collected be spent on waste reduction or recycling, and c) give local government the primary responsibility for solid waste capacity planning.

Listed below are more detailed discussions of the components of this legislative concept.

1. New Fee Structure

Proposal: A \$2 per ton fee for municipal solid waste disposal that would be used primarily to support local government programs for recycling and solid waste capacity planning. Among the programs that could be funded through this fee are:

- . Local government programs to increase recycling (50%)
- . Local government planning for future capacity and special wastes (15%)
- . A state-local program for household hazardous wastes and exempt quantity generator wastes (10%)
- . Increased groundwater monitoring and clean-up at existing landfills (15%)
- . Replacement of existing general fund and permit compliance fees for municipal solid waste landfills (10%)

2. Waste Reduction and Recycling

Proposal: Dedication of at least 50% of the \$2 per ton fee for supporting local government efforts to improve the Opportunity to Recycle Act programs and participation. The majority of this funding would go directly to local governments to support proposed efforts that go beyond the basic curbside collection programs. Fundable activities would be such things as: promotion and recycling, more-than-monthly collection, containers, commercial sector recycling programs, multi-family housing programs, etc.

3. Solid Waste Planning and Responsibility.

Proposal: Clarification of the responsibility of local governments (counties) versus state government in our statutes. This will involve a revision of ORS 459.017, and will require local government to prepare and implement solid waste management plans which a) address the state hierarchy of solid waste, and b) address all categories of solid waste, including a number of special wastes.

BACKGROUND AND PURPOSE

Several areas of the state face an impending capacity crisis within the next five to ten years. Currently the statutes are unclear over who exactly is responsible for proper disposal for solid wastes created in any particular county. As a result, we now have a number of local governments who have not adequately planned for disposal of certain special wastes (ash, infectious waste, asbestos) and look to the state to take that responsibility. In addition, there is an increasing need for regional planning, as older landfills close, and many counties look to share facilities with other counties.

The state system of solid waste management must place the highest priority on waste reduction and recycling, as that is the most environmentally sound way of dealing with the waste. The Opportunity to Recycle Act is the cornerstone of the state's waste reduction policy, but so far its implementation has not had the impact on recycling rates that was intended. Some are now calling for mandatory recycling laws similar to those recently passed in New Jersey and other states. However, the Opportunity to Recycle Act should be given a chance to work before turning to mandatory recycling. To work, there needs to be more financial support for those activities that we now know will increase participation rates.

Many of the state's landfills were constructed in the past without the sophisticated lining systems and leachate controls that we now require on new facilities. Consequently, some of those older facilities pose a substantial risk to groundwater resources. We need to increase our financial commitment to protect those resources through increased monitoring and clean-up of groundwater near landfills.

The present fee structure, developed in administrative rules, is rather complicated, and currently provides only a portion of what is needed to address the problems discussed above. According to present statutes, the fee structure is to be based upon a "fee for service" principle, although justifying the 'service' level for a certain fee is difficult, and results in much greater per-ton fees for some remote and small landfills.

Also, new regional landfills propose to accept waste from outside the state. The per-ton fee ensures that areas outside of the state would pay their fair share of the state's solid waste program.

FISCAL IMPACT

At \$2 per ton, the fee would generate approximately \$8 million per biennium. This fund would provide needed funds on a pass-through or simplified grant program to local governments for solid waste

capacity planning and innovative waste reduction and recycling programs.

In addition it would eliminate the need for continued General Fund support for solid waste and waste reduction, and would provide additional revenue for groundwater protection activities and household hazardous waste reduction.

PERSONS AFFECTED

The increase in support for waste reduction and recycling will help local government make it easier for residents and businesses to recycle without placing haulers in a position of competitive disadvantage. This will ease the burden of Opportunity to Recycle Act on the hauling industry.

The responsibility and planning ammendment would have a significant impact on most counties in the state, as well as Metro. This proposal won almost unanimous support from the Solid Waste Advisory Committee, made up of a broad spectrum of affected interest groups. Environmental groups such as OEC would like to see more emphasis on the hierarchy in local planning. Landfill operators and local government representatives recognize that special wastes need to be addressed and are not adequately being addressed today. Local government officials are probably mixed on the responsibility issue, but may not oppose if financial support is provided for the planning.

The per-ton fee would affect landfill operators and, indirectly, the general public(although the impact on garbage rates would be negligible). Smaller sites, in less populated areas of the state would see their annual permit compliance fees decrease. The larger sites in the state would see significant increases in their annual fee. Many local governments will support this, according to Solid Waste Advisory Group members, if it means additional funds for them to do required solid waste planning and recycling.

CONTACT PERSON

Steve Greenwood, Solid Waste Section Manager(229-5782)

LEGISLATIVE CONCEPT

HAZARDOUS WASTE REDUCTION REQUIREMENT FOR GENERATORS

CONCEPT:

The hazardous waste reduction requirements would have the following basic elements:

1. Establish hazardous waste management hierarchy and define criteria for hazardous waste reduction programs for Oregon generators.
2. Require all generators of hazardous waste to develop and implement a waste reduction program that meets the above criteria.
3. Require the Department to provide for the delivery of technical assistance to generators to support their development of these waste reduction programs.
4. Require the Department to review the waste reduction program as part of the on-site compliance inspection process for regulated generators.
5. Require the Department to report to the 1991 legislative session on industry's efforts in developing and implementing these programs.

1. Establish Hierarchy and Define Program Criteria

Existing federal and state policies regarding hazardous waste state a preference for waste reduction over waste management techniques, but there is no true hierarchy of waste management options established in the laws nor any definition of what constitutes a waste reduction program.

Presently, under federal law, all generators that manifest their hazardous waste must certify that they have a waste minimization program in place. In June of 1988 the EPA will be publishing guidance on what should be in a waste minimization program for generators. Based on a draft of the guidance document it is likely that EPA will stipulate that components for a waste minimization program include:

- a. Top management support and official corporate policy;
- b. Internal analyses of hazardous waste streams;
- c. Establishment of a waste accounting system;
- d. Identification of source reduction and recycling opportunities;

- e. Implementation of feasible options, including a plan and schedule;
- f. Employee awareness; and
- g. Institutionalization of the program to ensure an on-going effort.

These criteria, or others deemed more appropriate, would be used to stipulate the components of a waste reduction program. While these criteria are qualitative and nonprescriptive, addressing them would assure that source reduction and recycling are given full consideration by each generator.

2. Require Waste Minimization Program

Although RCRA currently requires each generator that manifests hazardous waste to sign a certification statement that it has a waste minimization program, there are no set criteria for what constitutes such a program and no statutory requirement. In the event that EPA delivers its guidance document there will still be no requirement that generators meet these criteria. Under this proposal, generators will have to certify that they have a waste minimization program that meets the prescribed criteria. However, each generator will be allowed to tailor its program to its specific needs.

3. Require Technical Assistance to Generators

The key to the success of this proposal is for the Department to provide for technical assistance to generators. This would focus on visiting generators to assist them in the preparation and implementation of their tailor-made waste reduction programs. Program plans, etc would not be submitted to the Department for approval. Instead, the waste reduction program would be reviewed at the time of a compliance inspection. In addition, after a fixed period of time the waste reduction technical assistance staff would follow-up with the generators to evaluate their progress and to provide further guidance and assistance as necessary.

4. Review Hazardous Waste Reduction Programs

A review of a generator's hazardous waste reduction program would become part of the on-site inspection procedure. A new item would be added to the inspection checklist that asks whether or not the waste reduction program was available. Failure to have a written hazardous waste reduction program will constitute noncompliance. If it appears that the plan does not meet the criteria then the inspector will refer the generator to the waste reduction program for assistance.

5. Require Report to Legislature

Although this proposal relies on voluntary compliance, the Department would be required to report back to the 1991 State Legislature, giving a status report and making recommendations for improving the program and how to expand the technical assistance program to all toxic wastes going into all environmental medias (land, air, and water). At that time if the present program is judged as inadequate more stringent requirements could be requested.

It is assumed that this report requirement will provide peer pressure on hazardous waste generators to participate with the Department to meet the intent of the legislation and thereby avoid more stringent requirements.

BACKGROUND AND PURPOSE:

Currently, under federal and Oregon state statutes, there is no requirement for hazardous waste generators to investigate opportunities that would reduce the generation of hazardous waste. Furthermore, the existing "command and control" regulatory emphasis for these wastes does little to foster a pollution prevention attitude.

In 1987 the Department was given 0.75 FTE for the biennium to develop a Hazardous Waste Reduction information and training program for Oregon hazardous waste generators in an effort to reduce the flow of these chemicals into the environment. The Department has successfully worked with individual companies and industry associations to implement a limited program. However, without some requirement for generators to evaluate the appropriateness of waste reduction in their operations, the potential impact is small.

The purpose of this package is to provide a non-prescriptive requirement for hazardous waste generators to evaluate waste reduction alternatives (source reduction and recycling) in their operations and to develop a process for actually preventing the generation of these wastes. This legislative package would provide a mandatory structure for hazardous waste generators in Oregon to systematically identify and implement waste reduction opportunities. In addition, this legislation would provide the Department with a vehicle for delivering waste reduction technical information and assistance that would directly help these generators.

This proposal will not put an added burden on those generators that are already reducing their wastes, but will force other generators to consider similar measures. In addition, since the waste reduction plans will not be submitted to the Department for approval the staff resources can be allocated to actual in-plant assistance instead of managing a paper process.

FISCAL IMPACT:

Assuming the technical assistance is provided by the Department:

- * Technical Assistance 7 FTE
- * Seminars and training
- * Publications

Total for biennium \$620,000

This program should be paid for in some manner by those who utilize hazardous substances or generate hazardous waste.

AGENCIES AND AFFECTED PERSONS:

- * RCRA regulated community
- * DEQ (Waste Reduction Program and Regional Offices)
- * Local governments (?)

INTEREST GROUPS AFFECTED:

- * OSPIRG (which has proposed a Toxic Use Reduction Act)
- * AOI/AEA and other trade groups

CONTACT PERSON:

David Rozell, Waste Reduction Manager 229-6165

LEGISLATIVE CONCEPT

CLARIFICATION OF HAZARDOUS WASTE AND PCB AUTHORITY

Introduction:

This Legislative Concept seeks to clarify statutory authority, for the continued implementation of existing administrative rules and policy, concerning PCBs and hazardous waste.

Concept:

Clarification of hazardous waste and PCB statutes. Amend ORS 466.005 to 466.350, and 466.880 to:

- (1) Clarify the authority of the Environmental Quality Commission (EQC) and Department of Environmental Quality (DEQ) to regulate PCB storage, and treatment facilities;
- (2) Clarify the authority of the EQC and DEQ to assess permit application filing and processing fees for the modification of hazardous waste or PCB facility permits;
- (3) Clarify the authority of the DEQ to issue permits for hazardous waste storage facilities; and
- (4) Clarify the authority of the DEQ to assess civil penalties for violation of PCB statutes or administrative rules.

Purpose:

The purposes of this concept are to clarify the following issues:

- (1) ORS 466.250 to 466.350 and 466.505 to 466.530 pertain to the treatment, disposal and use of PCBs. However, the EQC has adopted by reference federal PCB rules which also pertain to the storage of PCBs prior to treatment or disposal. The statutes should be amended to clarify the EQC's authority to adopt these rules. PCBs are known carcinogens and pose a significant threat to public health if mismanaged;
- (2) ORS 466.040 provides for the assessment of fees, to cover the Department's costs in issuing or reissuing permits for hazardous waste or PCB facilities. This statute should be amended to authorize the assessment of fees for the modification of permits. The Department incurs administrative costs in modifying permits which should more appropriately be charged to the person requesting the modification;
- (3) ORS 466.095 and 466.100 require that permits be obtained for facilities that treat, store or dispose of hazardous waste. In addition, ORS 466.140 provides that permits for disposal sites shall be issued by the EQC, and ORS 466.145 provides that permits for treatment facilities shall be issued by the DEQ. ORS 466.145 should be amended to clarify that permits for storage facilities shall also be issued by the DEQ; and

Legislative Concept
Clarification of Hazardous Waste & PCB Authority
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- (4) ORS 466.880 provides for the assessment of civil penalties for violation of ORS 466.250 to 466.350, pertaining to the treatment, disposal and use of PCBs. However, civil penalty authority is not provided for violation of ORS 466.505 to 466.530, which also pertain to the use and disposal of PCBs. This apparent inconsistency needs to be clarified.

Fiscal Impact:

These proposals will have no new fiscal impacts, in that they simply clarify the Department's authority to continue implementing existing rules.

Persons Affected:

Generators of hazardous waste, users of PCBs, and persons who treat, store or dispose of hazardous wastes or PCBs. In addition, the public is the primary beneficiary of programs that assure the proper management of hazardous wastes and PCBs.

Contact Person:

Kathi Futornick, Hazardous Waste Section
Telephone: 229-5826

LEGISLATIVE CONCEPT
HOUSEHOLD HAZARDOUS WASTE
AND
EXEMPT SMALL QUANTITY GENERATOR WASTE

Introduction

During the 1987 legislative session, the Senate Committee on Energy and Natural Resources approved a bill (SB 11) establishing household hazardous waste (HHW) pick-up days throughout the state. The collection was to be paid for by a fifty cent municipal solid waste disposal tipping fee. SB 11 was referred to the Ways and Means Committee but was not approved by that body. This legislative concept builds upon that bill.

While SB 11 has several good ideas in it, a more comprehensive approach should address exempt small quantity generator waste (ESQGW) as well as HHW. SB 11 only dealt with HHW. SB 11 is also inefficient; by that we mean that each community would be contracting with a HW management company to collect/transport/dispose of the materials dropped off at a site. It is much more efficient for one or perhaps two companies to be chosen to provide that service throughout the state. The cost would be less and there would be more consistency and control at each collection site.

Concept:

This concept would amend present solid waste and hazardous waste statute to address HHW and ESQGW in a comprehensive manner. A comprehensive approach should provide collection programs throughout the state tailored to local needs, a permanent funding base, on-going publicity and education, and a tie into keeping hazardous waste out of solid waste disposal sites.

Background and Purpose:

Presently, exempt small quantity generators do not have feasible options for the management of hazardous waste. Although federal and state rules allow disposal of hazardous waste from these generators in solid waste landfills, the owners of many of the landfills do not allow any hazardous waste to be disposed of. The Department prefers to have both HHW and ESQGW managed in ways other than land disposal. This legislative concept would ensure that alternative methods are available for management of this waste and would include a public information and education program to encourage the use of these management methods.

1. The proposed legislation should require the establishment of a collection/storage site for both ESQGW and HHW in the Portland Metro area. The site should be permanent and planned for

eventual permitting as a HW storage facility. A permanent site will offer the greatest opportunity to keep hazardous waste out of the solid waste disposal sites. A permanent site will offer an option for small businesses to dispose of exempt quantities of waste legally. A permanent site will avoid households and small businesses having to store hazardous waste for long periods. A permanent site can also be publicized easily. Appropriate fees would be charged when utilizing the collection/storage site.

The private sector, in conjunction with METRO, might be most appropriate to establish, own and operate a site, perhaps with incentives. One of the existing privately owned facilities in the Portland area could be expanded to serve as a permanent collection/storage site for ESQGW and HHW. A public/private partnership could result in a collection/storage site for ESQGW and HHW being established in the Salem, Eugene or Medford areas as well.

2. Along with the permanent collection/storage site, the proposed legislation should require the establishment of a collection service for both ESQGW and HHW. This service is already being provided for some ESQGW, but is not available for HHW or small amounts of ESQGW. The collection service would drop collected wastes at the collection/storage site. This should be "call for an appointment" collection service, not a curbside service. When an appointment is requested, the type and amount of waste must be identified. Experience elsewhere has shown that in many cases the telephone conversation would eliminate the need for the pickup. Appropriate fees would be charged for the pickup service.

3. The proposed legislation should provide for HHW collection days in the major communities throughout the state not served by a permanent collection/storage site. The legislation should establish the mechanism for the Department to contract with one (or two) HW management companies to operate the collection days. Having the same company conduct the collection days around the state is the most efficient and reliable way of doing it. Communities would be required to provide education and promotion as their share of the costs. Annual or semi-annual collection days could be planned.

4. The proposed legislation should include funding for establishing and promoting the use of the storage/collection sites, collection service and HHW collection days. (Any promotion should emphasize reducing the use of hazardous waste as well.) The funding source should be a part of a tipping fee at municipal solid waste disposal sites which is being proposed to fund a package of solid waste programs.

5. Municipal solid waste disposal sites within a certain distance of the permanent collection/storage site should serve as a drop-off point for the collection of HHW (but not ESQGW). The opportunity to dispose of HHW should be along side the opportunity to recycle at a disposal site such as the Clackamas County Transfer and Recycling Center. There, an attendant is on duty to

ensure proper handling of materials. The collection service described in 3. above could pick up the materials collected at the disposal site and transport them to the permanent collection/storage site.

Thus the proposed legislation would include:

1. A permanent collection/storage site in the Portland area and an opportunity for similar sites in Salem, Eugene or Medford;
2. A "call for appointment" collection service in the Portland area, and an opportunity to establish a service in any other area that establishes a permanent collection/storage site;
3. Periodic collection days in major communities without a permanent collection site.
4. HHW drop-off points at SW disposal sites in an area where a permanent collection/storage site exists.

Fiscal Impact:

Specific costs of this legislative concept are now being investigated. A very preliminary estimate is about \$900,000 a biennium.

Persons Affected:

A task force within the Hazardous and Solid Waste Division flushed out this legislative concept. Refining the concept with an advisory committee comprised of interested parties is the next step. The topic is of considerable interest to several parties, including solid waste haulers and landfill owners, several legislators, METRO, AOI and environmental groups such as OEC and OSPIRG.

These interested parties will likely support a program that addresses HHW and ESQGW. Who pays for and who controls such a program will likely generate concern.

Contact Person:

Bob Danko of the Hazardous and Solid Waste Division (229-6266) is the contact for this concept.

LEGISLATIVE CONCEPT
Financial Assistance for Site Owners
Paying for Cleanups

CONCEPT: Amend ORS Chapter 466 to allow the Department to provide financial assistance to eligible owners of sites contaminated by hazardous substances who want to clean up their site but cannot pay for it and cannot get commercial loans. Financial assistance would be limited to allowing the Hazardous Substances Remedial Action Fund to provide a "guarantee" for commercial loans.

PROBLEM: With few exceptions, the strict liability provisions of Senate Bill 122 (ORS Chapter 466) require owners or operators to pay the full cost of investigation and cleanup of contaminated sites, regardless of fault. These cleanups can run from \$25,000 to \$500,000 and up. Many businesses and individuals who own or operate sites that are contaminated by hazardous substances cannot rapidly raise or even borrow the money needed to pay for an expensive investigation and cleanup. Banks are reluctant to loan money for cleanups especially when the contaminated property is unacceptable as collateral.

Consequently, many businesses and individuals may be driven into bankruptcy resulting in severe harm to those individuals, their employees, and Oregon's economy. Also when the responsible party does not pay for the cleanup then the state, or really the feepayers, pays these costs from the Hazardous Substances Remedial Action Fund. This fund does not have sufficient revenue to pay for truly "abandoned" sites let alone for bankrupt responsible parties.

PURPOSE: Responsible parties who can demonstrate that they cannot afford to pay for a cleanup and cannot obtain commercial loans would be eligible for loan guarantees provided they met other criteria. Eligibility could be limited to small businesses and homeowners, and could exclude bad actors such as a midnight dumper. The Department would not actually make the loans but would simply guarantee a commercial bank loan. Loan guarantees could be limited to certain amounts or types of costs.

**FISCAL
IMPACT:**

The fiscal impact includes administrative costs, which are estimated to require .25 FTE to startup the program and administer it for the 25 or so sites.

Potential long term costs could include all or part of the amount guaranteed if the borrower fails to repay the commercial loan. However this does not really represent an additional fiscal impact because the costs for these

sites would be paid by the HSRAF anyway as an "abandoned" site.

In the short term, additional funds may be needed to provide the necessary backing for the loan guarantees but in the long run the total funds needed would be less because more responsible parties would have paid the cleanup costs.

Projections for the 1989-91 biennium are for at least 100 new sites. Of these, it is estimated that at least 25 sites will involve owners that could be driven bankrupt or severely damaged by the economic burden of site cleanup costs. At an average cost of \$200,000, total cleanup costs could be approximately \$5.0 million, however only a fraction of that amount would be needed to guarantee loans on this amount.

This proposal assumes that new revenue, in addition to the existing \$20 per ton fee on hazardous waste disposal, will be available. A concept for new revenue is in a separate legislative proposal.

In conclusion, financial assistance would reduce the economic impact on eligible responsible parties. Since fewer responsible parties would go bankrupt, the long term demand on the state cleanup fund and, in turn, the fund fee payers, would also be reduced.

Contact person: Allan Solares
229-5071

LEGISLATIVE CONCEPTUNDERGROUND STORAGE TANK PROGRAMIntroduction

The 1987 Legislature enacted SB 115 establishing a comprehensive statewide program for the regulation of underground storage tanks containing petroleum fuels and hazardous chemicals. This program, administered by the Department of Environmental Quality, was developed to provide a state response to the increasing number of underground storage tanks discovered to be leaking. The legislation allowed the Department to develop regulations addressing the proper installation, operation and removal of underground storage tanks and to avoid duplicative federal regulation by authorizing the Department to apply for federal (EPA) approval of the state program.

Concept

Modify current law relating to underground tanks (Chapter 466.705 through 466.835) to address issues raised since legislative enactment, to maintain or enhance program funding and to create authority allowing the Department to recover its administrative costs for implementing legislatively authorized programs.

Background and Purpose

This legislative concept encompasses three separate issues:

Permit Fee Surcharge for Local Authorization Programs

ORS 466.730 allows the Department, at its discretion, to implement a local government authorization program. The intent is to allow local governments to request authorization from the Department to manage all or portions of the state UST program in lieu of the Department. In establishing this authority, the legislation does not provide separate funding for this provision. In contrast to the specific language of ORS 466.750(4)(b), which allows the Department to recover its costs for administering the UST licensing program, no corollary language is provided for administration of the local authorization program. Assuming local programs are implemented, the Department would be required to prepare contractual agreements with local governments, provide Department oversight of the local program's effectiveness (particularly important in view of federal program authorization requirements), and to develop regulations pertaining to the program.

To provide adequate funding for administration of this program, without weakening other state program elements, a fee surcharge is proposed for tanks located within a community that receives authorization for program administration. The fee would cover both the Department's increased cost of approving and overseeing local programs, as well as providing a revenue source for the local program.

With the exception of the largest communities e.g., Portland, the anticipated revenue from the fee surcharge would be small. A \$5.00 surcharge in a medium-sized community containing 1,000 tanks would only yield \$5,000. Much of this revenue would be required to conduct Departmental oversight and administration. A substantial fee surcharge would be required to yield meaningful revenue for community program support.

Administrative Cost Recovery for Management of the UST Insurance Fund

ORS 466.795 allows the Department, again at its discretion (following legislative concurrence), to implement a state insurance fund for tank owners and operators. The costs associated with developing and administering an insurance fund are likely to be significant. As noted above, ORS 466.750(4)(b) allows the Department to recover its administrative costs for the management of the contractor licensing program. No similar provision, however, exists for costs incurred through management of the insurance fund. Program administration should be an authorized expenditure from the fund.

Underground Storage Tank Fee

The 1987 Legislature established the underground storage tank fee as the method for funding the state underground storage tank (UST) program. A maximum tank permit fee of \$25.00 per tank per year may be assessed until July 1, 1989. At that time, the maximum fee will automatically be reduced to \$20.00 per tank per year, a 20% decline (applies to both the permit application fee and the annual compliance fee).

Assuming 22,500 tanks will be permitted, each \$5 increment of the permit fee provides \$112,500 of revenue each year, or \$225,000 a biennium. Since the UST program is funded by fee revenue and minimal federal grants (approximately \$125,000 per year), the loss of 20% of its funding will impose a substantial burden on the program's ability to fulfill programmatic objectives.

The Department's estimate is that the proposed \$20.00 fee is inadequate to continue a comprehensive underground storage tank program at the level authorized in the existing base budget. Projections indicate that a program fully staffed at presently authorized levels will incur a budget shortfall of \$437,000 by the end of the 1989-91 biennium. Rather than a fee decrease, an increase of \$5.00 over the existing tank fee of \$25 is necessary to maintain the UST program at legislatively authorized levels. A tank fee of \$30 is, therefore, proposed.

The present UST program encourages environmental compliance through educational outreach programs and technical services to tank owners. A substantial portion of these services, and/or regional compliance activity would need to be curtailed after July 1, 1989, if program revenues are automatically reduced by 20%.

Additionally, the establishment of a regulatory program for underground storage tanks has triggered a reassessment of need by the regulated community. Rather than obtain permits for little used or obsolete tanks, tank owners and operators are electing to remove tanks from service. As tanks are removed, the Department's estimates of permit fee revenues may not be realized. As a result, the projected revenue shortfall may be greater than expected, further limiting available program resources.

No information from EPA is presently available providing guidance as to the level of staff required for state program authorization. Specific criteria may become available when EPA issues final program regulations. Additional revenues may be required to bring the program up to "approvable" levels.

Fiscal Impacts

Allowing cost recovery for the local authorization program will provide limited revenue depending upon the amount of a fee surcharge. For example, a community such as Eugene (estimated number of tanks, 1,000) would generate \$10,000 a biennium in revenue, assuming a \$5.00 surcharge. Therefore, the incremental cost to each individual tank owner would be minimal (\$15/year for the average facility, based on an average facility owning three tanks).

The insurance fund, if adopted, would need substantial revenue. No estimates are available for the total tank insurance fee that would be required. However, a \$500 assessment per tank per year may not be unreasonable. From \$5.00 - \$25.00 of the assessment may be required to cover administrative costs. Compared with the total assessment, the portion recovered by the Department would represent a minor impact.

Increasing the permit fee to continue the program at its legislatively authorized level imposes relatively minor costs on the regulated community. The increased permit fee would not represent a major cost of doing business. The average facility would incur a \$15.00 incremental fee increase (based on 3 tanks/facility) above the existing base fee of \$25.00/tank. Each fee increment of \$5.00 per tank will raise an additional \$225,000 of revenue over the biennium. Estimated program revenues and required fee income levels follow:

Fee Level	Estimated Revenue			1987-89	1989-91	Balance
	Permit Fee	EPA Grant	Total Revenue	Auth. Budget	Base Budget	
\$25	\$1,125,000 +	\$250,000 -	\$1,375,000	\$1,354,000	--	\$ 21,800
20	900,000 +	250,000 -	1,150,000	--	\$1,587,000	- 437,000
25	1,125,000 +	250,000 -	1,375,000	--	1,587,000	- 212,000
30	1,350,000 +	250,000 -	1,600,000	--	1,587,000	13,000
35	1,575,000 +	250,000 -	1,825,000	--	1,587,000	238,000

Persons Affected

During the 1987 Legislative session, industry was supportive of a uniform, statewide underground storage tank program based on minimum federal standards but administered by the state. It is expected that industry will have concerns about paying increased fees to support an enhanced state program.

Local governments are not pressuring the Department to move rapidly to implement the local authorization provisions. Without financial support from the Department, there is little incentive for local governments to seek authorization. Indeed, some local governments are indicating a desire to reduce their tank oversight/regulation as the Department's program is further developed.

The primary benefit expected from implementation of an underground storage tank program is improved protection of groundwater from pollution due to leaking underground tanks.

Contact Person

Dennis Adamczyk Dickerson
UST Program Coordinator
229-5153 (635-3680)
4/19/88

SM1478

LEGISLATIVE CONCEPT

USED OIL / ROAD OIL REGULATION

Concept: This concept would amend the Oregon Used Oil Recycling Act of 1977 to ban the use of used oil for dust control under circumstances where significant environmental harm could result, and gives the Environmental Quality Commission clear authority to regulate the use of used oil. It is based on the final version of SB 1011 of 1987, which passed the full Senate and the House Committee on Environment and Energy before dying at the end of the session.

The key provision of the concept is the requirement that the Commission adopt rules banning the use of used oil for dust suppression. An exemption is included for used oil that is generated by a property owner or resident, and then used by that person on his or her own property or on immediately adjacent property with the adjacent property owner's permission. A provision should be included to allow recycled oil to be used for dust control if it has been tested and found not to exceed contamination limits. A penalty is included that is in line with penalties for similar violations of ORS 468.

Background and Purpose: The Department currently regulates used oil only in regard to the burning of used oil and the prohibition of entry of oil into the waters of this state. The Commission has clear statutory authority to regulate the collection, recycling and burning of recycled oil, and to prohibit the entry of any oil into water. However, the Commission does not have clear authority to regulate the use of used oil as a product after it has been collected and "recycled", such as the use of recycled oil for dust control. Thus, we have a situation where if used oil is to be burned, we require that the oil be tested and shown to not exceed certain limits for contamination, but if the oil is to be spread on the ground, no testing is required. Most hazardous substances that are common constituents of used oil are destroyed by burning, and yet burning is more highly regulated than spreading contaminated oil directly in the environment. This legislative concept, if adopted, would give the Commission authority to adopt rules to eliminate this inequity.

There is a history of environmental damage resulting from bad used oil practices, both in and out of state. In White City, Oregon in 1983, the oil in the tank of one road oiler was found to contain about 40,000 ppm of PCBs. Although no PCBs were found in freshly oiled roads of the area, the cost to EPA for the cleanup of tanks and a spill on-site ran to \$232,000. Times Beach, Missouri, is the best known case of environmental damage caused by a road oiler. Dioxin contamination of the used oil has required evacuation and abandonment of the town, and has cost EPA and the State of Missouri some \$36,000,000 so far, with the cost expected to continue growing as cleanup proceeds.

The Environmental Protection Agency (EPA) proposed in 1985 to list used oil as hazardous waste and to ban outright the use of used oil for dust control. EPA has since decided not to list used oil as hazardous waste, but still expects at some future date to adopt rules banning road oiling and regulating the recycling of used oil. However, this proposed rulemaking has become a reduced priority for EPA, and so it is not clear when the next phase of rules will be proposed and adopted.

Fiscal Impact: The main fiscal impact of this concept will be increased enforcement by the Department, estimated at \$15,000 per biennium including \$1,500 in additional lab costs. Rulemaking in the first biennium could add \$7,000 to that biennium's total. This increase in cost will be partially offset by the lower chance of contaminated oil being spread on roads, avoiding the cost of a remedial action cleanup by the State. The Department does not plan to ask for any new resources to implement this proposed legislation, if adopted.

Agencies and Persons Affected: The Department of Environmental Quality, local governments, used oil processors, existing road-oilers.

Interest Groups Affected: This concept is supported by all the major used oil processors in this state, and it is likely that environmental groups will also lend their support. The few remaining businesses that spread used oil on roads for dust control are the only likely opponents.

Contact Persons: David Rozell (229-6165), Peter Spendelow (229-5253)

LEGISLATIVE CONCEPT

OREGON GROUNDWATER PROTECTION ACT

Introduction

In 1987 the Commission on Futures Research stated in its Legislative Recommendations that groundwater protection should be the first priority among resource issues. In Oregon approximately 50% of the population depend upon groundwater for all or part of their daily water needs. Groundwater use is expected to increase in the future because the state's population is growing and because summertime flow of many streams is inadequate to meet present and future demand.

As documentation of groundwater contamination and overwithdrawal increases, it is now realized that groundwater is a threatened resource. Increased public awareness of problems of groundwater contamination and overwithdrawal has resulted in demands for expanded protection of this vital resource.

Although the Oregon legislature has included elements of groundwater protection in many of the programs it has created, there has been no comprehensive legislation that establishes groundwater management and protection goals and coordinates various agencies' groundwater management programs.

Concept

The Department proposes that major new legislation be enacted that would provide a framework to direct, coordinate and fund the state's groundwater protection activities. This legislation would be known as the "Oregon Groundwater Protection Act".

Currently many state agency programs contain elements of groundwater management. These programs were developed in response to different legislative directives. Some of these programs, such as the on-site sewage disposal program, are among the best in the nation, and programs that Oregon should be proud of. In other areas, such as impacts from agricultural chemicals, more work needs to be done to resolve existing and potential problems. This is particularly evident in areas where statutory authority is lacking, or poorly defined.

The Groundwater Protection Act would incorporate existing programs. Where existing programs are inadequate to provide sufficient protection of Oregon's groundwater, additions and corrections would be made. In areas where essential components of groundwater protection are totally lacking, new programs could be created in the Act.

Groundwater problems are far more expensive to correct after they have occurred than they are to prevent. Unfortunately, however, past groundwater protection activities have often been more

reactive than proactive. Efforts have been directed toward the solution of existing problems, and not the prevention of future problems. This is a very inefficient and costly way to manage groundwater. And it is largely the result of the difficulty in establishing adequate priority and resources when a problem currently does not exist.

A major emphasis of the Groundwater Protection Act would be to increase activities that would provide for the proactive protection of groundwater resources. In order to accomplish this, programs would need to be established to encourage the development and implementation of groundwater protection practices

Funding for the implementation of the Act could at least partially be provided by fees on activities that have impacted groundwater, such as waste treatment and disposal, underground storage tanks, and use of pesticides, fertilizers, and hazardous substances. Monies generated would be deposited into a fund and allocated to the various agencies now involved with groundwater management.

Background and Purpose

Currently there are many federal, state or local programs that have a direct effect on the use and protection of the state's groundwater resources. Below is a list of such programs and the agencies that implement them:

1. Solid Waste -- DEQ Hazardous and Solid Waste Div.
2. Underground Storage Tanks -- "
3. Hazardous Waste -- "
4. Spill Response -- "
5. Remedial Action -- "
6. Water Pollution Control -- DEQ Water Quality Div.
7. Underground Injection Control -- "
8. On-Site Sewage -- "
9. General Monitoring -- "
10. General Planning -- "
11. Well Head Prot. -- EPA, DEQ WQ, HD, Local Gov.
12. Sole Source Aq. -- EPA, Local Gov.
13. Public Water Supply Wells -- Health Division
14. Well Construction -- Water Resources Department
15. Water Rights -- "
16. Basin Plans -- "
17. Hydrogeo. Studies -- "
18. Critical Aquifers -- "
19. Pest. and Fert. -- Dept. of Agriculture
20. Ag. Research -- OSU
21. Ag. Education -- OSU Extension
22. Land Use Plan. -- DLCD, Local Government
23. Geological Studies -- DOGAMI
24. Mining -- "

Often as a result of differing program missions, there are conflicts among these programs. The Act would establish a basis for the coordination of these programs toward a consistent goal. Each of these programs should be evaluated to appraise how they would fit into, or contribute to, a comprehensive groundwater management program. Listed below are elements of such a program that could be addressed in the Act:

1. Identification of Aquifer Systems.
2. Groundwater Protection Standards (numerical or non-degradation or a combination).
3. Controls for all significant sources of contamination.
4. Effective enforcement provisions and resources.
5. Land-use guidance to protect groundwater quality.
6. Inter-agency coordination for health, quality, and quantity.
7. Coordination of surface and groundwater management.
8. Adequate resources for implementation.
9. Processes for the development of better management practices.
10. Emphasis on the development and implementation of preventative practices.
11. Programs for monitoring, data collection, and data analysis.

The Legislative concept is being developed with the assistance of an inter-agency committee and input from the public. The Department is also working to ensure that other legislative concepts that directly or indirectly impact groundwater are coordinated with this concept.

Fiscal Impact

Funding would be provided through new fees or increases in existing fees. It is estimated that existing fees and programs could be used to implement part of the Act's requirements. Depending upon the final scope decided, support for new programs could require several million additional dollars each biennium.

Persons Affected

All businesses, industries, and citizens of the state. New fees would be imposed. Increases in certain existing permit fees would be necessary to more accurately reflect state expenses in administering some programs.

Contact person

Greg Pettit, DEQ, Water Quality Division, Groundwater Coordinator, 229-6065.

LEGISLATIVE CONCEPT

SUBSURFACE SEWAGE STATUTE REVISION

Concept: Modify language of existing statute (ORS 454.605-755) to better enable the Department of Environmental Quality to administer the program for regulating subsurface sewage disposal systems to protect public health and water quality.

1. Add language to clarify the purpose of the on-site sewage disposal regulations and state the roles and responsibilities of the Department, Contract Agents, property owners and systems installers.
2. Modify the language to allow sewage disposal service businesses (installers and septage pumpers) to be licensed every two years on a staggered basis according to the license anniversary date instead of annually on July 1, as is currently required. Also, require the bond coverage to coincide with the license period.
3. Modify the language to allow the variance fee to be established by EQC rule, as compared to having the fee set in statute.
4. Identify and develop mechanisms to encourage local interest in providing direct service under contract in lieu of the Department providing direct service in 13 counties.

Purpose: The Department of Environmental Quality has been responsible for subsurface sewage treatment and disposal since 1973 when Oregon Law repealed State Health Division authority for this program and transferred jurisdiction to the Department.

The statute contains: (1) provisions to establish minimum requirements in terms of site specific soil, groundwater, landscape and other site conditions for evaluating the suitability of property to be served by on-site sewage disposal systems; (2) requirements for permitting on-site systems; (3) provisions to enable inspections of completed construction and issuance of certificates of satisfactory completion; (4) provisions to allow variances from rules; (5) provisions for the Department to enter into agreements with local units of government to perform certain duties of the Department; (6) requirements to annually license sewage disposal service businesses; (7) provisions for enforcement of rules to protect public health and the environment and for taking action whenever a subsurface system presents or threatens to present a public health hazard; (8) provisions which enable the EQC to issue orders limiting or prohibiting construction of sewage disposal systems in an area; and (9) provisions to allow the Department to develop alternative sewage disposal systems for use on land not suitable for standard septic tank and drainfield systems.

The statute provides a sound means of regulating individual subsurface treatment and disposal systems statewide and assures adequate public health and environmental protection. Property that was once not suitable for development with standard systems now can usually be developed with an alternative sewage disposal system. Oregon's site evaluation process, variance provisions and alternative system rules make the program a national model. It is, however, expensive to implement. Even with staff reductions and fee increases, the Department has been unable to administer and implement the program with fee revenue alone.

This situation led the Department to pursue ways by which the program can be better implemented to reduce costs while assuring appropriate levels of public health and environmental protection.

In 1987, the Department convened a Citizens Advisory Committee to evaluate the current on-site sewage disposal program. The Committee made recommendations to improve efficiency, increase fees and assure there is a common understanding of the program's purpose and the roles and responsibilities of the property owner, Department, its Agents and contract installers. Their recommendations included modifying the statute as identified in 1 through 4 above.

Fiscal Impact: The purpose of the proposed changes to the statute are to reduce the fiscal impact on the state's general fund. Licensed sewage disposal service businesses may assume higher costs to obtain bonds for a longer license period, but this cost should be offset somewhat by lower per annum license fees.

Persons Affected: Counties which provide direct service under contract with the Department at the present time are not expected to be affected.

The public may see a decrease in the situations which would require they file for a variance, but the fee for those wishing to apply for a variance would be higher than that set forth in the statute.

Licensed sewage disposal service businesses who install and pump systems may incur additional expenses initially to obtain a two year bond. However, this proposal would also ensure that they need not track their bond effective date separate from their license expiration date nor pay full fee for a part of a license term. They would not face the possibility of their license being revoked during the license period. Similarly, the proposed two year license period would lessen the paperwork burden on the licensee.

Bonding companies should not be adversely affected because those wishing to obtain a bond would be staggered by renewal date. The workload for bonding companies would be staggered.

Local governmental entities who may wish to enter into an agreement to provide direct service would benefit from the proposal.

Contact Person: Mary M. Halliburton 229-6099

LEGISLATIVE CONCEPT
Section 401 Certification Fees

Concept: Create a user fee for the Section 401 Compliance Certification Program. Fees would be required of each applicant requesting water quality certification required under Section 401 of the Clean Water Act. Monies would be collected to provide revenue of about \$150,000 per year. The collected revenue would be used for:

- 1) Hiring an additional full time professional to review applications for projects requiring the Department to certify whether or not the project would violate Oregon's water quality standards.
- 2) Hiring clerical support staff to track the pending projects and to perform the necessary clerical support duties.

The Department processes from 300 to 400 applications for water quality certification per year. Of these, 3 or 4 are likely to be hydropower projects. Fees would be required of all applicants. The fee schedule for the different types of applications should be based upon the relative amount of staff time it takes to review the application and investigate water quality and associated wet land impacts of the proposed project. The hydropower projects are the most difficult to review and require the greatest commitment of staff time. They would require the higher fees.

The method of collecting the fees and the fee schedule should be adopted as rules by the Environmental Quality Commission.

Purpose: Section 401 of the federal Clean Water Act requires any project requiring a federal permit or license to be certified by the state agency responsible for water quality in the state that the project will not violate water quality standards if constructed. The Department of Environmental Quality is required to evaluate all such projects and so certify. If, after receiving a complete application, the Department does not act within a reasonable period of time, but not to exceed one year, the project certification is automatically waived and construction can occur without a water quality evaluation and certification by the Department. Although the statutory deadline for completing certification is one year, the Department tries to complete certification within 90 days, if at all possible, so that projects are not unduly delayed.

A great amount of staff time has been spent reviewing proposed hydroelectric projects to determine whether or not water quality standards would be violated should the project be constructed. In recent years the amount of staff time and effort which has been necessary to conduct an adequate review has escalated considerably. Since certification will be waived if the Department does not act, staff have been pulled away from other necessary water pollution control activities in order to assure that automatic waiver does not occur. The Department has not

been keeping up on other important permitting processes and the water pollution control program has suffered.

In addition to the hydroelectric projects, the Department must also review all projects which require a dredge and fill permit from the Corps of Engineers. These projects also have a time certain that the Department is required to act. Many of the dredge and fill projects involve wet land issues which require extensive study in order to assess the water quality impacts.

There are also permits required of the Coast Guard for waterway projects and a few other miscellaneous projects which require 401 certification.

In order to complete the 401 certification work as well as continue the other necessary water pollution control work of the Department, it will be necessary to hire additional professional staff and support staff to do the work. Requiring a fee for evaluating and processing these applications seems to be a logical way of producing the necessary revenue for the program.

In order to raise the \$150,000 per year projected, the fees for hydropower should be in the range of \$5000 - 10,000, dependent upon size. The fees for dredge and fill projects should be in the range of \$300 - 500. The Coast Guard projects involving boat docks and other in-water structures would require only a minimal fee of \$50 - 100. A fee schedule would be adopted by the Environmental Quality Commission and reviewed ever other year.

Fiscal Impact:

Revenues: Establish a fee schedule which will raise about \$300,000 in revenue each biennium.

Expenditures: About \$300,000 will be spent each year for personal services necessary for conducting the 401 certification evaluations.

Persons Affected:

Division of State Lands
Corps of Engineers
Ports
Highway Division
County Road Departments
U.S. Forest Service
State Marine Board
Department of Fish & Wildlife
Commercial Developers
Individual Landowners

Contact:

Charles K. Ashbaker - 229-5325

LEGISLATIVE CONCEPT

POLLUTION CONTROL TAX CREDITS

Introduction

The pollution control tax credit program has been in existence since 1968. It has been modified numerous times by the Legislature. The most recent Legislature made changes and added a sunset date on the program of January 1, 1990. DEQ's basic philosophy about the tax credit program is that it helps the agency to achieve compliance more rapidly by being able to offer tax credits to offset the cost of installation of pollution control devices. It also helps the agency to reach consensus with regulated groups when discussing proposed policies, rules and actions related to new regulations.

If the pollution control tax credit program is extended by the 1989 Legislature, the Department would propose expanding the program to provide tax credit incentives for environmental purposes.

Concept

This concept includes in the eligibility for pollution control tax credits incentive items which would encourage better environmental practices in industrial and agricultural areas which are difficult to address by way of laws or regulations.

Purpose

The purpose of this concept is to increase DEQ's environmental effectiveness through minimal administrative effort in three major areas: public information and education; agricultural practices; and recycling and waste minimization.

Public Information and Education

Oregon's environmental protection efforts will not be successful without the support of an informed public. Many of the environmental problems we are faced with today are complex and solving them will require the cooperation of government, business and citizens. Oregonians also need to be aware of and understand how they contribute to pollution. Business would be provided a tax credit as an incentive to produce and/or distribute informational materials to their employees and/or the general public.

Business would be encouraged to produce and distribute informational materials on environmental problems that will help the public understand the problem, the need for regulation, and how others can help in the solution. The material must have as its primary or sole purpose to inform or educate the public on an important environmental issue, must be reviewed by DEQ for technical accuracy and must be designed to inform the public, not to promote the image of the company.

Agricultural Practices

Current tillage and irrigation practices, including application of fertilizers and pesticides, create surface and groundwater quality problems in certain situations. Types of soils, surface slopes and rates of chemical and water application create this water quality problem. Research has shown that these problems can be reduced or eliminated by using minimum or no-till equipment to plant, fertilize and apply pesticides. In some cases, changes in irrigation systems reduce or eliminate the problem. The equipment is expensive and its cost has slowed implementation of these new and innovative best management practices. DEQ wishes to encourage implementation of best management practices by providing pollution control tax credits for purchase and use of minimum or no-till equipment to reduce movement of soils and chemicals in storm runoff; provide a credit for purchase and use of direct applicator equipment which allows minimum use of fertilizers and pesticides; provide a credit for modification of irrigation methods to reduce runoff or leaching of chemicals and over application of water.

Recycling and Waste Minimization

Waste minimization may be allowable under the current law. DEQ wishes to be sure that it is or that it continues to be allowable. Recycling tax credits would be offered as an incentive where no regulatory requirement is in place. This would include providing tax credits to businesses for the purchase of and use of recycling containers or other equipment to provide recycling at their business (must include employee recycling training program or materials). Tax credits would be provided as an incentive for businesses to convert from using nonrecyclable or nondegradable materials, such as styrofoam, to using materials such as paper, glass or metal. Tax credits would be provided as an incentive for businesses and industries to reduce the amount of hazardous waste generated by granting tax credits for the purchase of capital equipment which is needed to modify production processes to minimize waste.

Fiscal Impact

Public information and education is hard to estimate overall. A limit of \$50,000 per project could be applied. A typical public information cost might be similar to the cost of distribution of the SACKS recycling catalogue by the Oregonian which was \$18,000. Agricultural tax credits would depend upon the number of participants. Cost of the direct applicator equipment is \$20,000. The cost of minimum tillage equipment is \$120,000. The cost of modification of irrigation methods varies by project. Recycling costs for purchase of containers or conversion to recyclable or degradable materials would be minor. Cost of purchase of equipment to develop waste minimization would vary by project and no estimates are available now.

Legislative Concepts
Page 3

Persons Affected

All of the concepts provided are incentives. There should be no effect on persons or businesses not wishing to participate.

Contact Person

Lydia Taylor, Management Services Division
Telephone: 229-6485

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Legislative Concept
Equipment Replacement Reserve Fund

Introduction

The Department needs to have a way to "save" money to be able to purchase expensive pieces of equipment. Under the State's present budgeting system no equipment reserve based on depreciation of equipment is provided for. This means that purchases such as a new CGMS in the lab or a new computer which take large amounts of cash to purchase have to be bought with cash during a single biennium either limiting the Department's available resources or requiring that general fund dollars be requested.

The Department would be able to set aside an equipment reserve based on a depreciation schedule if the Legislature created a specific agency fund for that purpose.

DEQ introduced similar legislation during the last session which was reviewed very favorably by the Senate Agriculture and Natural Resources Committee. However, it died in Ways and Means Committee because of lack of time to get it scheduled for hearing.

Concept

Legislation would establish a DEQ Equipment Reserve Fund as a cash account within the General Fund. Dollars would be accumulated over more than one biennium in order for DEQ to replace equipment when it wears out. The Department would still go through the normal budget process to be able to expend the money, just as it does on any other revenue.

Purpose

The purpose is to allow the Department to purchase needed equipment in an organized and prudent manner.

Fiscal Impact

There would be no net fiscal impact.

Persons Affected

None

Contact Person

Lydia Taylor, Management Services Division
Telephone: 229-6485

ADDENDUM #1

LEGISLATIVE CONCEPT Section 401 Certification Fees

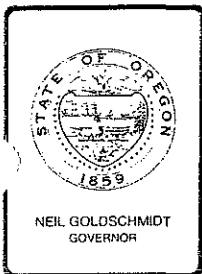
A legislative concept has been prepared for establishing a system of user fees to help fund DEQ's Section 401 water quality certification program. Currently this program reviews from 300 to 400 certification applications per year. Most of these are for Section 404 dredge and fill applications that are processed by the Corps of Engineers. Of these, about half are for bank stabilization, riprap, revetments, routine channel maintenance, and other routine operations which usually have only a temporary, insignificant impact on water quality and beneficial uses.

In investigating this legislative concept, the Department would like to develop a system that allows DEQ to concentrate it's resources on those 401 certification applications that have the potential for significant water quality impacts and disregard the others. The significant applications would probably be those proposals which involve important wetlands that are critical to maintaining water quality, hydro-electric projects, and significant dredging projects. Criteria for determining significant projects would have to be developed.

The Department is currently discussing these issues with the Division of State Lands, which is the state agency responsible for coordinating the State's response to the Corps of Engineers on the 404 applications. Alternatives being considered by DEQ include a process where the 401 certification for projects judged to be insignificant relative to water quality are prepared by State Lands and forwarded directly to the Director of DEQ for certification without a detailed DEQ staff review. Another approach would be for DEQ to waive certification of insignificant projects. Certification is considered waived if DEQ does not respond within a certain time period. On these insignificant projects, water quality considerations would not be ignored because there are standard conditions added to each of the permits issued which require certain accepted methods of reducing the amount of turbidity generated during the project.

A memorandum of understanding between DEQ and State Lands could be developed to describe how the process would work. Under this legislative concept, and either of these two alternatives, fees could be assessed on those projects where it is determined that the proposal has potential for significant water quality impacts and must be reviewed more thoroughly by DEQ. Most likely, hydro projects will always require review by the Department, particularly to assure compliance with state statutes resulting from HB 2990, passed by the 1985 legislature.

It would be hard to predict how many projects will require DEQ review under either of the two alternatives discussed. Therefore, it would be difficult to predict how much revenue could be expected from fees.



Environmental Quality Commission

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

REH

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4/26/88 - Carolyn
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correspondence.

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MEMORANDUM

TO: Environmental Quality Commission

FROM: Director

SUBJECT: Southern Oregon Air Quality Issues: Background Information for Thursday, April 28, 1988, Town Hall Meeting in Medford.

BACKGROUND

The U.S. Environmental Protection Agency (EPA) has established national ambient air quality standards for six air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. Of these, three pollutants (carbon monoxide, ozone, and particulate matter) have been problems in one or more parts of southern Oregon in recent years. These three past or present air pollution problems are discussed in subsequent sections of this report.

The other three pollutants have not been problems in southern Oregon. Lead concentrations in southern Oregon peaked in the mid-1970s and never violated the national health standards. Since the mid-1970s, lead concentrations have steadily decreased throughout Oregon and the rest of the U.S. due to the national phase-out of lead in gasoline. Nitrogen dioxide concentrations have not been a problem since the amount of nitrogen dioxide emissions (primarily from motor vehicles and other combustion sources) is relatively small in southern Oregon. Sulfur dioxide emissions and concentrations have also been low since most of the industrial fuel is wood waste, an insignificant sulfur source, instead of coal or residual oil as in other parts of the country.

EVALUATION

Carbon monoxide, ozone, and particulate matter are discussed separately. Of these, particulate matter is the most serious remaining air pollution problem in southern Oregon.

Carbon Monoxide

The Department has measured carbon monoxide (CO) concentrations above the national health standards in Medford, Grants Pass, and Klamath Falls. Carbon monoxide is a product of incomplete combustion. The major source of carbon



Environmental Quality Commission

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Carbon Monoxide

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monoxide in these urban areas is motor vehicles, followed by residential wood combustion in stoves and fireplaces.

CO concentrations in downtown Medford violated the health standards on more than 200 days in 1977, with worst day CO concentrations over twice the standard. Since 1977, CO concentrations have markedly improved due to the federal motor vehicle emission control program (requiring progressively more effective pollution control equipment on new cars), the computerized traffic signal system and traffic flow improvements by the City of Medford and State Highway Division, and the Rogue Valley motor vehicle inspection and maintenance (I/M) program operated by the Department. CO violations are more likely in the winter months due to poorer atmospheric ventilation, increased motor vehicle emissions at colder temperatures, and heavy holiday shopping traffic. Attainment of the CO standard was apparently achieved this most recent winter season (1987-88) as projected in the State Implementation Plan with no more than the allowed one CO exceedance measured at either of the two continuous monitoring sites in Medford.

Grants Pass was designated as a CO nonattainment area in 1985 based on 9 to 28 violation days per year during 1981-84. CO concentrations have improved somewhat in recent years due to the federal motor vehicle emission control program despite worsening traffic congestion in downtown Grants Pass. A third bridge over the Rogue River is needed to relieve the downtown congestion problem and reduce CO concentrations to within the health standards. This new bridge, a key element of the State Implementation Plan approved by EPA, is scheduled for completion by the end of 1990.

Marginal problem CO levels have also been measured in the Klamath Falls area. The Department is conducting special studies to identify the extent of the problem area and the relative contributions from motor vehicles and residential woodheating.

Ozone

Problem ozone levels were measured in the Medford-Ashland area during the summer months in 1976-78. Ozone levels have improved since then due to reductions in ozone precursor emissions (primarily hydrocarbons) from motor vehicles, industrial coating operations, and gasoline marketing. The Medford-Ashland area was redesignated as in attainment for ozone by the Commission in 1985 and by EPA in 1986. Ozone levels have continued to be well within standards.

Particulate Matter Overview

EPA adopted major revisions to the national ambient air quality standards for particulate matter effective July 31, 1987. This action deleted the federal primary (health-related) and secondary (welfare-related) total suspended

particulate (TSP) standards and replaced them with new standards for particulate less than ten micrometers in diameter (PM₁₀).

Grouping of Areas. The EPA regulations for implementing the PM₁₀ standards classify all areas of the country into one of the following three groups.

1. Problem areas (called Group I areas) are those areas with a high probability of violating the new PM₁₀ standards. Four areas of Oregon have been identified as Group I PM₁₀ problem areas: Medford-White City, Eugene-Springfield, Klamath Falls, and Grants Pass.
2. Questionable areas (called Group II areas) are those areas with a moderate probability of violating the PM₁₀ standards. Four areas of Oregon are Group II areas: Bend, Oakridge, La Grande, and Portland.
3. Other areas (called Group III areas) are those areas with a high probability of meeting the standards. The remainder of Oregon, other than the four Group I areas and four Group II areas identified above, is considered in Group III.

Program Changes Needed. States are primarily responsible for assuring attainment and maintenance of the ambient air quality standards adopted by EPA. The new PM₁₀ standards trigger several changes to Oregon's air pollution control program. The needed changes are: (1) Adoption of Oregon PM₁₀ ambient air quality standards; (2) Amendments to emergency action plan; (3) Amendments to new source review rules; (4) Amendments to prevention of significant deterioration rules; (5) Commitments to monitor PM₁₀ and determine if there are or will be PM₁₀ problems in Group II areas (areas with moderate probability of violating the PM₁₀ standards); and (6) Adoption of control strategies for Group I areas (areas with high probability of violating the PM₁₀ standards).

Schedule. All six of the listed requirements are due by May 1, 1988. The first five items are proposed for adoption at the April 29, 1988, EQC Meeting (Agenda Items K, L, and M). The sixth requirement (control strategies for Group I areas) requires woodheating control programs with local governments and could not be completed by the May 1, 1988, deadline. States are required to submit control strategies for Group I areas to EPA by May 1, 1988, that are adequate to meet the PM₁₀ standards in the problem areas within three years of EPA approval of the control strategy. A two year extension of the attainment deadline is possible if all practical measures are not adequate to meet standards within three years.

Coordination. The Lane Regional Air Pollution Authority (LRAPA) will address the Group I and II areas in Lane County (Eugene-Springfield and Oakridge, respectively). The Department will address the other three Group I areas (all in southern Oregon: Medford-White City, Klamath Falls and Grants Pass) and the other three Group II areas (Bend, La Grande and Portland).

Causes of the Problems. The particulate problems are caused by the combination of poor ventilation, especially during the fall and winter months, and

particulate emissions from various sources, primarily residential woodsmoke from stoves and fireplaces and, in some instances, wood products industry emissions. A national study of weather patterns by EPA in 1972 indicated that the interior valleys of southwest Oregon had among the poorest atmospheric ventilation in the country.

The poor ventilation, resulting in high air pollution potential, is caused by the meteorology (low wind speeds and frequent temperature inversions) and topography (mountain valleys) of the area. Lowest PM₁₀ levels generally occur from April through September and peak levels occur in December and January.

Prior to 1975, the most important source of particulate emissions in the particulate problem areas in southwest Oregon was clearly the wood products industry. However, since the oil embargo and rapid escalation of energy prices in the mid-1970s, residential woodstove and fireplace use has increased dramatically. This increased residential woodburning, combined with progressively tighter pollution control requirements on industry, has caused residential woodsmoke to become the single largest contributor to the particulate problem.

Residential woodsmoke is of special health concern since these smoke particles are almost all in the inhalable range, less than ten micrometers, and occur during the months of the year when the air is most stagnant (December and January).

Existing PM₁₀ Levels. The design values (or baseline PM₁₀ levels during 1984-87) have been estimated for each of the Group I areas and are summarized in the table below. These design values are considered approximate since EPA only recently adopted specific PM₁₀ reference methods and the size of the PM₁₀ data record (number of monitoring sites, frequency of sampling, months or years of record) varies between areas.

<u>Group I Area</u>	<u>Approximate Design Value (ug/m³)</u>	
	<u>Annual</u>	<u>Peak Day</u>
Klamath Falls	60-90	600 or more
Medford-White City	55-65	260-370
Grants Pass	45-55	180-220
Eugene-Springfield	35-45	200-240
(Standard)	(50)	(150)

Improvements Needed. The daily standard will be the more difficult to achieve in the Oregon problem areas. In the Group I areas, worst day PM₁₀ levels must be reduced by 25-75% in order to meet the daily PM₁₀ standard and annual average PM₁₀ levels must be reduced 0-30% to meet the annual standard.

Advisory Committees. The Department and IRAPA have met with, or are currently meeting with, advisory committees in each of the Group I areas. The recommended strategies will include a combination, in most cases, of

residential control measures (primarily involving reduction of woodsmoke from stoves and fireplaces) and industrial control measures (primarily involving the wood products industries). These combinations of control measures will require local ordinances, state rules, and interagency commitments.

Controversial Residential Woodburning Control Measures. Some of the measures will be controversial. For example, the Jackson County (including the Medford-White City Group I area) Woodburning Task Force and the original Klamath Falls Air Quality Task Force recommended mandatory curtailment of woodstove and fireplace use (with limited exemptions) during air stagnation periods, expanded public education, clean air utility rates, and financial incentives for replacing woodstoves with cleaner burning units. The Grants Pass and the new Klamath Falls advisory committees have recommended similar strategies except with voluntary, not mandatory, curtailment programs. Some of these strategies require public hearings by local government, and adoption of local ordinances, prior to the EQC public hearings for incorporating the control strategies into the SIP. Jackson County is coordinating a proposed action plan (Attachment 1) with the cities of Medford and Central Point; this proposed action plan includes the recommendations of the Jackson County Woodburning Task Force except that it proposes a voluntary, not mandatory, curtailment program and proposes to re-evaluate the success of the program each spring.

Major Concerns. There are two major concerns with the PM₁₀ control strategies. First, these strategies will not be adopted and submitted to EPA by May 1, 1988, as required. Other states and local communities in the Pacific Northwest are experiencing similar problems meeting the May 1, 1988, requirement. Additional time is needed to develop the necessary consensus and public support for controversial woodheating control strategies. The Department intends to submit the plans and schedules as they exist on May 1, 1988, to EPA to indicate that good faith efforts are being made to develop adequate strategies and as a step towards reducing the jeopardy of federal sanctions.

Second, EPA indicates it will have difficulty approving voluntary curtailment programs as part of the control strategy. All three of the southern Oregon curtailment plans currently are moving toward voluntary, not mandatory, programs. Of the three southern Oregon areas, Grants Pass is the most justifiable for a voluntary curtailment program since the PM₁₀ problem is less severe than in Klamath Falls or Medford-White City with only a few days per year in marginal violation of the PM₁₀ standards.

Community Development Block Grant. Progress on the other potential woodheating strategies has been more encouraging. Jackson County was awarded a \$485,000 Community Development Block Grant in February 1988 for replacing existing woodheating units with cleaner burning units in low-income homes. In addition, financial commitments from ACCESS for weatherization and utilities for conversions to high-efficiency furnaces or heat pumps amount to over \$300,000 for this same project.

Other Financial Incentives. DEQ is working with the Oregon Department of Energy and the Public Utility Commission to identify other financial incentives

(grants, tax credits, etc.) for cleaner burning heating units or special utility rates to reduce the financial pressures to burn wood in problem areas. The replacement of existing woodstoves with cleaner burning units is the key long-term strategy. Curtailment of woodstoves and fireplaces during pollution episodes is the key short-term strategy. Expanded public education on these and other strategies such as firewood seasoning, weatherization, and stove operation and maintenance is also important.

Public Involvement Project. The Oregon Environmental Council has prepared a PM₁₀ public involvement project and is pursuing the necessary \$70,000 funding for a two-year project. The purpose of this project would be to inform citizens in the Group I areas (and possibly the Group II areas) and mobilize the broad-based citizen support necessary to adopt and enforce new control strategies.

Particulate Matter in the Medford Area

Emission Inventory. Residential woodsmoke from stoves and fireplaces is the major PM₁₀ source category in the Medford-Ashland Air Quality Maintenance Area, as summarized in the following table.

<u>Source Category</u>	<u>Annual PM₁₀ Emissions (%)</u>	<u>Worst Day PM₁₀ Emissions (%)</u>
Residential woodsmoke	41	65
Wood products industry	21	13
Soil and road dust	24	14
Motor vehicle exhaust	7	4
Other	<u>7</u>	<u>4</u>
TOTAL	100	100

Improvements Needed. Worst day PM₁₀ concentrations must be reduced by about 50% to meet the daily PM₁₀ standard in Medford; annual average PM₁₀ concentrations must be reduced by about 20% to meet the annual PM₁₀ standard.

Palzer Report. Recently, Dr. Robert Palzer presented a draft report to the Jackson County Commissioners that questioned the Department's estimates of relative contributions of residential and industrial sources to the PM₁₀ problem. Specifically, Dr. Palzer estimated that industry contributes twice as much as residential woodsmoke to the annual PM₁₀ concentrations and that industry contributes a similar amount as residential woodsmoke to winter PM₁₀ concentrations. The Department staff has reviewed Dr. Palzer's work, re-analyzed the Medford air quality data, met several times with Dr. Palzer, and exchanged much correspondence. We disagree strongly with Dr. Palzer's methods and conclusions and are convinced that the Department and the non-DEQ researchers involved in the Medford airshed studies have identified the source contributions with reasonable accuracy. In order to put this matter to rest, the Department has agreed to work with Jackson County to obtain the necessary

funding and identify a qualified independent third-party consultant to evaluate the Palzer and DEQ PM₁₀ impact estimates.

Dr. Palzer and the Department agree, however, that both residential and industrial control measures are needed to meet the PM₁₀ standards in Medford. Dr. Palzer and the Department support the specific recommendations of the Jackson County Woodburning Task Force. So the disagreement on relative source impacts to the PM₁₀ problem should not be reason for further delaying the needed control strategy.

Advisory Committee Recommendations. The Jackson County Woodburning Task Force, appointed by the Jackson County Board of Commissioners in May 1987 prior to the EPA adoption of PM₁₀ standards, completed its recommendations for the PM₁₀ control strategy in December 1987. The recommended strategy targeted a 75% reduction in residential woodburning emissions on peak PM₁₀ days and a 50-60% annual reduction. The recommended residential woodburning measures included a mandatory curtailment program on air stagnation days, expanded public education program, clean air utility rates, financial incentives to replace existing woodstoves with cleaner burning units, and a 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 (Attachment 1) 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 some of the Rogue Valley cities for a coordinated action plan.

Industrial Controls. The Department has identified additional control requirements for wood product industry in the Medford-White City area. These include tighter emission requirements for veneer driers and wood-fired boilers, more comprehensive industrial requirements for continuous emission monitoring and/or operation and maintenance, and more restrictive offset requirements. Such additional industrial measures are needed to help meet daily or annual standards and avoid more drastic, if not impractical, controls on residential woodheating in the future. 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.

Particulate Matter in the Klamath Falls Area

Emission Inventory. Residential woodsmoke from stoves and fireplaces is the major PM₁₀ source category within the Klamath Falls Urban Growth Boundary, as summarized in the following table.

<u>Source Category</u>	<u>Annual PM₁₀ Emissions (%)</u>	<u>Worst Day PM₁₀ Emissions (%)</u>
Residential woodsmoke	64	83
Wood products industry	7	4
Soil and road dust	12	9
Motor vehicle exhaust	6	3
Other	<u>11</u>	<u>1</u>
TOTAL	100	100

Improvement Needed. Worst day PM₁₀ concentrations must be reduced by about 75% to meet the daily PM₁₀ standard in the Klamath Falls urban area; annual average PM₁₀ concentrations must be reduced by about 35% to meet the annual PM₁₀ standard.

Advisory Committee Recommendations. The Klamath County Air Quality Task Force, appointed by Klamath County Board of Commissioners, completed its recommendations for the PM₁₀ control strategy in December 1987. The recommended strategy targeted a 85% reduction in residential woodburning emissions on peak PM₁₀ days and a 50-60% annual reduction. The recommended residential woodburning measures included a mandatory curtailment program (preceded by a voluntary program) on air stagnation days, expanded public information program, clean air utility rates, and financial incentives to replace existing woodstoves with cleaner burning units. The Task Force report was forwarded to the Klamath County Board of Commissioners and public hearings were held in January and February. The citizens of the Klamath Falls area attended the hearings in large numbers to strongly oppose the proposed mandatory curtailment program. As a result, the County Commissioners accepted the recommendations on the public information program, clean air utility rates, and financial incentives but appointed the New Citizen's Air Quality Committee to develop a voluntary curtailment program by May 1, 1988.

Ballot Measures. The County Commissioners have decided to ask voters in Klamath County on May 17, 1988, two questions: (1) Would you cooperate with a program of voluntary compliance in reducing woodsmoke pollution in the Klamath Basin? and (2) Should the Board of Commissioners require curtailment of woodstoves during high pollution days?

Particulate Matter in the Grants Pass Area

Emission Inventory. Residential woodsmoke from stoves and fireplaces and the wood products industry are the major PM₁₀ source categories within the Grants Pass Urban Growth Boundary, as summarized in the following table.

<u>Source Category</u>	<u>Annual PM₁₀ Emissions (%)</u>	<u>Worst Day PM₁₀ Emissions (%)</u>
Residential woodsmoke	34	53
Wood products industry	34	21
Soil and road dust	19	16
Motor vehicle exhaust	12	8
Other	<u>1</u>	<u>2</u>
TOTAL	100	100

Improvement Needed. Worst day PM₁₀ concentrations must be reduced by about 25% to meet the daily PM₁₀ standard in the Grants Pass urban area; annual average PM₁₀ concentrations marginally meet the annual PM₁₀ standard.

Advisory Committee Recommendations. The Grants Pass Clean Air Advisory Committee, appointed jointly by Josephine County and the City of Grants Pass, completed its recommendations for the PM₁₀ control strategy this month. The recommended strategy targets a 40% reduction in residential woodburning emissions on peak PM₁₀ days and a 56% reduction in wood products industry emissions year round. The recommended residential measures include a voluntary curtailment program on air stagnation days, expanded public information program, and clean air utility rates. Financial incentives to replace existing woodstoves with cleaner burning units are favored if non-local subsidy funds can be obtained. The recommended industrial measures include tighter control requirements for wood-fired boilers and veneer driers similar to those already in place in (or proposed for) the Medford-White City area. The committee report has been forwarded to the Grants Pass City Council and Josephine County Board of Commissioners.

SUMMATION

1. Problem levels of both carbon monoxide and particulate matter have been measured in Medford, Klamath Falls, and Grants Pass. Carbon monoxide levels have improved in recent years as projected; particulate matter is the more serious remaining problem.
2. The U.S. Environmental Protection Agency (EPA) adopted new ambient air quality standards for particulate matter (PM₁₀) effective July 31, 1987. The PM₁₀ problem areas (Group I areas) in Oregon are: Klamath Falls, Medford- White City, Grants Pass, and Eugene-Springfield.
3. The control strategies in Group I problem areas are expected to be a combination of residential control measures (primarily involving reduction of woodsmoke from stoves and fireplaces) and industrial control measures (primarily involving the wood products industries).
4. Some of the most critical residential woodburning control measures will also be the most controversial. For example, mandatory curtailment of woodstove and fireplace use on air stagnation days appears necessary to meet PM₁₀

standards, at least in the Medford and Klamath Falls areas. Local governments have been very cautious in considering such programs.

5. Cleaner burning home heating units are important for the long-term correction of the PM_{10} problems. The Department is working with the Public Utility Commission and the Department of Energy on financial incentives for the replacement of existing woodstoves with cleaner burning units. Jackson County recently received a \$485,000 Community Development Block Grant for this purpose.
6. EPA requires that adopted control strategies be submitted by May 1, 1988. The strategies for the Oregon Group I areas cannot be adopted by this date; additional time is needed to develop consensus and public support for the necessary woodheating control measures. Other states are experiencing similar problems meeting the May 1, 1988, requirement.

DIRECTOR'S RECOMMENDATION

This report is provided for background information only; no Commission action is required at this time.

Fred Hansen

Attachment: Jackson County PM_{10} Action Plan.

Merlyn L. Hough
(229-6446)
April 26, 1988
EQCTOWN2

RECEIVED
APR 25 1988

BEFORE THE BOARD OF COUNTY COMMISSIONERS

STATE OF OREGON, COUNTY OF JACKSON

AIR QUALITY CONTROL

ACTION PLAN AND TIMETABLE)
FOR ADDRESSING FEDERAL)
PM 10 STANDARDS)

ORDER NO. 98-88

WHEREAS, in July, 1987, the U.S. Environmental Protection Agency adopted major revisions to the national ambient air quality standards for particulate matter; and

WHEREAS, the new standards focus on the fine particulate less than ten micrometers in diameter referred to as the PM 10 Standard; and

WHEREAS, the Medford-Ashland Air Quality Maintenance Area has a serious PM 10 air pollution problem, violating national health standards for both the annual average standard and the peak day standard; and

WHEREAS, annual average PM 10 concentrations must be reduced by 20 percent and peak day concentrations must be reduced by 50 percent to meet health standards; and

WHEREAS, the Woodburning Task Force evaluated the particulate problem and recommends corrective measures; and

WHEREAS, the action plan for the Medford-Ashland Air Quality Maintenance Area includes a comprehensive public education program, financial incentive/subsidies for cleaner woodburning units, ban on installation of non-certified woodstoves, and clean air utility rates for electricity and natural gas, as recommended by the Woodburning Task Force; and

WHEREAS, it is important to establish a direction that is mutually supported by all affected entities in order to make further progress; and

WHEREAS, the state Department of Environmental Quality requires submission of a PM 10 plan for this area as soon as possible.

Now, therefore, be it resolved that the Jackson County Board of Commissioners hereby endorses the Action Plan and Timetable for addressing Federal PM 10 Standards in the Medford-Ashland Air Quality Maintenance Area.

DATED this 21st day of April, 1988, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS


Jeff Golden, Chairman


Stewart McCollom, Commissioner


Hank Henry, Commissioner

ORDER - 2
3245.33

PROPOSED ACTION PLAN AND TIMETABLE
FOR ADDRESSING FEDERAL PM10 STANDARDS
IN THE MEDFORD-ASHLAND AIR QUALITY MAINTENANCE AREA

Prepared By:
Jackson County Department of Planning and Development
April 7, 1988

Introduction

In July 1987, the U.S. Environmental Protection Agency adopted major revisions to the national ambient air quality standards for particulate matter. The new standards change the focus from total suspended particulate to only the fine particulate, less than 10 micrometers in diameter. This is referred to as the "PM10" standard. The Medford-Ashland Air Quality Maintenance Area (AQMA) has a serious PM10 air pollution problem, violating national health standards for both the annual average standard (50 micrograms per cubic meter) and the peak day standard (150 micrograms per cubic meter). Annual average PM10 concentrations must be reduced by 20 percent and peak day concentrations by 50 percent, to meet health standards.

Peak particulate concentrations generally occur during air stagnation periods in December and January. According to estimates by the Oregon Department of Environmental Quality, about 65-70 percent of peak day PM10 particulate is due to residential woodsmoke from stoves and fireplaces. On an annual basis, about 40 percent of PM10 particulate is from residential woodsmoke.

The Jackson County Commissioners appointed the Woodburning Task Force in May 1987, to evaluate the particulate problem and recommend corrective measures. The Task Force reviewed air quality data, the relative source contributions to the problem, past efforts to reduce pollution, and the available alternatives to reduce particulate pollution from woodburning. The Task Force considered the relative cost and benefits (economic, energy, safety, environmental, and health) of the alternatives in making its recommendations.

The Task Force has recommended the following measures be included in the woodsmoke reduction strategy for the cities and that portion of Jackson County within the Medford-Ashland Air Quality Maintenance Area:

1. Comprehensive public education program;
2. Financial incentives/subsidies for cleaner woodburning units;
3. Ban on the installation of noncertified woodstoves.
4. Clean air utility rates for electricity and natural gas; and
5. Mandatory curtailment of woodstove/fireplace use during air stagnation;

The Action Plan

This proposed plan of action addresses the period from April 1988 to March 1989, and is based on items one through four in the above list of strategies. It does not include mandatory curtailment of woodburning at this time. Several important steps have already been initiated or accomplished for items one and two, as discussed further on in this plan. But it is important to establish a direction that is mutually supported by all affected entities in order to make further progress. Also, the Department of Environmental Quality would like to

receive a PM10 plan for this area as soon as possible. The State of Oregon, in cooperation with local governments, is required to submit plans and commitments to the Environmental Protection Agency by May 1 of this year. These plans should be adequate to meet PM10 standards by 1991, although an extension to 1993 is possible. The proposal recognizes that previous attempts at voluntary compliance have not been adequately funded and coordinated, and concludes that the citizens of the Rogue Valley should be afforded the opportunity to fully understand our air quality needs and obligations before mandatory woodburning controls are instituted, as ultimately may be required to meet federal standards. The plan's four elements are described in further detail, including appropriate work elements, in the following paragraphs.

Ban on the Installation of Noncertified Woodstoves

The Oregon woodstove certification program prohibits the sale of noncertified stoves after July 1986, but does not control the installation of noncertified units in the home. Thus, it is presently legal to purchase a used stove or new stove from another state, and utilize it for space heating within Oregon. The adoption of local ordinances prohibiting this practice would benefit the long-term reduction of particulate from wood heating sources. This plan includes the adoption of such ordinances by the county and cities in the Medford-Ashland Air Quality Maintenance Area at the earliest possible time.

Financial Subsidies/Incentives for Cleaner Woodburning Units

On March 4, 1988, Jackson County received official notification of a grant awarding the amount of \$485,000, as a part of the 1988 Oregon Community Development Block Grant Program. This grant is the necessary catalyst for a growing fund to provide financial incentives for the replacement of noncertified woodstoves. Already, this fund is growing to a short-term potential of about one million dollars. It is important that all local governments in the AQMA pursue additional monies to build upon this foundation. The DEQ estimates that six million dollars would replace enough stoves to ensure compliance with EPA standards. The closer we approach this goal, the less we will need other measures to solve our problem. This plan provides the full cooperation of all cities within the AQMA in pursuing this goal.

Clean Air Utility Rates for Electricity and Natural Gas

The "Clean Air Utility Rate" has been proposed by Pacific Power on two occasions, but has failed to meet Oregon PUC approval. There should be a concerted effort locally to support this or similar concepts, at appropriate levels of state government. This is another kind of financial incentive for the conversion of polluting heat sources to units that do not produce particulate. This plan includes a coordinated effort on the part of the county and AQMA cities in pursuing the implementation of special utility rates which support clean air.

Comprehensive Public Education Program

The report of the Jackson County Woodburning Task Force contained the following statement concerning this strategy:

"A comprehensive, professional and well-financed public education program is essential for public cooperation and support in reducing woodsmoke emissions. The program should describe clearly the need for everyone's cooperation, the health-safety-energy-economic benefits to individuals and the community, and precisely what individuals can do to help. Key elements should include:

- Home weatherization
- Firewood seasoning
- Cleaner burning practices
- Proper stove sizing
- Maintenance of woodburning system
- Solar access and orientation"

The Task Force agreed that this strategy was of the utmost importance to support every other aspect of their recommended program. To underscore their commitment, a number of members volunteered to present the Task Force report to service clubs and other groups throughout the AQMA. A number of these presentations have already occurred, and an organized speakers bureau will be in place in the near future.

Two items are in preparation to support the speakers bureau and this strategy in general. One is a brochure explaining, in brief, what the air quality problem is, why the Task Force was created, what they have recommended, and what will be happening concerning the issue in the near future. The other is a fifteen minute video tape concerning the same subjects. The brochure will be distributed throughout the AQMA, and multiple copies of the tape will be available for presentations and loan to the general public.

To achieve an effective public information program, there is a need for professional assistance in the preparation and coordination of media presentations. This item would include a preliminary survey of public attitudes and knowledge concerning local air quality problems and the woodburning impacts.

The estimation of cost for such a program is based on precedent. In December of 1983, Jackson County sent out a request for proposals to develop a public information program for vehicle inspection/maintenance. Although the county did not proceed with this project, the information developed is useful for comparison of the proposals received, most of which offered a similar array of services. This would have been a four-month project, which is equivalent in duration to the November through February woodburning

season. Based on that experience, it is clear that \$35-50,000 would be required for a professional media campaign, and of that amount about 75 percent would be used to purchase media services. This is an annual cost, which may require adjustment based on the proposal selected.

Another facet of this strategy is the monitoring of residential woodburning habits during poor air quality conditions. This would be an extension of the passive monitoring program already conducted by Jackson County, but would also include brief stops at residences to provide information about woodburning and air quality, and to encourage cooperation with the voluntary woodburning advisory program. This effort could either be carried out by each individual entity or conducted through an interagency agreement.

Finally, the plan schedules an evaluation period at the end of the 1988-89 woodburning season. All entities would meet to discuss the accomplishments of the program, compared to necessary pollutant level reductions, and to develop a plan for the next year or a longer period of time.

Implementation Timetable (continued)

<u>WORK ITEM</u>	1988										1989		
	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	
<u>Public Education (continued)</u>													
2) Complete video tape and begin distribution (county).	██████████	██████████											
3) a. Establish Speakers Bureau and set up calendar for presentations (county).		██████████											
b. Speakers make presentations throughout AQMA (county).		██████████	██████████	██████████	██████████								
4) Public hearing on Task Force Report. (county)				██████████									
5) a. Develop and adopt interagency agreements concerning financing and implementation of professional public information program (county/cities).			██████████										
b. RFP and consultant selection (county/cities).				██████████									
c. Program development and approval (county/cities).					██████████	██████████	██████████						
d. Program implementation (consultant).								██████████	██████████	██████████	██████████		
e. Program evaluation (county/cities).												██████████	
6) a. Develop and adopt interagency agreement concerning funding and implementation of residential monitoring and information program (county/cities).			██████████										
b. Program development and approval (county/cities).						██████████	██████████						

Implementation Table (continued)

<u>WORK ITEM</u>	1988				1989				MAR			
	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV		DEC	JAN	FEB
<u>Public Education (continued)</u> c. Program implementation (county/cities). d. Program evaluation and determination of future plans (county/cities).												

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: April 26, 1988

TO: Fred Hansen

FROM: John Jackson

SUBJECT: DEQ's Position on the Silver Fire Recovery Project Proposal

Attached are copies of letters stating our position and concerns regarding the proposed logging within the Silver Fire Recovery Project area of the Siskiyou National Forest. The issue of our position could come up during the EQC town hall meeting in Medford. Some people in the project area (near Grants Pass) believe we want to prohibit logging.

The letter signed by Lydia is being attached to the Governor's letter on the subject. The Governor's letter is due at the Forest's Office May 8.

The second letter is proposed to be included in the Governor's letter because of the concern about the DEQ position. The letter is intended to clarify our position.

I will be working with the Forest staff in Grants Pass Wednesday and possibly Thursday this week to improve on their DEIS statements concerning water quality and beneficial use impacts.

I will be at our Region Office in Medford about 4:00 P.M. Thursday if you want to discuss this issue before the town hall meeting. Otherwise, I will see you at the meeting.

1. Mandatory on Book
2.



Department of Environmental Quality

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

April 14, 1988

Dave Stere
Oregon State Department of Forestry
2600 State Street
Salem, Oregon 97310

Dear Mr. Stere:

The Department has reviewed the draft Environmental Impact Statement (DEIS) for the Silver Fire Recovery Project on the Siskiyou National Forest. We provide the following comments for use in preparing the coordinated state response. These comments are related to air quality and water quality impacts of the Project's proposal to harvest merchantable timber and related activities within the project area.

Regarding water quality, the Department's primary concern is that the Project's activities be consistent with Oregon's adopted Statewide Water Quality Management Plan for forest practices as required by the Clean Water Act. We recognize the sensitive conditions in the project area since the fire. We do not wish to see further degradation of water quality. The human activities proposed in the DEIS may cause further injury to the beneficial uses of the water. We are most concerned about road building, the potential lasting effects on water turbidities, and timber harvest systems that further damage fragile riparian areas along stream channels, both perennial and ephemeral. Please review the attached Water Quality Division comments for further discussion of our concerns.

Regarding air quality, the Department's primary concerns are those of air quality impacts from forest prescribed burning and the burning of fuelwood by the public within urban areas. Because of the serious nature of the air quality problem in Medford and Grants Pass during the winter months, it is very important that prescribed burning conducted as part of the Silver Fire Recovery Project recognize these areas as sensitive to smoke.

Thank you for allowing us the opportunity to review the DEIS. The Department looks forward to assisting the Silver Fire Recovery Project staff in developing a strong project and final EIS.

Sincerely,

Fred Hansen
Fred Hansen
Director

FH:y
MY6965
Attachment

Silver Fire Recovery Project Plan DEIS Comments

Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

I. AIR QUALITY

The following comments summarize Department of Environmental Quality, Air Quality Division concerns that should be addressed in the Final Silver Fire Recovery Project EIS. Comments are organized in 5 sections, each of which should be addressed in the Final Forest Plan:

- A. Attainment and Maintenance of Air Quality Standards
- B. Prevention of Significant Deterioration Requirements
- C. Visibility Protection of Class I areas
- D. Consistency with respect to Federal and State of Oregon environmental policies.

Forest Planning Impact Analysis

The principal issue of concern to the Department is that of air quality impacts related to forest prescribed burning, urban air quality impacts resulting from residential use of fuelwood from the Forest and the highest and best practicable use of forest residues.

A basic requirement of all Forest Plans Environmental Impact Statements is presentation of an analysis of planned prescribed burning in relation to past burning activities. If it can be shown that projected annual and daily air pollutant emissions do not exceed, or are expected to be less than that which occurred during the 1976-1979 baseline period (using emission estimation methodology for baseline and future years developed by Sandberg, et al, USDA Forest Service), then issues discussed in Sections 3 and 4 are satisfied and no additional technical analysis of these issues is required.

If it is clear that total prescribed burning emissions on the Siskiyou National Forest and under the Silver Fire Recovery Project will exceed those during the 1976-79 baseline period (7,300 tons per year), a broader technical analysis of expected impacts on PSD increments will be required to clearly demonstrate that planned increases in prescribed burning emissions are consistent with federal and state air quality regulations, rules and policies. Since the DEIS provides no analysis of projected emissions from burning for the Alternatives, the Department cannot determine if total emissions will be above or below the baseline.

A. Attainment and Maintenance of Air Quality Standards.

Alternatives should be evaluated with respect to the Clean Air Act and Oregon Clean Air Implementation Plan requirements. The first issue that

must be addressed is that of impacts on air quality standard attainment and maintenance. Table 1 lists Federal and State of Oregon air quality standards. Specifically, analysis of the alternatives should demonstrate that the proposed action will not cause or significantly contribute to air quality standard violations.

Air quality impacts within attainment areas must not exceed Prevention of Significant Deterioration (PSD) increments (Table 2) or cause violations of air quality standards.

B. Prevention of Significant Deterioration

Part C of the Clean Air Act, requires the Department to insure that pollutant increments in Class I areas (Table 2) do not exceed specific limits adopted by Congress irrespective of the originating source. To assure that these increments are not exceeded due to planned increases in prescribed burning emissions, a technical analysis of the impact of planned burns on nearby Class I wilderness and Class II lands would be required. As noted above, such an analysis would not be required if it can be shown that the total amount of burning on the Siskiyou National Forest (including the Silver Fire Recovery Project) would not exceed that which occurred during the 1976-1979 baseline period. If the analysis indicates significant impacts, specific measures designed to mitigate the impacts must be described in the Forest Plan.

C. Visibility Protection For Class I Areas

The Oregon Visibility Protection Plan requires the protection of visibility within Class I areas during the period of the July 4th weekend to Labor Day, inclusive. During this period, the Winema Smoke Management Program must be conducted such that smoke is not intentionally transported into Class I wildernesses. The Recovery Project Plan should evaluate the impact of proposed increases in prescribed burning activities on the Visibility Protection Plan to assure the continued protection of visibility within Class I areas.

D. Consistency With Federal and State Environmental Policies.

Department policy (OAR 340-20-001) require that Highest and Best Practicable Treatment and Control be applied to pollution sources within Oregon. OAR 340-13-005, Environmental Standard for Wilderness Areas, set forth policy on environmental impacts within wilderness lands while USDA Forest Service Region VI policy (Service Manual No. 2400, Supplement 347, March 1985) requires that, in recognition of the value of forest residues utilization, prescribed burning only be accomplished for those units where all other alternative treatments are unacceptable.

1. Fuelwood cutting program consistency with environmental policies:

The Department has become increasingly concerned about residential wood smoke impacts on urban air quality, especially in Medford, Grants Pass and Klamath Falls. Fuelwood cutting programs managed on the Silver Fire Recovery Project may be a major and inexpensive source of fuelwood

for Southwest Oregon residents. The DEIS does not discuss the serious environmental consequences of any proposed fuelwood program or its consistency with Federal and State environmental policies. Specifically, the DEIS should clearly demonstrate that woodcutting fees are not subsidizing the public's use of fuelwood.

2. Highest and best use of wood residues:

Department policy (OAR 340-20-001) requires that highest and best practicable treatment and control be applied to pollution sources within Oregon. Since prescribed burning smoke is the largest source of fine particulate emissions within the State, the Draft Forest Plan should include consideration of an alternative that assures the highest and best practicable treatment of forest residues focusing on intensive utilization of woody residues for industrial purposes. It is important that the Forest Service work toward alternatives that will minimize prescribed burning smoke while continuing to support utilization of woody residues.

For further information on Air Quality Comments, please contact John Core (229-5380).

II. WATER QUALITY DIVISION PERSPECTIVE DURING THE REVIEW

We must first recognize the already extremely sensitive situation for water quality and fish habitat. The environment for recreational experiences that persons frequenting the area have grown accustomed has been totally degraded. We also must ensure that the local economy remains viable which includes the fisheries and recreation in addition to timber and wood products. The DEIS was reviewed within the concept that proposed land management activities have the potential to improve existing degraded resources and to not allow further degradation to occur. Our overriding concern during the review was to ensure that the proposed activities do not further degrade the water quality. If the activity was found to degrade the existing conditions, then an alternative was proposed to achieve the same management objectives.

A. Overall Comments

The preparers of the DEIS must be commended for a comprehensive effort in covering all factors of the problem that concern water quality, in particular:

1. A watershed by watershed analysis of current erosion, temperature and sediment conditions.
2. The same watershed analysis predicting the potential changes in temperature and sediment conditions caused by the proposed management activities. We recognize the inherent errors in making such predictions but used the displayed values in relative comparisons rather than as absolute predictions of future conditions.

B. Specific Comments

We concur with the statements:

1. Describing water quality concerns (pg 111-18).
2. Describing current environment and causes of water quality problems, especially temperature, sediment, and turbidity (Section III and pg IV-160).
3. Describing human activity that will change water quality over and above what the fire has already done (i.e., SHCI and stream temperature predictions).
4. Describing extremely sensitive soils and topography to cause mass soil movement (Section III).
5. Describing potential conflicts (pg IV-152).
6. Describing water quality impacts other than temperature and sediment (pg IV-74).

We have concerns about the following statements in the DEIS and offer ways to resolve the concerns.

1. Roads. Throughout the DEIS, there are discussions of steep, unstable topography (pgs I-4, III-2), recent landslides (pg III-2), fire caused degraded streams (Section III), increases in mass movement of soils since the fire, rapid streamflow responses to precipitation, and the management activities that will aggravate these degraded conditions (Section IV). These discussions leave the impression that any proposed management activity should either not take place or be conducted with extreme caution to protect water quality and fish habitat; in particular, the placement, construction, and use of roads.

The DEIS does a good job of describing the placement and use of the roads. These discussions raise concerns. A) There is no discussion of how the roads will be constructed (side casting of material vs. end hauling). B) Some road placements appear to occur in areas that will cause water quality problems (pgs IV-40 & 41). In particular, we believe building roads across "recent landslides, above headwells, and across ravel and talus chutes" (pg IV-41) is asking for trouble in the preferred alternative. C) Road cut and fill slope erosion and road surface conditions during and after harvest have the potential to cause continued sedimentation and turbidity problems for the streams. Our observations of the high erosion potentials on the Bald Mountain and Chinaman Hat roads on April 4, 1988, lead us to believe that a properly constructed road is only a portion of the total concern for roads. Adequate road maintenance and possible permanent road closures are appropriate considerations for the future of the roads once harvesting is completed. However, the DEIS does not address the issue of continued road maintenance in the highly erosive soils and

topography present in the project area. The DEIS supports our position on this point when comparing smolt habitat capability index and temperature values for Alternative E and F versus Alternative I. Statements on page IV-159, Water, also support our position.

We suggest that the road placements be reviewed to eliminate crossing the sensitive areas described on page IV-41. We recognize that this suggestion will modify logging systems and costs. However, the higher costs may be offset by increased water and fish habitat values (see our comments under economics).

We also recommend that the EIS address the fate of the new roads after the project is complete and in particular, road maintenance.

2. Harvest Systems. The DEIS mentions the use of helicopter, skyline and ground systems in removing the trees. The DEIS goes on to discuss these systems' impacts on soil disturbance and water quality. It is our understanding of the models used to predict water temperature and sedimentation that logging system impacts are considered. Is it possible to reduce stream temperatures by changing logging systems or eliminating stream crossings within the skyline system?
3. Water Quality Impacts. Our concerns center on comments made on page IV-94, Fish and Water for Alternative I, the preferred alternative. We commend the forest staff for the definitive analysis of water and fish habitat impacts. The analysis enables us and the forest staff to ensure appropriate actions are taken when impacts are predicted.

The statement concerning water temperature standards is an accurate interpretation of the standard. However, the suggestion to obtain an exception to the rule contained on page IV-94 is in error. Oregon Administrative Rule 340-41-365, water quality standards for the Rogue Basin, do not allow exceptions to the water temperature standard when the temperatures are above 58 degrees. Therefore, causes of the increased temperatures must be modified in the plan to ensure no increase over background levels. The post-fire stream temperatures, without human intervention, are considered to be the background temperatures in this case.

Furthermore, allowing higher temperatures will have an adverse effect on the downstream Illinois River, a designated wild and scenic river. Degradation would be in violation of OAR 340-41-026, Oregon's current antidegradation statement. We recognize that the background temperatures will come down as the fire area revegetates and begins to shade the small streams again. These declining temperatures will continue to be considered as the baseline until they reach pre-fire levels.

The statements regarding increased sediment yield caused by harvest, road construction and road-related sediment appear accurate. The actions to mitigate are not appropriate. The appropriate actions should be to prevent the sediment from entering the streams and drainages, not mitigate inappropriate actions. We recognize the

definition of mitigation in the DEIS also includes, "Actions to avoid, minimize, reduce, eliminate, ... the impact of a management practice." However, the manner in which the term is used on page IV-94 suggests the forest staff plans to use mitigation as a "compensation for impacts of harvest in localized areas of some streams". This is not appropriate for water quality management in Oregon as specified in Oregon Revised Statute 468.710 Policy.

Our concerns for projected increased sediment yields and temperatures are reinforced by the cumulative effects statement on page IV-94 regarding the impacts on the Illinois River. Again, we view these changes in the Illinois River as degradation of water quality which is not allowed in OAR 340-41-365 and a violation of OAR 340-41-026 which prohibits degradation of water quality and beneficial uses in national wild and scenic rivers.

The DEIS identifies the cause for the temperature and sediment increases as cableways through the riparian zone and roads respectively. Since mitigation is not acceptable for site specific and cumulative impacts on water quality, we request that the logging systems be modified to protect riparian zones and roads be constructed to prevent sedimentation and turbidity. Modifying the plan in this way would then align the plan with the statement in the DEIS, page I-8, "... no proposed alternative would include illegal or otherwise inappropriate actions".

We do not agree with the statement on page IV-156 regarding short and long term productivity impacts on water quality. Our experience in areas of Oregon with highly erosive terrain suggest that there are long term water quality impacts from roads that are not fully recognized in the DEIS. The statement on page IV-159, Water, conflicts with the statement on page IV-156 as well.

4. Economics. While evaluation of the economics of the salvage project is not within our purview, we do see an omission from the analysis that should be corrected. The DEIS should also consider the value of the fish habitat and clean water in the project area and in the down stream wild and scenic river segment in the discussions regarding the social and economic impacts of the proposed activities which begin on page IV-143. The DEIS mentions these elements on page IV-145, Communities, but then does not consider these elements within each Alternative discussion that follows.

We believe a discussion of these elements' effects in the local economy are necessary. It is reasonable to consider them in light of our recommendations that logging and roading systems be modified to protect the fish and water resources. The fish and water resources have value to the local economy and therefore should be balanced against the recognized increased costs of harvest trees in a manner to protect the fish and water resources. We might find that the value of maintaining the fisheries and clean water outweighs the increased costs of using a different logging method.

5. Monitoring. We are disappointed in the lack of a definitive description of the monitoring plan. We agree with the water "Features" of the monitoring plan displayed on pages II-11 and 12. However, we need to review the proposed monitoring plans to ensure these "features" will be achieved. We believe the monitoring plan is extremely important for four reasons. A) Monitoring can ensure that water quality and beneficial water uses are not degraded, especially in the wild and scenic river segments. B) Water Quality and beneficial use data can also be used to evaluate best management practices employed within the project area. C) Monitoring can verify the model predictions for temperature and sediment for future modeling efforts in the forest. D) Results of the monitoring can help evaluate future activities in other burn areas. We strongly encourage that water monitoring begin as soon as possible so as to establish a baseline prior to road building and harvesting!

For further information on water quality, contact John Jackson (229-6035).

**Table 1
National Ambient Air Quality Standards**

SO ₂ Primary	80	g/m ³ , annual arithmetic mean
	365	g/m ³ , 24 hour average
PM ₁₀ Primary	50	g/m ³ , annual arithmetic mean
	150	g/m ³ , 24 hour average
NO ₂ Primary & Secondary	0.053	ppm, annual arithmetic mean
CO Primary	9	ppm, 8 hour average
	35	ppm, 1 hour average
Ozone Primary	0.12	ppm, 1 hour average
Lead Primary	1.5	g/m ³ , quarterly arithmetic mean

**Table 2
Maximum Allowable Increases
(PSD Increments)
(Micrograms Per Cubic Meter)**

Class I Areas

Pollutant	Annual	24-Hour	8-Hour	3-Hour
SO ₂	2.0	5.0		25.0
TSP	5.0	10.0		

Class II Areas

Pollutant	Annual	24-Hour	8-Hour	3-Hour
SO ₂	20.0	91.0		512.0
TSP	19.0	37.0		

Class III Areas

Pollutant	Annual	24-Hour	8-Hour	3-Hour
SO ₂	40.0	182.0		700.0
TSP	37.0	75.0		

**Oregon Department of Environmental Quality
811 S.W. Sixth Ave.
Portland, Oregon 97204**

For More Information: Carolyn Young
229-6271 (Portland)
1-800-452-4011

FOR IMMEDIATE RELEASE - April 20, 1988

EQC TO MEET IN MEDFORD

The Oregon Environmental Quality Commission (EQC) will hold meetings in Medford on April 28 and 29. A town hall meeting has been scheduled for 7:00 p.m. Thursday night at North Medford High School. The Town Hall meeting will be an opportunity for Medford area residents to speak to Commission members about environmental issues. The Town Hall meeting is not a public hearing and no formal testimony will be taken. Rather, the public will have an opportunity to make comments and ask questions. DEQ staff members will be available to answer questions.

The Commission will hold its regular meeting in Medford on April 29, 1988 at 9:30 a.m. in the Jackson County Courthouse. The Commission agenda includes a variety of environmental issues, including adoption of new rules for several program areas. New rules are proposed for an asbestos control program that requires contractors who remove asbestos to be licensed and asbestos workers to be certified. Asbestos, once used extensively for insulation and fire preventions, is a known cancer-causing substance. Many times, when a contractor begins a remodeling or demolition job, it's likely asbestos will be disturbed, presenting a serious health threat to workers and--if not done right--a threat to others in the building. The proposed rules would require that contractors and workers involved with asbestos must be trained and licensed or certified. Building owners/operators conducting asbestos abatement projects must use employees who are trained and certified or hire licensed contractors.

Other air quality issues include revisions to new source review rules and air quality standards to incorporate new federal particulate matter (PM10) requirements. In another PM10 related item, the Department is asking for new rules that would require DEQ to monitor air quality in areas which may be in violation of the new standard. These areas are Bend, La Grande and Portland. The Lane Regional Air Pollution Authority is developing similar actions for Oakridge. If after monitoring it is determined that an area is in non-compliance, a control strategy must be developed within six months.

(more)

The commission will also consider amendments to rules of practice and procedure which guide such things as rulemaking, declaratory rulings and contested cases. Another agenda item is a proposed increase in hazardous waste fees.

Also on the agenda is a report and opportunity for public comment on the state/EPA agreement. The agreement outlines priorities, tasks and resources which comprise the cooperative federal and state environmental management program in Oregon during fiscal year 1989.

The Commission will also consider a compliance order for the City of Brookings to resolve problems with the City's sewage treatment permit. The treatment system has a problem with extraneous flow during storms which overload the system. Another problem is the location of the effluent outfall which is exposed during low tides, allowing the treated sewage to run across the beach before it enters the Pacific Ocean. The order would require the outfall to be relocated and the sewage treatment plant facilities to be upgraded.

The Commission meeting will be held in the Jackson County Courthouse. Time will be reserved at 9:35 a.m. to hear from citizens about pollution problems of special concern to them.

**EQC Meeting--April 29, 1988
9:30 a.m.
Jackson County Courthouse
Medford, Oregon**

**Town Hall Meeting
April 28, 1988
7:00 p.m.
North Medford High School**

The Environmental Quality Commission is a five-member citizen panel appointed by the Governor to set the environmental policies and regulations for Oregon. The EQC is staffed by the Department of Environmental Quality.

####



OFFICE OF THE MAYOR

CITY OF MEDFORD
MEDFORD, OREGON 97501

MEDFORD'S SISTER CITY:
ALBA, ITALY

April 15, 1988

CCPA

Mr. Fred Hansen, Director
Department of Environmental Quality
811 SW 6th Avenue
Portland, OR 97204-1390

Dear Mr. Hansen:

Thank you for your letter of invitation regarding the EQC meetings to be held in Medford later this month.

Mayor Lausmann is unable to attend the breakfast meeting at Elmer's, but he is planning to attend the Thursday evening meeting at North Medford High School and the 9:30 a.m. meeting on Friday morning.

If we can be of any assistance, please do not hesitate to call.

Sincerely,

Carlene Weldon

Carlene Weldon
Secretary to Mayor Lausmann

CW

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 15 1988
OFFICE OF THE DIRECTOR

County seeks review of smoke pollution data

By ROBERT STERLING
Mail Tribune Staff Writer

Jackson County commissioners today agreed to ask a state agency to hire a consultant to review Rogue Valley smoke pollution data and possibly conduct another study.

The call for an independent review came in response to a dispute between an Ashland scientist and the Oregon Department of Environmental Quality over the validity of smoke pollution data.

Robert Palzer, a chemistry professor at Southern Oregon State College, contends that the DEQ has greatly underestimated the volume of industrial emissions.

His analysis, which is based on statistics compiled by

the DEQ, shows that although woodstove and fireplace use presents a significant pollution problem on stagnant winter days, industrial emissions continue to be the dominant source of annual smoke pollution levels.

Palzer's study has been backed by other SOSOC scientists, and a new group calling itself the Coalition to Improve Air Quality has asked for an independent analysis of the local pollution problem.

Coalition members, including Palzer, met with commissioners today to discuss ways they can address the local smoke and soot pollution problem.

Vera Morrell, acting chairwoman of the coalition, said the group wants to move forward with a variety of strategies to reduce both residential and industrial pollution.

But she said she's afraid the situation could become polarized if efforts to clean the air are stalled while attempts are made to resolve the differences in the DEQ and Palzer studies.

Commissioner Jeff Golden agreed that it would be "a great mistake to sit and wait" until all differences are resolved.

But he said the issues should be settled; he and other commissioners agreed to ask DEQ Director Fred Hansen to meet with Palzer and the coalition to discuss which third-party scientist or consultant would be most appropriate to review air quality data.

Palzer noted that one of the problems with the DEQ data is that there are gaps.

He said that in particular, a thorough study of pollu-

tion sources during July and August would give a better indication of the industrial contribution to local smoke pollution levels.

"If the data's not there, both sides have to make certain assumptions," Palzer said.

Golden said Hansen has told him the DEQ would be willing to fund a study, as long as all sides agreed on the party to conduct the study and agreed that whatever conclusions are reached would settle the matter.

Palzer and the DEQ have been exchanging letters outlining their arguments for the past two months, but have not changed their positions.

Commissioners earlier this year asked the DEQ for a response to Palzer's study; the agency is expected to soon present its conclusions to the commissioners.

Klamath; Lake favor industry

Five-county tourism plan may lose two

By JOHN ENDERS
Mail Tribune Staff Writer

Three months away from submitting a tourism-based economic development plan to the state, southern Oregon's five-county regional team isn't sure yet who's going to play or even how many players are signed up.

A meeting in Lakeview Tuesday brought to the surface some serious divisions over tourism as a strategy.

County commissioners from Jackson, Josephine, Curry, Klamath and Lake counties discussed a five-county joint economic growth strategy.

But Klamath and possibly Lakeview counties may not be a part of

McGregor said the group had "gotten over the rough spots" of working out a joint tourism strategy, "except for the Klamath County issue."

If Klamath County withdraws from the regional group, Lake County probably will too, because of its geographic isolation and its proximity to Klamath, Rogers and McGregor said.

"We don't know what we'd do with Lakeview," McGregor said.

Klamath County commissioners by April 30 will hold a public hearing in Klamath Falls and formally decide whether to stay part of the region, Rogers said.

Development of regional economic development plans began a year ago,

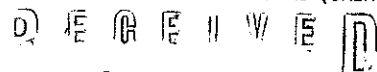


May 6, 1988

Gary Shaff
16 Ashland Ave.
Medford, OR. 97504

Mr. Jim Peterson
Environmental Quality Commission
811 SW Sixth Avenue
Portland, OR. 97204

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY



MAY 11 1988

OFFICE OF THE DIRECTOR

Dear Commissioner Peterson:

I wanted to thank you and the rest of the Commission members for making the effort to travel to Medford for your meeting in April. It gave Southern Oregonians the rare opportunity to directly participate in your policy setting process.

Your willingness to take further testimony on the PM10 administrative rule amendments was much appreciated. I've included a copy of the materials that I presented. My remarks about the differences between the adopted SIP and local ordinances were not intended to suggest that local government is incapable of controlling local pollution problems (as the local Chamber might think). But rather, to ensure that the Commission and local government officials assume their respective responsibilities. In the case of the 1982 SIP, both levels of government and clean air advocates missed opportunities to reduce pollution levels. It is regrettable. My hope is that we will benefit by the knowledge and, thereby, ensure quick and steady progress toward.

Please keep me informed of your and DEQ's efforts to address the offset issue. I am keenly interested in the subject and hope that I can continue to participate in your discussions and deliberations.

Sincerely,


Gary Shaff

cc: Jeff Golden, Merlyn Hough, Nancy Peterson

I would like to offer you some comments about the offset provisions of OAR 340-20-255 to 340-20-265.

The offset rules seem appropriate and would provide the needed flexibility in air sheds which have limited capacity or are at capacity. That is in contrast to airsheds such as that of the Rogue Valley and Klamath Falls where existing emissions far exceed the capacity of the airshed to accommodate them. In these instances, the offset policy would seem to simply institutionalize the "out of compliance" condition.

I do believe that internal offsets, that is those wholly within single plant site are appropriate for banking and offsets. However, the same can not be said for external or community offsets. The existing rules would allow Medford, or any other municipality or the County, to take credit for or bank the emissions from residential woodstoves emissions reductions (assuming that they in fact occur). This offset could subsequently be utilized for other new sources of pollution. Similarly, an industrial source permit may, at the time of plant closure or bankruptcy, sell its "pollution right" to a new source. Both of these examples would simply "institutionalize" a condition that the EPA, DEQ, and the citizens of the Rogue Valley find untenable. Again let me stress that offsets for internal plant site emissions seem reasonably appropriate - and would adequately accommodate changing technology, plant production changes, and economic considerations. But external emissions offsets in contrast, institutionalize our air quality problem. Once the community is able to achieve or come within striking distance of the standard then the offset policy would again seem appropriate. But at this time, NO!

I believe if you review the public hearing record for the Bio-mass permit you'll find that, with the exception of the plant operators themselves and their employees, the offset was widely opposed by the Community. In the context of the local political process it is difficult to gain consensus on the need to address other PM10 pollution sources (out door burning, slash burning, residential woodstove emissions, track-out, field burning, etc.) when the Commission and DEQ allow industry to maintain their overall rate of emissions through offsets.

The decision regarding offsets in class I areas should be made as a part of the SIP adoption. The adoption of new PM10 rules, as you will consider them today, should not have the effect of damping public discussion and debate about the merits of offsets as a part of the SIP adoption process. I encourage you to take pause and consider the offset issue separately from the overall PM10 rule amendment process.

It appears that the DEQ staff has some doubts about the rule given their suggestion that more than a 1 to 1 offset be considered for the Medford air shed. I believe their initiative is a good one, but unfortunately does not go far enough.

GARY SHARP
46 Ashland Ave
Medford, OR 97504

May 6, 1988

Gary Shaff
16 Ashland Ave.
Medford, OR. 97504

Mr. Jim Peterson
Environmental Quality Commission
811 SW Sixth Avenue
Portland, OR. 97204

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

D E Q E H W E D

MAY 11 1988

OFFICE OF THE DIRECTOR

Dear Commissioner Peterson:

I wanted to thank you and the rest of the Commission members for making the effort to travel to Medford for your meeting in April. It gave Southern Oregonians the rare opportunity to directly participate in your policy setting process.

Your willingness to take further testimony on the PM10 administrative rule amendments was much appreciated. I've included a copy of the materials that I presented. My remarks about the differences between the adopted SIP and local ordinances were not intended to suggest that local government is incapable of controlling local pollution problems (as the local Chamber might think). But rather, to ensure that the Commission and local government officials assume their respective responsibilities. In the case of the 1982 SIP, both levels of government and clean air advocates missed opportunities to reduce pollution levels. It is regrettable. My hope is that we will benefit by the knowledge and, thereby, ensure quick and steady progress toward.

Please keep me informed of your and DEQ's efforts to address the offset issue. I am keenly interested in the subject and hope that I can continue to participate in your discussions and deliberations.

Sincerely,


Gary Shaff

Tina-

Don't know if
response is necessary?

cc: Jeff Golden, Merlyn Hough, Nancy Pete

Copy attached for
Peterson. However, he
left for Europe on
5/13. D.

THE
CHAMBER

OF MEDFORD/JACKSON COUNTY

April 29, 1988

James E. Petersen, Chairman
Environmental Quality Commission
811 SW Sixth Avenue
Portland, OR 97204

Subject: Recommended Strategies for Achieving Particulate Attainment

Dear Chairman Peterson,

The Chamber of Medford/Jackson County has been involved in air quality issues since the early 1970's and is dedicated to supporting strategies that will move towards a solution of our air quality problems in the Medford/Ashland AQMA.

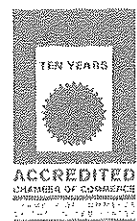
The Chamber endorsed the vehicle inspection and maintenance program, the woodstove certification program, and has encouraged and worked with industry in cleaning up the air in our community. The Chamber believes that industry sources have been very responsive in complying with federal and state regulations to meet air quality attainment standards.

As we evaluate the sources of particulate pollution and PM₁₀ concentrations, DEQ studies show that 60 percent or more of the particulate pollution comes from woodburning on high incident days. And therefore the solution to meeting particulate and PM₁₀ standards is to reduce the wood smoke from woodstove burning in the Valley.

It is our recommendation that the state of Oregon, through the Department of Environmental Quality establish, administer, and fund a program to comply with state and federal law. However, we do not believe it is the responsibility of local government to enforce state and federal laws imposed upon them when they don't have the resources or the authority over cities in the County to adopt, implement, or finance such strategies.

Therefore the Chamber recommends that the following strategies be implemented through the Department of Environmental Quality:

1. A comprehensive public education program on woodstove use and woodburning.
2. Provide financial incentives and subsidies for cleaner woodburning units.
3. A ban on the installation of all non-certified woodstoves in the AQMA.



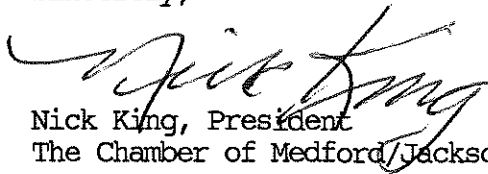
Chairman Peterson
April 29, 1988
Page 2

4. Establishment of clean air utility rates for users of electricity and natural gas who transfer from wood heating use.
5. Mandatory curtailment of woodstove and fireplace use during air stagnation alerts.

The Chamber believes that if the state of Oregon, through its Department of Environmental Quality, establishes these rules, and if they are adequately funded, that we will have begun on the long road of achieving attainment of particulate pollution in the Rogue Valley.

You favorable consideration of our proposal will be greatly appreciated.

Sincerely,



Nick King, President
The Chamber of Medford/Jackson County

cc: Medford City Council
Jackson County Commissioners
Senator Lenn Hannon
Senator George Trahern
Representative Eldon Johnson
Representative Nancy Peterson
Representative George Gilman

My name is Patricia Kuhn. I reside at 2419 Hillcrest Road, Medford. I would like to thank you for coming to Southern Oregon to hear our concerns. It is not only appropriate; it is appreciated!

My active interest in the Rogue Valley's air quality problems has covered a period of fifteen years during which time I spent six years almost full time, as a volunteer citizen advocate for cleaner air. Two years of that full time commitment was in the role as one of two appointees to represent the public-at-large on the first Medford-Ashland Air Quality Advisory Committee. At the present time I am a member of the Coalition to Improve Air Quality but tonight my comments and ideas are my own and represent no one else.

My greatest concern is that we address not one, not two but all sources contributing to our unhealthy air in this Valley. It is my opinion that in the past the residents and political leaders have tried to address one or two sources each time only to have a polarized community where nothing lasting is ever accomplished. I would like to suggest, very strongly, that all sources contributing to our problems be addressed simultaneously.

For instance, we need to support the recent recommendations of the Wood Burning Task Force which asks for cleaner burning wood stoves. But, at the same time we need to re-enact a former city ordinance banning backyard burning within the City of Medford. Originally the ban was in effect for nine months of the year. Now for reasons I cannot find, it was reduced to two months, December and January. I cannot accept ^{that} in an area with such serious problems ~~that~~ we can allow residents to burn from February through November with a permit system administered through the Fire Department based on information provided by the DEQ. I was informed ^{by the Fire Dept} that in the first months after the ban, over 600 permits were issued. Their greatest concern was illegal burns; those people who never ask for permits. But they have no enforcement mechanism and issue three warnings but never have issued a citation.

We need to, through better D.E.Q. enforcement and inspection make certain that industry is doing all it possibly can do to mitigate emissions. We need to realize how the present Offset Policy is no longer, if ever it was, effective because it maintains the status quo in air quality which most agree is unhealthful and in violation of state and federal health standards.

We need to ask the cooperation of the entities who burn slash in forests with the smoke finding its way into our Valley and staying due to our lack of ventilation. A valley which by EPA designation is one of two areas in the nation with the greatest potential for serious air pollution problems.

I would like to ask you as the Governor's policy making group for the D.E.Q. to be aware that many residents of Jackson County want and are taking the responsibility and working towards cleaning up this Valley's infamous airshed. Speaking as a private citizen and 29 year resident of this area, I am no longer willing to accept the tendency to focus on one isolated source of pollution to the detriment of the whole.

I am hopeful that Governor Goldschmidt, who long has supported the philosophy of a clean healthful Oregon environment will lead us toward the resolution of these serious but solveable problems.

Thank you for listening.



LINN COUNTY BOARD OF COMMISSIONERS

VERNON SCHROCK
Commissioner

RICHARD STACH
Commissioner

LARRY J. JOHNSON
Commissioner

Linn County Courthouse
P.O. Box 100, Albany, Oregon 97321
(503) 967-3825

WILLIAM L. OFFUTT
Administrative Officer

April 25, 1988

Environmental Quality Commission
811 S. W. Sixth Avenue
Portland, OR 97204

Dear Commission Members:

As a member of the Linn County Board of Commissioners, I am very concerned about air quality problems caused by inefficient wood burning stoves. I am writing to urge your consideration of voluntary measures to curb wood smoke emission which might be brought before the Legislature in the next session. As a local elected official responsible for implementing many programs mandated by the state, I am wholeheartedly in favor of attempting to solve problems through voluntary approaches before mandatory controls are imposed.

One incentive to motivate individuals to curb wood smoke emissions could be a state tax credit for replacement of older, inefficient wood stoves with super-efficient wood or bio-mass burning stoves. The size or percentage of the credit might be tied to the new stove's efficiency rating because, as you know, DEQ-certified stoves are not all equally effective at controlling emissions.

At your next meeting, Department of Environmental Quality staff will present legislative concepts for reducing wood stove emissions. According to Mr. Kowalczyk of DEQ, one concept will be to initiate a wood stove tax credit. Fellow County Commissioners in Jackson, Klamath, Deschutes and Lane Counties have also appeared supportive of that concept. Please thoroughly consider your staff's legislative concepts for voluntary emission reduction programs. I look forward to working with you in the next legislative session for their implementation.

Sincerely,

Richard Stach
Linn County Commissioner

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 25 1988
OFFICE OF THE DIRECTOR



TIMBER PRODUCTS CO.

Executive Office

POST OFFICE BOX 269
SPRINGFIELD, OREGON 97477-0055
PHONE 503/747-3321

TO: TIMBER PRODUCTS GROUP EMPLOYEES
FROM: ALEX AUSTIN - RESIDENT MANAGER
SUBJECT: INFORMATION ABOUT AIR QUALITY

The Environmental Protection Agency (EPA), the Federal agency charged with establishing environmental standards, adopted new air quality rules on July 31, 1987. These rules deal with fine particulate matter of less than 10 microns (PM10). PM10 is visually identifiable as blue haze and smoke from wood combustion.

The EPA standards for ambient air (the air we breathe) are exceeded at times during the winter months in the Medford-Ashland Air Quality Maintenance Area (AQMA).

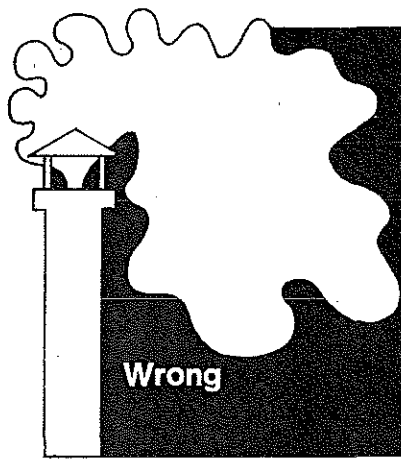
The DEQ has developed data through receptors that monitor air quality in the AQMA. They have determined that residential wood smoke accounts for 65% of PM10 emissions, transportation for 18%, wood products 13%, and miscellaneous sources 4% of worst day emissions.

The Oregon Department of Environmental Quality (DEQ) is charged with setting and enforcing State standards that equal or exceed those established by the EPA. We can anticipate that in the near future the DEQ and local governmental agencies will propose restrictions on the use of wood stoves as well as additional restraints on the timber industry.

We are working closely with the DEQ to develop a series of informative articles on the environmental problems that exist in the valley.

Timber Products Co. is working to improve air quality in this area by voluntarily installing additional emission controls. We are pleased to say that we have already reduced our emissions below those permitted by the regulations. We urge you to assist us in maintaining and operating these emission controls properly and efficiently.

March, 1988



Wrong

Burn Wood Better

Right



Burning wood for home heating is the fastest growing source of air pollution in Oregon. In Portland and Medford, wood-heating smoke causes violations of Clean Air Standards. In other parts of the state—Bend, Pendleton, Klamath Falls, The Dalles, Grants Pass, etc.—woodstove emissions are using up the airshed capacity that may be needed for growth.

YOU CAN HELP REDUCE WOOD STOVE EMISSIONS

Weatherize

Conservation is the cheapest way to cut heating costs. And, depending upon how far you travel to get your wood, it may be cheaper for you to use a different heat source.

Buy the right sized stove

A stove too large for the area you want to heat must be dampered down, creating smoke, reducing efficiency and creating creosote buildup.

Burn dry, seasoned wood

Dry wood burns cleaner and more efficiently than wet wood. Season split wood by raising it off the ground and covering it. (See chart on reverse side.) Never burn garbage, plastic or treated wood, as they can release toxic fumes.

Build small fires, burn hot and restoke

Small fires with plenty of oxygen burn cleanest. Burn briskly the first 30 minutes after loading, then keep fire at a moderate burn rate.

Check your stack and clean your chimney

Go outside and look at smoke against a dark background, if possible. The less smoke coming out of your stack, the cleaner you're burning. Keeping your chimney clean helps increase efficiency and safety.

Avoid use on poor air quality days if you have another heat source



For More Information:

Contact the Department of Environmental Quality, Air Quality Division, P.O. Box 1760, Portland, Oregon 97207, (503) 229-6488, or toll-free in Oregon 1-800-452-4011.

Species	Minimum Outdoor Drying Time (Split & Covered)	Heating Value Million Btu per Air-Dried Cord	Ease of Splitting	Sparks
Alder	Longer than 6 months	18-21 medium	easy	moderate
Cedar	6 MO.	14-20 medium-low	easy	many
Douglas Fir	6 MO.	19-21 medium	easy	moderate
Madrone	6 MO.	30 high	difficult	very few
Maple	6 MO.	19-21 high-medium	moderate	few
Oak	6 MO.	29-31 high	moderate	few
Pine	6 MO.	17 medium-low	easy	moderate
White Fir	6 MO.	17 medium-low	easy	moderate

Fire Prevention While Woodcutting

During forest fire season, about May through October, special regulations may be in effect. Chain saw use may be banned entirely, or prohibited between 1-8 p.m. When you get your woodcutting permit, ask about any special fire prevention regulations.

Be alert to any changes in rules that come about because of increasing fire danger. During critical fire weather, campfires may be banned or smoking may be limited.

Personal Safety While Woodcutting

Woodcutters should be alert to safety hazards posed by chain saws, physical exertion, driving on forest roads, and slips and strains in mountainous terrain.

Chain saws are not toys and should not be used by children. Many saws that woodcutters use are very small. Make sure the size of the chain saw matches the size of the wood you are trying to cut.

Do not overload your vehicle or you may get stuck on forest roads. Keep the vehicle on firm ground or rocky roads.

You should have a first aid kit, sturdy shoes, and eye and ear protection for your own safety.





STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY

Memorandum

To: Environmental Quality Commission Date: May 2, 1988

From: Tina Payne

Subject: Attached Letter

The attached letter was not distributed with the materials for the EQC meeting in Medford.

If you have any comments after reading the letter, please advise me. I will include your comments in the minutes. The letter, of course, will be made a part of the record of the meeting.

Sorry for the inconvenience this delay may have caused.

/kp

Attachment

cc Fred Hansen



Telecopier Transmission

Northwest Pulp and Paper Association
1300 114th Avenue Southeast Suite 110
Bellevue, WA 98004

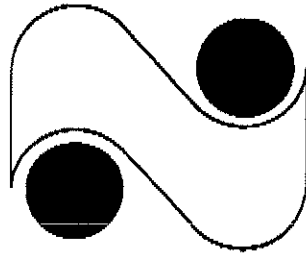
(206) 455 1323
Telecopier (206) 451 1349

To: Sarah Armitage
~~To Dorothy Growth~~ From: Llewellyn Matthews
Date: 4/28/88 No. of Pages including this cover: 3

Notes:

Please provide copies to EQC members.
Thank you for your assistance.

LMM



**NORTHWEST
PULP & PAPER**

April 28, 1988

**Fred Hansen, Director
Department of Environmental Quality
811 SW Sixth Avenue
Portland, OR 97204**

**RE: PROPOSED ADOPTION OF REVISIONS TO NSR AND PSD RULES
TO INCORPORATE PM-10 REQUIREMENTS**

Dear Mr. Hansen:

We appreciate the efforts of the DEQ staff to respond to our concerns and the extra effort taken to obtain legal opinions from EPA and the state attorney general. Since the federal law is complex and ambiguous in some places, we feel it will be helpful to have these agency interpretations as part of the record that it is not intended that designating Group I areas as nonattainment areas will trigger federal sanctions. We also appreciate that our concerns regarding phase-in periods for pre-construction monitoring were accommodated.

However, we are in disagreement with the staff interpretation of one of our concerns regarding the state proposal to require Lowest Achievable Emission Rate (LAER) technology in Group I areas for PM-10. Of the four Group I PM-10 areas, Eugene, Medford, Grants Pass and Klamath Falls, only the first two, Eugene and Medford, are also TSP nonattainment areas. The staff report on page 7 states, "no increased burden would exist for new sources and major modifications in these areas over existing rules." There are two problems with this statement.

First, this statement may be incorrect in cases where the LAER determination for PM-10 is different than for TSP. It may be that satisfying PM-10 control technology requirements will result in automatically satisfying TSP. However, there is also the possibility of a difference. Would a new source or modification be required to perform a LAER review for both TSP and PM-10 if located in Eugene or Medford? How should this be decided, now in the proposed rules or on a case-by-case basis?

Secondly, LAER reviews are the most onerous type of review and tend to have a chilling effect on industrial modernization. Ironically, although LAER is intended to improve air quality, it sometimes has the opposite effect because it can cause delays in decisions to replace older equipment.

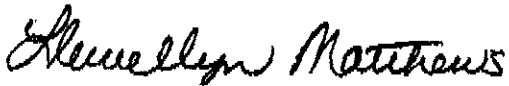
Since the DEQ is exceeding EPA requirements by proposing LAER in Group I areas and is not required to implement such a provision, we respectfully request a delay in this portion of the rules.

NWPPA received the DEQ staff response to this section late on April 27th and have not had the opportunity to discuss this provision with them and would like to do so.

Again, we are appreciative of the fine efforts to resolve our other concerns and simply ask some additional time to discuss the issue. Allowance of this additional time should not impede compliance with EPA's schedule since this particular provision is not a federal requirement.

Thank you for your consideration.

Sincerely,



Llewellyn Matthews
Executive Director

sd

LM:sd

P.O. Box 12519
1149 Court St. N.E., Salem,
OR 97309-0519

Telephone:
Salem 503/588-0050
Portland 503/227-5636

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Oregon Land Title Assn.

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Oregon Medical Assn.

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Oregon Public Ports Assn.

Oregon Soft Drink Assn.

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Portland Advertising Federation

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Executives Council



To: Environmental Quality Commission

Subject: Agenda Item N. April 29, 1988

Proposed adoption of Rules Relating to Asbestos
Worker Refresher Training of OAR 340-33-050(7)(b).

Members of the Environmental Quality Commission:

In our testimony of March 18, 1988, page 3, we pointed out that the Commission was required to make a determination as required by Section 9(3) of HB 2367(1987), and that we did not believe that there was adequate justification for making that determination prior to any training being done in Oregon under this law.

The staff response of April 6, page 4, (Response to Comment Summary) that "The Department expects to document that such conditions exist so that the EQC can make such a determination in the near future."

The Staff Report (pages 7 and 8) provides three alternative suggestions, two of which support 050(7)(b) and one which does not.

We believe that there is adequate justification for supervisors and full-scale workers, but believe it is doubtful for many small scale workers, particularly those doing intermittent maintenance work. We suggest the following Alternative for .050.3:

"The Commission determines that there are both statutory and regulatory reasons for determining that those workers certified as supervisors or full-scale workers shall be required to have refresher training. The statutory justification for the determination is the Asbestos Hazard Emergency Reduction Act (AHERA) which requires all supervisors and workers in all primary and secondary schools to have annual refresher training. The regulatory reason is that for full scale supervisors and workers, the Occupational Safety and Health Act (OSHA) has been revising its rules as new procedures and techniques are developed.

However, the Commission withholds a similar determination for small-scale asbestos workers based on a lack of evidence that small scale workers are as subject to changes in asbestos abatement practices to require refresher training.

The Commission will review the need for small-scale worker refresher training prior to December 31, 1989 to determine if there is sufficient justification to require refresher training in 1990 and thereafter. If the Commission does at that time make a determination that refresher training is required they shall also determine the frequency of such training and they may also make recommendation for subclasses of small-scale workers, some of whom may not be required to undertake refresher training."

Environmental Quality Commission
Page Two ...

We urge you to adopt this determination and amend .050(7)(b) to apply only to full-scale supervisors and workers.

OAR 340-33-050(7)(b) seems unduly harsh when it requires that within 12 months of taking the full training course that refresher training is also required. The Section should be amended to eliminate refresher training in the first year.

Provision should also be made to take the refresher training outside of the specified 3 month period each year if the person shows that it was required for the job or due to hardships to lack of training facilities or distance, etc.

We appreciate the opportunity to make these comments.

Thomas C. Quinn

JOLLES, SOKOL & BERNSTEIN, P.C.

ATTORNEYS AT LAW

721 SOUTHWEST OAK STREET
PORTLAND, OREGON 97205-3791



BERNARD JOLLES
LARRY N. SOKOL
HARLAN BERNSTEIN
ROBERT A. SACKS
MICHAEL T. GARONE
EVELYN SPARKS

TELEPHONE
(503) 228-6474

April 27, 1988

DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED
APR 27 1988

OFFICE OF THE DIRECTOR

Environmental Quality Commission
C/O Fred Hansen, Director
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

RE: State/EPA FY 89 Agreement - 4/49/88 EQC Meeting

Dear Mr Hansen:

I am writing on behalf of the Sierra Club and Oregon Environmental Council regarding the draft of your 1989 agreement with EPA. Although I was not provided with a copy of the draft agreement, I obtained one on April 23rd and learned for the first time that Agenda Item P., for the April 29, 1988 EQC meeting includes a public comment opportunity on the FY 89 SEA. Since I cannot personally attend this meeting, I ask that you read this letter into the record.

Unfortunately, I have not had adequate time to review and discuss this plan with the clients that I represent in air quality matters. Because this plan impacts on the department's ability to attain the goals which are set forth in the SIP and other programs of interest to my clients, I ask that you postpone final action on this agenda item until we have had a chance to make further comments and consult with you.

Initially, I wish to commend you on making the Toxic Air Pollutant program a matter of highest priority. I must question how that priority can be supported with no apparent increase in the allocation of personnel in that field. Also, the need to monitor VOC's is mentioned solely in the context of ozone attainment. Many of us feel that this issue should also be addressed in terms of its direct impact on public health. I also note that emissions inventories are given only medium priority. How is this sufficient when other elements of the overall program (planning, evaluation, etc) are dependent on accurate base-line data in order to achieve their stated objectives?

I appreciate a chance to raise these issues, but reiterate that more time is necessary to allow us to discuss these matters further.

Sincerely,

David Paul



DEPARTMENT OF ENVIRONMENTAL QUALITY
RECEIVED

OFFICE OF THE DIRECTOR

Northwest Environmental Defense Center
10015 S.W. Terwilliger Blvd., Portland, Oregon 97219
(503) 244-1181 ext.707

April 27, 1988

Environmental Quality Commission
C/O Fred Hansen, Director
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204

**RE: State/EPA FY 89 Agreement - 4/49/88 EQC Meeting
Agenda Item P., Request for postponement of action.**

Dear Fred:

On behalf of NEDC and John Churchill I request that any action on the State/EPA Agreement for FY 89 ("FY 89 SEA") be postponed to a later date. I also request that this letter be read into the record at the upcoming EQC meeting.

Agenda Item P., for the April 29, 1988 EQC meeting includes a public comment opportunity on the FY 89 SEA. This agreement will have a direct bearing on the amount of personnel and time that will be devoted to setting Total Maximum Daily Loads (TMDLs) of pollutants for Oregon's waters, in the next year.

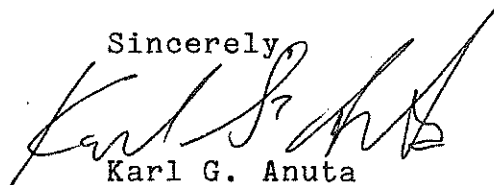
I did not receive a copy of the draft FY 89 SEA until Friday, April 22, 1988. I did not obtain a copy of the previous years SEA until Monday April 25, 1988. This does not allow adequate time for a reasoned review and presentation of public comments on the proposed agreement. In addition, I have long standing plans to be in Washington, D.C. from April 28th - May 2nd.

My brief review of the Draft SEA shows that at least in the TMDL and Non-Point Source (NPS) area the proposed FTE commitments are totally inadequate. The Draft SEA acknowledges this fact. See, p. 6, Water Quality Section. For example, the FY 88 SEA provided for 2.5 FTE's on TMDLs. To date not a single TMDL has been set, despite the provisions of the Consent Decree which mandate that at least 2 TMDLs be set by June of 1988 and that at least 2 more be set by June of 1989. The current Draft SEA proposes only .60 FTE's to accomplish all of the outstanding TMDL's as well as the additional Wasteload Allocations and related activities.

We are quite concerned with the direction the TMDL/NPS processes appears to be taking. We will be contacting EPA and advising them that their current lack of commitment and failure and refusal to provide DEQ with adequate resources are totally unacceptable and constitute blatant violations of the Consent Decree entered in NEDC v. Thomas.

We have additional concerns about a number of specific allocations in other areas, that we would like to discuss. In light of this situation I request that EQC postpone any action on the Draft FY 89 SEA until we have had an opportunity to discuss these issues personally with both yourself and with the Director of Water Programs at Region 10 EPA.

Sincerely

A handwritten signature in cursive script, appearing to read 'Karl G. Anuta', written in dark ink.

Karl G. Anuta

Attorney For
The Northwest Environmental Defense Center
and John R. Churchill

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: April 20, 1988

TO: Environmental Quality Commission

FROM: Fred Hansen, ^{mm} Director

SUBJECT: Discussion Item For EQC Breakfast Meeting, 4/29/88

At the January 22 EQC meeting you instructed the staff to report on the process to be used to evaluate the appropriateness of mandatory recycling under ORS 459.188.

The staff recommends that this issue be included as part of the Department's required recycling report to the legislature, due next session. No meaningful evaluation of the effectiveness of the Opportunity to Recycle Act can be undertaken until there is sufficient data available from the individual wastesheds to compare individual program progress. A decision on when to enforce the mandatory recycling requirement would be arbitrary until we understand how well the voluntary program is doing.

The first year's recycling data (1987) is being reported now with evaluation and a first years recycling program report 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 didn't 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 presentation to the Legislature next session. Rulemaking, if necessary, could begin about that same time.

Date: 4-15-88 7:08pm
From: Carolyn Young:OD:DEQ
To: Agency Management Group:od
cc: Marlene Mileham:od
Subj: EQC Medford
Attach: e:\wordp\eqcforum

I have discussed the Medford town hall meeting with Jim Petersen and we agreed on a format and DEQ staff presentations. (See attachment) I haven't heard of an organized effort to get people out to the meeting.....but they still have two weeks.

DEQ will make short presentations at the beginning of the meeting to help people understand what the agency does (and does not do). The presentations should try to anticipate questions and problem issues. I think we should make a brief presentation on the proposed pulp mill - Nichols, who should make it? Other presentations will be by Householder, Hough and Young.

We will have an opportunity to answer specific questions raised during the forum. One person should be designated by each Division to answer questions. Please let me know who that person will be ASAP.

I would like to have a brief meeting to discuss Communication Strategy with presenters and designated responders (and anyone else interested) before we go to Medford.

Any questions or suggestions - let me know.

To: Jim Petersen

Date: March 21, 1988

From: Carolyn Young

Subject: Medford EQC meeting

Attached are some suggestions for the public forum in Medford. It is difficult to gauge how many people will show up, but I would suspect we would get around 100, with 20 or 30 who want to speak. A lot depends on the status of the pulp mill, wood stove ordinance, Dr. Palzer's criticism etc.

If you have any questions or if there is anything else I can help with, please call.

FORMAT: Informal information exchange.

In order to make the meeting less formal and less like an official public hearing, Commission members will sit in the front row of the audience to listen to the presentations. Chairman Petersen will be at the side in front as moderator. He will have a mike and maintain control over the meeting. This would allow the public to speak to the entire group - not just Commission members. It would also allow Commission members to listen, without being put on the spot.

Jim Petersen will act as moderator, calling on people to comment and asking for a DEQ response when appropriate. The public comments will be taken by topic area in order of sign-up. Petersen may ask Fred Hansen or staff members to respond to specific questions during the comments. At the end of each topic, Hansen/DEQ staff/EPA may give the agency's response to all the comments about a particular issue. This should be brief, lasting about 5 minutes.

RULES FOR THE EVENING:

This is not a public hearing - no formal testimony will be recorded. This is an opportunity for the Commission to hear from concerned citizens on environmental issues that are important to them. It is also an opportunity for citizens to hear a response from DEQ to their concerns.

The meeting will be divided by topics, with people who want to speak on a specific topic assigned a time period. People will be asked to indicate on a sign-up sheet their primary area of interest, although they may speak on more than one topic. They will then be called to speak in order of sign-up. We may make some exceptions if requested by public officials or others with good reasons.

Because the Commission wants to hear from as many people as possible, time will be limited to 5:00 minutes. (Including DEQ's response time)

If people want more detailed explanations to specific questions, DEQ staff members will be available following the meeting to provide further information.

EQC TOWN HALL MEETING

Medford April 28, 1988

Time: 7:00 - 9:30 p.m.
Location: North Medford High School Auditorium
1900 N. Keenway Drive

Sign-up Sheets for speakers
Indicate topic/or topics they wish to address
time limits - 5:00 minutes

Agenda:

1. Welcome - Jim Petersen
Thanks people for coming
Introduces Commission members
Explains role of EQC
Explains the rules for the evening (see page 2)
2. Brief explanation of DEQ - Carolyn Young
Explains what DEQ is - how we manage the environment - brief
description of the program areas, opportunities for public
involvement.
3. Brief description of pollution issues in the Rogue Valley
Presentations: I/M program - Householder 5 minutes
Brief explanation - success of the program
PM10 controls - Hough 10 minutes
Brief overview of problem, requirements,
woodstove strategy/industrial strategy.
The goal is to head off some obvious
questions and misunderstandings
Pulp mill - ?????? 5 minutes
Brief update on the status as we know it.
Opportunity for public involvement.
4. Evaluate the issues the public wants addressed...
Look at sign-up sheets to determine topics (Tina/Mardi)
Ask for raise of hands on topics (Petersen)
Assign a time period of each topic area. (Petersen)
For example: 7:30 - 7:45 I/M, 7:45 - 8:10 pulp mills,
8:10 - 8:45 wood stoves etc.

Wrap up at 9:30 p.m.



Department of Environmental Quality

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

April 25, 1988

Genevieve Sage
P.O. Box 1964
Mendocino, California 95460

Dear Genevieve,

I'm very happy to hear about your appointment to the Environmental Quality Commission and I very much look forward to working with you again.

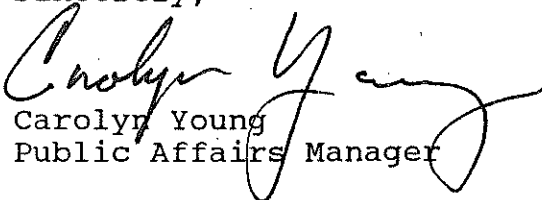
I called to invite you to the next Commission meetings on April 28 and 29 in Medford, but instead of finding you at home I had a nice chat with Peter. He suggested that you might want to have a look at the agenda for that meeting and gave me your temporary address. I'm sorry you won't be in Medford this week, but if you do decide to leave your retreat early, we would love to have you join us for breakfast Friday morning.

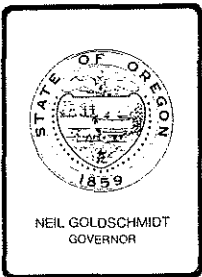
Its going to be nice to have someone on the Commission who is already familiar with many of the issues. It's especially nice to have someone we've worked with before and know will do a good job. If you have any questions about any aspect of DEQ, please feel free to call me. (229-6271) We have a toll-free number that is a message center for anyone in the agency 1-800-452-4011. I'll be happy to send you information or put you in touch with the proper staff person.

If you are interested in getting out to see some of the sites we regulate, I'll be happy help with the arrangements. During my three years at DEQ I think I've seen most of the garbage dumps and sewage treatment plants in Oregon.

Again, congratulations. We're very fortunate to have someone with your background and commitment to a quality environment on the Commission.

Sincerely,


Carolyn Young
Public Affairs Manager



Environmental Quality Commission

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

MEMORANDUM

To: Environmental Quality Commission
From: Director
Subject: Agenda Item C, April 29, 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
_____	_____	_____

NOTE: There are no new tax credit certificates to be issued.

2. Revoke Pollution Control Facility Certificate number 1833, held by Smurfit Newsprint Corporation, and reissue to Stimson Lumber Company.

Rydia Taylor
Fred Hansen *for*

C. Nuttall:p
(503) 229-6484
April 8, 1988
MP1438

State of Oregon

Department of Environmental Quality

REISSUANCE OF POLLUTION CONTROL FACILITY CERTIFICATION

1. Certificate issued to :

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

The certificate was issued for an anti-stain chemical spill control facility consisting of a concrete drip pad, sump pump and metal building enclosure.

2. Summation:

In January of 1986, the EQC issued pollution control facility Certificate 1833 to Publishers Paper Company. Publishers Paper sold to Smurfit Newsprint Corporation and the certificate was reissued in that name in October 1986.

Smurfit sold the division associated with certificate 1833 to RSG Forest Products in December 1986. RSG requested that the unused portion of the Tax Credit be reassigned to Sanders Wood Products dba RSG Forest Products.

Sanders Wood Products sold its facility to Stimson Lumber Company in August of 1987. They now request that the tax credit associated with this sale be reissued to Stimson Lumber Company.

3. Director's Recommendation:

It is recommended that Certificate Number 1833 be revoked and reissued to Stimson Lumber Company; the certificate to be valid only for the time remaining from the date of the first issuance.

C. Nuttall
229-6484
April 6, 1988

Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

RCRA Program

I. Program Management

A. Planning

1. Design and implement an internal performance audit program for purpose of continued program improvement.
2. Develop a multi-year permitting plan that includes closures, corrective action, new facilities, and post closure permits.
3. Develop a 5 year compliance enforcement strategy that maximizes use of limited regulatory resources, insures adequate preventative compliance oversight and incorporates the results of the Generator Update Program.

B. Information Management

1. Implement a permit tracking system.
2. Implement a compliance enforcement tracking system.

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	
3. Implement tracking of all generator report requirements.						
4. Accomplish necessary system development to manage generator update program data, do accurate fee assessments and prepare to implement RCRIS data management system. (Hardware, software, staff, system development)						
5. Submit monthly compliance data and update permit and closure information as required by CMELS and turnaround documents by the 20th of each month for the month previous. Submit facility status information as needed.						
6. General program management activities including:						
a. Budget						
b. Review draft federal guidance and regulations.						
c. Prepare FY '90 Workplan and SEA in accordance with SEA schedule developed in January 1989.						
d. Generator and TSD fee collection.						
e. Completion of Biennial Report.						

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	
f. Develop and submit quarterly schedule, including first quarter FY '90 schedule, of EPA required compliance inspection to EPA by July 15, 1988.						
g. EPA will provide state with names of scheduled compliance oversight inspections for FY '89 and first quarter of FY '90 by August 15, 1988.						
h. Develop written guidelines, policies and procedures for program implementation.						
i. State will provide regulatory interpretations to state regional staff and regulated community on state and authorized regulations. EPA will assist state in this effort when requested by the state.						
j. State will complete a written program review for the mid-year review. This will be completed 10 working days prior to the scheduled mid-year review with						

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

EPA.

- k. EPA will develop agenda for mid-year review in consultation with the state 30 days prior to mid-year review date. Mid-year review will be held in February 1989.

7. Training Program

- a. Develop a comprehensive training plan for all state RCRA staff to include regulatory, technical and safety training.
- b. Conduct quarterly training sessions for all state RCRA staff.
- c. EPA will assist with quarterly state training efforts when requested.
- d. Maintain training records for all state RCRA staff.
- e. EPA will inform state program of available RCRA training in timely manner and seek state input on training needs.

DRAFT

Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

*

- f. Provide new inspectors and existing inspectors with routine training on conducting regulatory inspections and doing compliance follow-up.
- g. Entry-level training
 - 1) ASTSWMO entry-level inspection training class.
 - 2) RCRA orientation to federal and state regulations, guidance and policies.
 - 3) Discussion of procedures.
 - 4) Quarterly RCRA training program on RCRA and HSWA requirements, and other related issues including CERCLA, SARA, TSCA, OSHA.
 - 5) Discussion of other training opportunities.
- h. Ongoing employee training
 - 1) Quarterly RCRA training program on RCRA and HSWA requirements, and other related issues.
 - 2) Mid-level inspector training and discussion of other

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

training opportunities sponsored by EPA.

8. Generator update program survey of all industries in Oregon which may generate a hazardous waste to determine if they are regulated (approximately 25,000) including the following tasks:
 - a. Survey design and mailout.
 - b. Provide assistance and education in completing survey.
 - c. Verify information with follow-up targeted site visits.
 - d. Provide adequate data management capability to manage and utilize survey information system design, hardware, software, data input/output capability.

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II. State Authorization and Oversight

- A. Adopt federal rules within the required one year of federal final rules for base program and HSWA.

Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

- B. EPA will provide copies of federal guidance documents, pertaining to HSWA and base program requirements, to the state in a timely manner.
- C. EPA will seek and incorporate state input on review of draft guidance and policy documents.
- D. EPA will invite and include the state in any meetings with regulated industry from Oregon.

DRAFT

III. Management of Regulated Community

- A. Development of a statewide and site specific education and technical assistance program that insures a comprehensive compliance program in Oregon.
- B. Permitting
 - 1. Implement FMPs as negotiated and agreed to between EPA and the state. Each FMP will identify milestone, tasks, state and EPA responsibilities, milestone completion dates, corrective action approach where needed. For FY '89 the

Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

states effort in corrective action will be limited to a learning and assistance role with EPA.

2. FMPs will be negotiated and signed off by EPA and the state for FY '89 by August 31, 1988.
3. Permitting milestones will be completed as follows:

a) Permits:

- Baron-Blakeslee (A), HQ
- CSSI (A), HQ
- Environmental Pacific Corp. (A), HQ
- Evanite (P), HQ
- Johnson Controls (C), HQ
- Martin-Marietta (A), HQ
- Montezuma West (C), HQ
- Oregon Regional Primate Center, (A) HQ
- Permapost (P), HQ
- Safety-Kleen (Clackamas) (A, C), HQ
- Safety-Kleen (Springfield) (A), HQ
- Tektronix (C,A), HQ
- Umatilla Army Depot (A), HQ

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

- Van Waters and Rogers (A),
HQ (Formerly McKesson
Chemical)
- Wescomp (A), HQ

Other sites are currently being selected.

b. Closures

- Amcoat Enameling (C), NWR
- Arnav (C), WVR
- Bergsoe Metal Corp. (C), HQ
- Boeing (C), HQ
- City of Madras (Airport)
(C), CRO
- Columbia Helicopters (C), WVR
- Elstor (C), WVR
- Jeld-Wen (C), CRO
- Mew Data Arms (C), CRO
- Northwest Industrial (C),
WVR
- Pacific Fabricators (C), WVR
- Pacific Metal Finishers (C),
(Rose City Plating) NWR
- Potter Manufacturing (C), WVR
- Riedel (C), HQ
- Sheldon Manufacturing (C),
NWR
- Technical Images (C), WVR
- 3-M National Advertising (C)
WVR

DRAFT

Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	

- Transco (C), NWR
- Valley Plating (C) WVR
- Van Waters and Rogers (C), HQ
- Velco (C), HQ
- White Electronics (C), WVR

C. Compliance Enforcement Program

1. Review and revise state hazardous waste enforcement procedures and guidelines as necessary.
2. Complete CEIs at TSD facilities and take timely and appropriate enforcement and compliance follow-up effort (including any required sampling and analyses by the lab). [Sites are currently being selected.]
3. Conduct CMEs or O&M inspections at land disposal facilities including sampling and analysis by the lab. [Sites are currently being selected.]

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Hazardous Waste Program

April 19, 1988

TASKS	Outputs	FTE		COST		Total
		State	Fed	State	Fed	
4. Complete CEIs at generators including timely and appropriate enforcement and compliance follow-up effort (including any required sampling and analysis by the lab). The proposed list of generators to be inspected will be provided to EPA by July 15, 1988. Generator inspections will be conducted between December 1, 1988 and June 30, 1989.	60					
5. Respond to RCRA related spills and complaints.						
6. Utilize Attorney General support in negotiating and drafting all administrative orders, NOVs and penalty assessments resulting in more timely, appropriate and effective enforcement and compliance follow-up.						

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